

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JOAQUIN ROMERO, DEFENDANT AND APPELLANT.

G. R. No. 5805. September 16, 1910

Ponente: TORRES, J.

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TORRES, J.:

On April 24, 1908, Joaquin Romeio, as postmaster in charge of the post-office and telegraph station in the pueblo of Paniqui, Province of Tarlac, received from one named Eugenio two telegrams for their transmission - one to Olongapo, addressed to Mariano de la Cruz, and the other to Los Bafios, addressed to Severino Maguigao. The telegram sent to Cruz in Olongapo was drawn up in the following terms: "Paniqui, April, 24-08. - Sr. Mariano de la Cruz. - Olongapo. - Aver si hay dinero necesita porque estoy enfermo manda si puede, Eugenio." (See whether there is money. I need it because I am sick. Send if you can. Eugenio.) This telegram consists of twenty-one words and was transmitted by the telegraph operator Romero in the following form: "Paniqui, April, 24-08. - Mariano de la Cruz. - Olongapo.- Mandame dinero pronto, estoy enfermo Eugenio," (Send me money soon, am sick. Eugenio.) The original telegram was thus reduced to nine words, and twelve words were omitted. The telegraph operator Romero received for the transmission of the said telegram P1.26, the price charged for the twenty-one words which it contained, and by the reduction gained P0.72, corresponding to the twelve words omitted.

The second telegram was originally worded as follows: "Paniqui, April, 24-08. - Sr. Severino Maguigao. - Los Banos. - Haga el favor de remitir lo que me debe estoy muy enfermo y necesita el dinero. - Eugenio." (Please remit what you owe me. I am very sick and need the money. Eugenio). The operator omitted eight words from this telegram, which was reduced to the following: "Paniqui, April, 24-08. - Severino Maguigao. - Los Bafios. - Remitame dinero, necesito estoy enfermo. - Eugenio" (Remit me money. Need. Am sick. Eugenio.) By the reduction of words made, the telegraph operator Joaquin Romero gained the price corresponding to the difference of eight words, to wit, P0.48.

On August 24, 1908, the provincial fiscal filed a complaint with the Court of First Instance of Tarlac, based upon the above facts, charging Joaquin Romero with the crime of falsification of telegrams. The case having come to trial, the judge, in view of the evidence adduced thereat, sentenced the accused, on January 13, 1909, to the penalty of three years and seven months' prison correccional, crediting him with one-half of the time he was held as a detention prisoner, to the accessory penalties provided by law, and to the payment of the costs. From this judgment the defendant appealed.

From the facts related, which were duly proved in this cause; it is found that the crime of falsification of telegrams sent from the Paniqui station and addressed, one to Mariano de la Cruz residing in Olongapo, and the other to Severino Maguigao residing in the pueblo of Los Banos, La Laguna, was committed, since, with the intent of gain, the number of words contained in each telegram was diminished or reduced and alterations were made therein in such a way as to pervert the truth in the narration of the facts, and statements different from those contained in the telegrams, delivered at the telegraph station by the sender Eugenio, were transmitted by wire.

This crime is provided for and punished by article 303 in connection with article 300 of the Penal Code, which article 303 reads:

"A public official in charge of the telegraph service who shall originate or falsify a telegraphic message shall incur the penalty of prision correccional in its medium and maximum degrees."

It is unquestionable, in this cause, that the defendant Joaquin Romero was a public official in charge of the post-office and the telegraph station of the pueblo of Paniqui, Province of Tarlac, was appointed by the Government to discharge the said positions, and as such official received salary from the public treasury.

The said defendant is the sole confessed and convicted perpetrator, by direct participation, of the crime mentioned. No motive, other than that of intent of gain, can be ascribed as having determined him to reduce or diminish the number of words contained in each of the telegrams deposited with their cost at the telegraph station under his charge, inasmuch as, by the reduction of the first telegram, addressed to Olongapo, the defendant appropriated to himself P0.72, the cost of the twelve words therein omitted, and in the second telegram he gained P0.48, the amount received for the eight words omitted. The defendant only affixed to the first telegram stamps to the value of P0.54, and to the other stamps to the value of P0.60, while he received P2.34 as the total charge for the twenty-one words of the first telegram and for the eighteen of the second message.

It is a fact, admitted by the defendant, that he changed the wording of the telegrams which he received, by omitting several words in each of them; and the record of the cause shows no proof of his allegation that he made an error in recounting the amount received for each one of the telegrams, owing to the number of words they contained, and that he was therefore obliged to diminish the number of words of each of them. Such allegation is negated by the proven facts that he affixed stamps only to the value of P0.54 to one of the telegrams, and of P0.60 to the other, and as he received P2.34 for the dispatch of the two messages, it is evident that the surplus money must have remained in his possession, since, on striking a balance, instead of a surplus it was found that there was a shortage of P3 in the postal funds, as the defendant himself confesses in his official letter of April 25, 1908 (p. 39 of trial record). From all of which it is concluded, as aforesaid, that the defendant obtained profit from the remainder of the sum received by him, equivalent to the price of the words omitted by him from the two telegrams before mentioned.

The defendant, therefore, with manifest violation of a prohibitive law perpetrated the unlawful act in question and has thereby incurred the penalty which he merits for his criminal acts. In view of the fact that no mitigating nor aggravating circumstance enters into the" commission of the crime, the punishment should be imposed upon him in the medium degree of the penalty of prision correccional in its medium and maximum degrees.

For the foregoing reasons, whereby the errors' attributed to the judgment appealed from have been decided, it is proper, in our opinion, to affirm the said judgment and we hereby affirm the same, with the costs of this instance against the defendant. So ordered.

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

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