

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
NICASIO NERIA Y KALAMBACAL, DEFENDANT AND APPELLANT.***G.R. No. 47882. April 14, 1941*

Ponente: MORAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-47882/>**MORAN, J.:**

On September 18, 1940, an information for qualified theft was filed in the Court of First Instance of Manila against defendant, Nicasio Neria y Kalambacal, then a messenger in the Bureau of Forestry, for taking with intent to gain two treasury warrants for P481.75 and P653.02 drawn by said bureau in favor of one Mariano O. Castillo. Upon defendant's plea of guilty, the trial court condemned him to an indeterminate penalty of from four months and twenty days of arresto mayor, to one year, eight months and twenty days of arresto mayor, to one year, eight months and twenty-one days of prision correccional, and to indemnify the bureau in the sum of P1,134.77, with subsidiary imprisonment in case of insolvency.

The only question before us is the propriety of the penalty imposed upon defendant. The offense charged falls under the provisions of article 310 in connection with article 309, No. 33, of the Revised Penal Code which, taken together, prescribes a penalty of prision correccional in its maximum period to prision mayor in its minimum period. With the mitigating circumstance of plea of guilty, the penalty should be imposed in its minimum period (art. 64, par. 2, Revised Penal Code), or four years, two months and one day, to five years, five months and ten years. Under the Indeterminate Sentence Law, as amended, appellant should be given a minimum which is within the penalty next lower in degree to that prescribed by law for the offense. The penalty next lower in degree to the penalty provided by law, that is, prision correccional in its maximum period, to prision mayor in its minimum period and medium periods, the minimum of which is six months and one day to one year, eight months and twenty days. Therefore, the minimum and maximum penalties fixed by the lower court are below the representative proper ranges prescribed by law.

With respect to the indemnity of P1,134.77, it being represented by the Solicitor-General that the treasury warrants were not cashed by the defendant, no pecuniary damage has been done the complainant, and no indemnity can properly be imposed.

Judgment is modified, and appellant is hereby sentenced to the minimum penalty of six months and one day to four years, two months and one day of prision correccional, with the accessories of the law, without indemnity, and to pay the costs.

Imperial, Diaz, Laurel, and Horilleno, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.