

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CALIXTO LARANJA, DEFENDANT AND APPELLANT.

G.R. No. 6789. February 16, 1912

Ponente: TRENT, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-6789/>

TRENT, J.:

The defendant Calixto Laranja, having been convicted by the Court of First Instance of the Province of Iloilo, the Honorable J. S. Powell presiding, and sentenced to seventeen years four months and one day of reclusion temporal, to pay the heirs of the deceased P1,000, and to pay the costs, for the crime of homicide, appealed to this court.

From the record it appears that the appellant, who is the son of a man named Apolinar, and four or five companions went to the house of one Candoy on the night of November 8, 1910; that sometime after these men arrived at this house on that night, they, together with the people living in said house, began singing and drinking; that a quarrel and fight ensued which resulted in the death of Candoy and Ando. Subsequently thereto, criminal complaints were filed in the Court of First Instance against this appellant and one Iyon, charging them with the crime of homicide. Iyon was tried first. When the case against the appellant was called, a certain agreement with reference to admitting the testimony taken in the case against Iyon was entered into by counsel for the defendant and the provincial fiscal. This agreement, as stated by the trial court, was as follows:

"Counsel de oficio, Mr. Lozano, stated that with the sworn statement of the defendant in addition to the evidence taken in the case No. 1889, that he would submit the case. He said, and it was within the knowledge of the court, that he had been present all during the trial assisting the fiscal in the case against Iyon and that Calixto had been present and heard all the testimony in the case against Iyon, and that he was willing for the record in the case against Iyon to be used in the trial of this case. The fiscal agreed to this, and the defendant, after being sworn, went upon the stand."

The case was submitted upon the testimony of the appellant and that taken in the case against Iyon.

Counsel for the defendant now insists that the trial court erred in allowing, to the prejudice of the defendant, a stipulation between the fiscal and the defendant's counsel, or, in other words, that the court erred in admitting the testimony taken in the Iyon case, and cites in support of this alleged error the case of the United States vs. Pobre (11 Phil. Rep., 51). On the other hand, the Attorney-General insists that no such error was committed for the reason, as he says, that the defendant waived his right to be confronted with and to cross-examine the witnesses against him, and in support of his position cites the following cases: U. S. vs. Donato (9 Phil. Rep., 701), U. S. vs. Castaneda (10 Phil. Rep., 761), U. S. vs. Manlimos (11 Phil. Rep., 547).

In the case relied upon by counsel de oficio for the defendant, the fiscal and counsel for the accused in that case agreed that the internal-revenue agent and his companions would testify confirming the complaint in all of its parts; that the witnesses for the defense would declare that the alleged opium referred to in the complaint was ashes of the said drug, and that if the said article was found in the house of the accused, it was because the

Chinaman Quin-quoio, who was authorized to have it in his possession, had left it there and that the neighbors of the accused would declare that he was not in the habit of smoking opium. Upon this agreement the case was submitted to the court and the accused found guilty and sentenced accordingly.

Upon appeal, this court said:

"The agreement entered into between the fiscal of Ilocos Norte and counsel for the defendant refers to facts which favor the defense and to others connected with the prosecution ; no evidence whatever was adduced, nor was the testimony of the witnesses mentioned in the agreement taken. This is a practice which is not authorized and defeats the purpose of the criminal law, being an open violation of the rules of criminal procedure, and particularly of the provisions of section 32 of General Orders, No. 58."

The judgment was set aside and a new trial ordered. In the first case cited by the Attorney-General, only one witness was examined, but several agreements were made between the representative of the Government and the attorneys for the defense, to the effect that certain witnesses would testify affirming the declaration of the witness for the prosecution, and other witnesses would testify to certain facts which would be material to the defense. The declarations of the witness and of the accused were received verbally. The accused were all convicted and appealed. The Supreme Court said:

"This court, however, upon attempting to review the evidence, has found it impossible to do so because of the reprehensible abuse committed in resorting to such unlawful agreements, thereby frustrating the purposes of the law, which has been openly violated."

The judgment appealed from was declared null and void and a new trial ordered.

In the second case; the defendant Castaneda, as postmaster, was short in his accounts. He stated in defense that the shortage was caused by the theft of funds by one Valleros. Certain witnesses for the defense failed to appear and counsel agreed as to the nature of the testimony which they would have given. As the accused knew the thief but made no complaint or effort to recover the money, his testimony was considered unworthy of belief, and as all the defaulting witnesses were favorable to the defendant and counsel for the Government accepted his statements as to the nature of the proposed evidence as true, such non-appearance was held insufficient for granting a new trial, and the judgment was affirmed.

