

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SALUSTIANO PULIDO ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 5290. January 28, 1910*

Ponente: MORELAND, J.

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The defendants in this case were accused of a violation of the Election Law in having carried away, illegally and criminally, certain papers, together with the ballot boxes containing the ballots used in the election on the 5th day of November, 1907, abstracting the same from a wardrobe in which they were locked in the office of the municipal secretary in the presidencia of Sanchez Mira in the Province of Cagayan. They were convicted of the crime charged and were severally condemned each to three months' imprisonment and to pay one-third of the costs of the action. The defendants appealed.

It appears clearly established from the proofs in this case that on the 5th day of November, 1907, a general election was held in the municipality of Sanchez Mira in the Province of Cagayan. In said election Felipe Navarro and Juan Academia were opposing candidates for the office of municipal president and Mariano Acuña and Cosme Marzan were opposing candidates for the office of municipal vice-president. Upon a count of the ballots by the board of inspectors after the polls were closed, it was found that Juan Academia had been elected president and Cosme Marzan vice-president of said municipality. At about 8 o'clock in the evening after the count had been made, the inspectors delivered to the municipal secretary, Liberato Lopez, some blank ballots and other papers, together with the ballot boxes used in said election, which ballot boxes, duly locked and sealed, contained the ballots voted at said election. The said municipal secretary, finding his office locked with a padlock, the key of which was in the possession of his clerk, sent word to the latter, and, after waiting an hour or so, the inspectors being in a hurry and the clerk not appearing, Lopez took an iron bar from the door and the policeman, Antonio Pulido, broke the lock on the door, obtaining by this method entrance to the office. The municipal secretary put into his wardrobe the papers and the ballot boxes and locked the wardrobe with a key which he took away with him to the house of Felipe Navarro, where he was stopping. He first, however, charged the chief of police that he keep careful watch of the office inasmuch as one of the bars of the door was broken. At about 10 o'clock of the same night, the 5th of November, 1907, while said Liberato Lopez was chatting with his landlord, there came to the house where he was the two brothers, Lazaro Pulido and Antonio Pulido, the latter saying that they came to get an empty demijohn which was inside of Lopez's room. He entered the room on the pretext of getting the demijohn and soon came out again, but without the demijohn. Both of the brothers then left the house. On going to bed that night Lopez looked for the keys to the wardrobe in order to place them under his pillow, as was his custom, and found that they had disappeared. He immediately went to the municipal building, where, on arriving, he found open the door of the wardrobe in which he had left the papers and the ballot boxes under lock and key. Looking in the wardrobe he found that the ballot boxes and some of the papers were gone. He immediately went to the justice of the peace to give information of the fact, returning immediately to the office, accompanied by the justice and the chief of police, Petronilo Gumabay, and a member of the Constabulary. On arriving at the municipal building they verified the fact that the wardrobe was open and the ballot boxes gone. They searched in

every corner of the office but in vain. The ballot boxes were not to be found. From the municipal building, on the invitation of the justice of the peace, Lopez and his companions went to the office of the justice for the purpose of reducing to writing the facts of the case. Not having in his office either ink or paper, they returned to the secretary's office in the municipal building and, on arriving there the second time, they found beneath the table in the secretary's office the said ballot boxes, with the locks intact. Some of the papers were scattered about and the seals of the ballot boxes, having on them the initials of the president of the board of inspectors, torn, so that, in spite of the fact that the ballot boxes were locked, yet it was possible to put ballots into the boxes by means of the openings from which the seals had been torn. The election being subsequently protested by Felipe. Navarro under the direction of the accused Salustiano Pulido, it was declared null and void by the Court of First Instance of the Province of Cagayan.

That the accused were the authors of the said crime is fully established by the above facts as proved by the prosecution, taken in connection with the testimony of the other witnesses for the prosecution, among whom were Eustaquio Academia and Paulo Galicia, who testified that between 10 and 11 o'clock of the night in question, being together at the house of Cosme Marzan, vice-president-elect, for the purpose of congratulating him, they on their way home saw in the street in front of the municipal building the defendants, Salustiano Pulido, Lazaro Pulido, and Antonio Pulido, the first carrying some papers and the other two a ballot box each, walking in a direction opposite to that in which the two witnesses were going. That the said witnesses recognized the defendants by the light which came from the municipal building and because the night was light. That when they asked the defendants why they were carrying ballot boxes, they did not answer.

There appears no reason why the conclusion of the court below should be disturbed.

The judgment of the court below is, therefore, affirmed, with costs against the appellants.

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

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