

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JOSE TOPACIO NUENO, DEFENDANT AND APPELLANT.

G.R. No. 47324. November 18, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

The defendant appellant herein, Jose Topacio Nueno, was found guilty of slight physical injuries by the municipal court of Manila and was sentenced to twenty days of arresto menor and to indemnify the offended party in the sum of P16 with subsidiary imprisonment in case of insolvency. He appealed to the Court of First Instance, and there he pleaded guilty to the charge. The offended party recommended the minimum penalty of one day and waived the right to any indemnity. The defendant appellant was to be sentenced then and there, but on the allegation that he had cases to attend to as practicing attorney in Marikina on that day moved for the postponement of the pronouncement of the judgment for the following day. This petition was granted and the reading of the sentence was set for the following day, July 8, 1939. On the said date, however, the defendant appellant filed an urgent motion praying that he be allowed to withdraw his plea of guilty and to substitute it with that of not guilty, claiming that his former plea was not voluntarily and spontaneously given. The trial court denied the petition and ordered the sentence read to the defendant appellant. The said court imposed upon him the penalty of one day of arresto menor and to pay the costs.

It is contended by the defendant appellant that the trial court abused its discretion in refusing to allow him to change his plea of guilty to that of not guilty. Considering the fact that the defendant appellant is a member of the bar and as such is well aware of the consequences of a plea of guilty, we are of the opinion that the trial court committed no abuse of discretion in declining to accede to his petition. On the other hand, the withdrawal of a plea of guilty is not a matter of absolute right on the part of the defendant appellant but lies entirely within the sound discretion of the trial court.

The judgment of the lower court is accordingly affirmed, with costs against the appellant. So ordered.

Avanceña, C.J., Imperial, Diaz, and Horrilleno, JJ., concur.

Judgment affirmed.

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