In the third case, the defendant Manlimos was convicted of the crime of estafa and sentenced accordingly. Five witnesses testified, two for the prosecution and three—including the defendant—for the defense. A certain agreement was entered into between the fiscal and counsel for the accused. With reference to this agreement, this Supreme Court said:

"We can not accept as the full equivalent of proof on oath the agreement of counsel that, if certain additional witnesses were produced and sworn on behalf of the prosecution as well as of the defense, they would testify as the actual witnesses had done as to the very substance of the issue."

The defendant was acquitted of the crime charged, not upon the ground that this agreement was entered into, but upon a review of the record the court found that the offense, if one had been committed, did not constitute estafa.

It is clear that the doctrine set forth in these cases is not applicable to the case at bar. In the case cited by the counsel for the appellant, no testimony whatever was taken while in the case at bar we have before us not only the testimony of the appellant himself, but also all of the evidence taken in the case against Iyon. In the first case cited by the Attorney-General, this court could not review the testimony taken because such testimony, with the exception of one witness, was not before it. In the second case, some of the witnesses were examined and other witnesses for the accused failed to appear, but he expressly waived his right to present these witnesses, and the

Government, having accepted the statements as to the nature of the proposed evidence as true, thereby waived its right to cross-examine the absent witnesses. This case might be applicable to the case at bar if no other question presented itself except that raised by the Attorney-General. In the last case, while it is true that this court said that it could not accept as the full equivalent of proof on oath that if certain witnesses were produced they would testify as the actual witnesses had done as to the very substance of the issue, yet the decision did not rest upon this ground, but upon the ground that if a crime had been committed at all it was not that of estafa.

In the case under consideration we not only have before us, as we have said, the testimony of the defendant himself but also all of the evidence taken in the case against Iyon, and furthermore, there is in this record, as above quoted, an express waive? on the part of the defendant through his attorney of his constitutional right to be confronted with and to cross-examine the witnesses against him.

That a defendant in a criminal prosecution may waive the benefit of the constitutional privilege of being confronted with the witnesses against him is, we think, well settled. (12 Cyc, 545, and a long array of cases cited therein.)

Again, the evidence complained of was admitted by the court on the express stipulation and agreement of the parties made in open court. Its admission thereupon became an established fact. Its admissibility ceased to be a question. It could not be raised here any more than it could in the court below. The only question remaining relative to such evidence is its probative force and value. By reason of the stipulation and agreement of the attorney de oficio for the defendant and the fiscal, the court made no ruling or decision on the admissibility of the evidence. There being no ruling or decision of the court, there could be nothing in reference to this question to review. Judge Cooley, speaking for a majority of the court in the case of the People vs. Murray (52 Mich., 290, 291), said:

"The respondent stands convicted of the murder of one Emery at Chesaning. The homicide took place while a circus was on exhibition at that place. I shall notice in this case only such errors assigned as, after the full presentation of the facts by Mr. Justice Sherwood, seem essential.

"A chief ground of error relied upon is that the prosecution was allowed to put in evidence certain depositions taken out of court of witnesses not present at the trial. The facts seem to be that the attorneys for the respective parties stipulated to put in certain depositions on both sides, and they were put in accordingly. This, it is said, was in violation of the respondent's constitutional right to be confronted with his witnesses. But the court made no ruling in the matter; what was done was voluntarily done by the parties; the defendant had the benefit of the stipulation, and, for aught we can know, it may have been made chiefly in his interest. But however that may be, when the court has made no ruling we can have nothing to review. This court can not relieve a party from a criminal conviction because of his own voluntary action on the trial.

"It is said the counsel for respondent was counsel assigned to him by the court and may not have been counsel of his choice. We do not know how the fact was, but we know it is customary to allow the respondent to choose for himself. But however that may be, the counsel acted for the respondent without objection, and without complaint that he did not do the best he could for him.

"The defendant undoubtedly had a constitutional right to be confronted with his witnesses. He waived that right in this case, apparently for his own supposed advantage and to obtain evidence on his behalf. It would have been a mere impertinence for the court to have interfered and precluded this stipulation being acted upon. But it would have been more than an impertinence; it would have been gross error. And it would be palpable usurpation of power for us now to set aside a judgment for a neglect of the court not at the time complained of, but in respect to something where any other course would have been plain error.

