

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JULIAN MENESES, DEFENDANT AND APPELLANT.

G.R. No. 5167. October 25, 1909

Ponente: CARSON, J.

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CARSON, J.:

The information filed in this case charges the accused with misappropriation of public funds, committed as follows:

"That the aforesaid accused, between the months of February, 1908 and September 13, of the same year, in the municipality of Virac, Province of Albay, P. I., while a bonded public official of the Province of Albay, that is to say, deputy provincial treasurer of the Island of Catanduanes, Albay Province, P. I., had, under his care, charge, and responsibility, on account of his office and position, public funds and moneys and funds on deposit which the law provided should be in the custody of said official.

"That the said accused, then and there, maliciously, voluntarily, and criminally, and for the purpose of enriching himself, took, seized, removed, and misappropriated from the moneys and public funds which, on account of his public office and position he held under his care and charge, the sum of two thousand seven hundred and thirteen pesos and sixty-eight centavos (P2,713.68), Philippine currency, using and employing same to his personal ends, contrary to law."

The witnesses for the prosecution proved, and indeed the accused himself admitted, that on the 17th day of September, 1908, the district auditor, who examined the accounts of the accused, as deputy treasurer of the subprovince of Catanduanes, found him short in his funds in the sum of P2,713.68 Philippine currency. In explanation of this shortage, the accused swore that in the month of December, 1907, he lost public funds in his hands as deputy treasurer, amounting to P2,415, in a shipwreck which took place while he was traveling through his province upon official business, and that he also lost public funds amounting to P1,045 in another shipwreck which took place under similar conditions in the month of May, 1908. The trial judge was of opinion that this explanation of the admitted shortage of public funds for which the accused was responsible by virtue of his office, was false and wholly unworthy of belief; partly because of the inherent improbability of the story of these two shipwrecks as related by the accused upon the witness stand; partly because of the unsatisfactory and unconvincing manner in which he and the witnesses whom he called to corroborate him testified; and partly because of the fact that he made no report of his loss of public funds until his shortage was discovered by the auditor of accounts. Upon an examination of the whole record, we are of opinion that the evidence fully sustains this finding of the trial court, and that the guilt of the accused of the misappropriation of public funds, in violation of the provisions of Act No. 1740, is proven by the evidence of record beyond a reasonable doubt, it appearing that he has failed to account for public funds to the amount set out in the information, which admittedly came into his hands in his official capacity as deputy treasurer of the subprovince of Catanduanes. (U. S. vs. Calimag, 12 Phil. Rep., 687; U. S. vs. Togonon, 12 Phil. Rep., 516.)

The accused was sentenced to eight years' imprisonment, to the payment of a fine of P1,000, to indemnify the

province in the sum of P2,713, to perpetual disability to hold public office, and to the payment of the costs of the proceedings, the trial court imposing this relatively severe penalty, because it appeared that the accused was a trusted employee long in the service of the Government, a man of considerable intelligence, well educated, and fully capable of understanding the nature of the offense he committed, and because also of the considerable amount of the funds misappropriated. We think this was a sound exercise of the discretion conferred upon the trial court in imposing the penalty prescribed in Act No. 1740, and we find no error in the proceedings prejudicial to the rights of the accused.

The sentence imposed by the trial court should be and is hereby affirmed, with the costs of this instance against the appellant.

Arellano, C. J., Torres, Johnson, and Moreland, JJ., concur.

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