

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SILVERIO PEREZ ET AL., DEFENDANTS.-SILVERIO PEREZ, APPELLANT.*G.R. No. 4796. March 25, 1909*

Ponente: WILLARD, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-4796/>**WILLARD, J.:**

On the 16th of December, 1907, a chapel of the Presbyterian faith was to be inaugurated in the barrio of Santander in the pueblo of Oslob in the Province of Cebu. Ricardo Alonso, a Protestant minister in Oslob, with some 40 or 50 people left Oslob at or about 2 o'clock in the afternoon of the 14th of December to attend this ceremony at Santander on the 15th. They arrived at Santander about 7 o'clock in the evening of the 14th and were lodged in various houses of members of the Presbyterian Church. On the morning of the 15th, Sunday, the Protestants, in number about 80, with Alonso at their head, left the chapel on the east side of the small stream which separated that part of the barrio from the principal part on the west side, where were situated the Roman Catholic Church, convent and public buildings, crossed the bridge over this stream and reached a place near, if not within, the plaza of the Roman Catholic Church. They did this for the purpose of holding services in the open air, but arriving at the point named they saw the defendant Daniel Ferejoles leave a house near the church and advance toward them brandishing a lance. Fearing, as the witnesses say, that they were about to be attacked by the Roman Catholics, they abandoned the idea of holding a service there and returned across the bridge to their chapel. This took place at 8 or half past 8 in the morning. All the witnesses agree that there was no contest of any kind between the Protestants and the Catholics upon this occasion.

It appears that at the time the Protestants arrived on the Catholic side, mass was about to begin in the Roman Catholic Church and that either the appellant, who was the parish priest, or one of the councilmen, ordered all the men to go outside the church and defend it while the women stayed inside. There was testimony also on the part of the defense that the Protestants stated on this occasion that they came to kill the priest and burn the church. As has been said, however, nothing was done. The Protestants retired to their side of the stream, went to the chapel and held a service there which was finished about 10 o'clock. The celebration of the mass in the Roman Catholic Church was finished about that time and after the Protestants had concluded their services and the principal members, including Alonso, had retired to the house of Mariano Bureros for luncheon, and Aloriso and three or four companions had finished luncheon, the defendant appeared upon the Protestant side, followed by a band which, according to the witnesses, numbered from two to four hundred persons, the appellant armed with a revolver and a saber, the defendant Daniel Ferejoles with a lance, and the defendant Adriano Culaniban a bolo, and other members of the party with bolos and clubs. The appellant ordered his followers to advance and kill the Protestants. Balbino Lozano was slain by Daniel Ferejoles and Adriano Culaniban. Upon the arrival of the band of Catholics headed by the appellant and upon noting the death of Balbino Lozano, all of the Protestants fled from the place toward Oslob, where they arrived some hours later. The Catholics then apparently returned to their side of the stream, but later came back, destroyed the furniture in the Protestant chapel and destroyed the furniture in several of the houses belonging to the Protestants.

Upon the arrival of Alonso at Oslob at about 2 o'clock in the afternoon, he gave notice to the president of what had taken place, and the latter sent five policemen to Santander who, upon arrival there, found a body of men gathered about the church, armed. They took away from these people, who were all Catholics, some 30 weapons, including bolos and other arms.

A complaint was filed in the Court of First Instance of the Province of Cebu charging the appellant and others with the crime of assassination. The appellant demanded and was granted a separate trial, was convicted of the crime of homicide and sentenced to seventeen years, four months, and one day of reclusion temporal. From this judgment he has appealed.

- The appellant alleges that the court below erred in overruling his demurrer to the complaint, the demurrer being based upon the ground that the complaint was not sufficient to charge the crime of assassination. If this order of the court were error, it could not in any way prejudice the appellant because the court did not convict him of assassination but of homicide, and no question is made but that the complaint was sufficient as a complaint for the latter crime.

- The second error assigned is to the effect that the court erred in permitting certain clerks attached to the court to administer the oaths to the witnesses. No objection was made by the appellant to this manner of administering the oaths at the time it was done, and he thereby waived any objection thereto. (U. S. vs. Barroquillo,[1] R. G. No. 4884, decided January 5,1909.)

- The appellant says that the court below erred in holding that the Protestants were not armed when they crossed the bridge and entered upon the Catholic side of the river. The evidence preponderates in favor of this finding of the court, but to our minds it has no bearing upon the decision of the case. According to the witnesses, more than an hour and a half elapsed between the time when the Protestants left the Catholic side of the river and the time when the Catholics advanced from their side and committed the crime charged in the complaint. It also appears that the parties did not come in contact with each other in any way while the Protestants were on the Catholic side. It may be that the Protestants made a mistake in attempting to hold a service where they did, but this mistake in no way justified the Catholics, after waiting an hour and a half, in attacking the Protestants and killing Balbino Lozano.

- The appellant's counsel criticises the testimony of several witnesses for the Government, claiming that they contradicted themselves to such an extent as to make their testimony without weight. But nothing is said in the brief about a great many other witnesses whose testimony was direct and positive as to the facts above narrated, and we are satisfied beyond a reasonable doubt that the affair occurred as has been stated.

That the appellant is guilty as a principal, is well settled by the authorities. (U. S. vs. Abelinde, 1 Phil. Rep., 568; U. S. vs. Santos, 2 Phil. Rep., 453; U. S. vs. Asilo, 4 Phil. Rep., 175.)

The court below held that there existed the fourteenth aggravating circumstance mentioned in article 10 of the Penal Code. It seems to us that the aggravating circumstance applicable is that of cuadrilla, and considering this as proved, the penalty falls where the court placed it, in the maximum degree of reclusion temporal.

After the record had been brought to this court the appellant presented a motion for a new trial, based upon newly discovered evidence. The alleged newly discovered evidence consists of affidavits presented by five different persons who claim to have been in or about the Roman Catholic Church on the morning of December 15. In some respects these affidavits support the case of the Government, but in so far as they do not, they can not change the result which was reached from a consideration of the other evidence offered in the case. Moreover, there is no proper showing of the diligence which was used prior to the trial for the purpose of securing this evidence. The

appellant himself has presented no affidavit of any kind. In fact the only paper presented with the affidavits is a statement signed by the present counsel for the appellant, who did not act as counsel for him in the court below, in which he states that the appellant did not know that these persons could testify in his favor. This is not sufficient. The motion is denied.

The sentence of the court below is affirmed, with the costs of this instance against the appellant

Arellano, C. J., Torres, Mapa, Johnson, and Carson, JJ., concur.

[1] 12 Phil. Rep., 784.

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.