"Under the view taken by the respondent it would seem that, when the evidence had been obtained under this

stipulation, the court was put in position where it was impossible to avoid error; for if the evidence was received, he might complain, as he does now, that his constitutional right was violated, and if the court refused to receive it when he was consenting, the respondent would be entitled to have the conviction set aside for that error.

"I shall always be ready to preserve in its integrity every constitutional right; but I do not understand that the Constitution is an instrument to play fast and loose with in criminal cases any more than in any other, or that it is the business of courts to be astute in the discovery of technical difficulties in the punishment of parties for their criminal conduct."

The record in the Iyon case was admitted as evidence on the express stipulation of the parties. The court below had no discretion. To hold that that evidence was inadmissible puts the trial court in the position described by Judge Cooley in the quotation above. If the court admitted the evidence it was subject, according to the theory of counsel for the appellant, to be charged with violating the defendant's constitutional right to be confronted with the witnesses against him and of admitting incompetent evidence. If the court had excluded such evidence, the defendant would have been entitled to have the conviction set aside for error involved in excluding from the case evidence whose admissibility was agreed upon by all, and which the defendant himself, through his counsel, expressly asked to have admitted as essential to his proper defense. In other words, the court would be reversed if it did and reversed if it did not.

If the judgment appealed from is to be reversed and the case remanded for a new trial, it must be upon the ground of the disqualification of the attorney de officio who represented the appellant in the court below. If the attorney was in fact disqualified, this disqualification would not affect the legality of any particular step in the proceedings alone, but would touch equally every part of the case from its inception to its close. If an attorney is disqualified, it is presumed that he can not properly advise the accused as to his rights; or as to how he should plead; or present testimony of his own; or sum up the case finally to the court; or do anything in the conduct of the case from beginning to end. To determine this question it is necessary to inquire whether or not the attorney changed or had an opportunity to change his position; that is, was his position when he was assisting the prosecution in the case against Iyon inconsistent or could it have been made so with that of his being attorney for this defendant? It must be borne in mind that the attorney was appointed by the court to represent the appellant, and we understand that it is customary in this country for the court, through its clerk, to appoint attorneys to defend paupers charged with criminal offenses from a roster kept by the clerk. This method is followed in order to divide the work equally among the attorneys, and we see no objection to such a method. But generally, the attorney appointed is not selected by the defendant, who is given no choice in the matter. The defendant must accept whosoever is designated.

These are the facts with reference to the question under consideration in the case at bar: Iyon killed Ando. Calixto, the appellant, killed Candoy. Candoy, who was killed first, was the father of Iyon. Ando was a brother-in-law of Calixto. The trouble which resulted in the death of these two men arose in the house of Candoy. Ando and his brother-in-law and their companions were in Candoy's house on the night of the trouble by invitation. The attorney's position in assisting the prosecution in the case against Iyon was that of showing that Iyon was the guilty party and that the killing of Ando was not justifiable. In defending Calixto (the defendant), it was the duty of the attorney to show, if it could be done, that Candoy was the aggressor and not Calixto. The testimony which was used to convict Iyon was incorporated by stipulation of the parties bodily into the case against this appellant. In addition, the defendant himself testified. This constitutes the evidence in the present case. An analysis of the testimony taken in the Iyon case shows that there was in fact nothing in that testimony presented by the prosecution upon which a conviction of this appellant could be based. It was the testimony of the defense in that case which convicted this appellant. The record in the Iyon case shows that there was no attempt on the part of

Attorney Lozano to cross-examine the witnesses presented by the defendant in that case from the viewpoint of the defense in the case at bar. The first time that the theory of the appellant was squarely before the court was when he himself took the stand. The record does not disclose whether Mr. Lozano was appointed to represent this appellant before or after the trial of Iyon. If he was appointed before that trial, he did not, as we have said, develop by cross-examination of the defendant's witnesses in that case against Iyon the theory of self-defense which was the plea of this defendant. Had the attorney attempted to develop the theory of self-defense of Calixto, the court might have held that that would have been improper in the case against Iyon. Again, if the lawyer had been appointed before the trial of Iyon, he could have consulted (and we do not know whether he did or not) with Calixto and obtained from him all the facts about how the killing occurred, and the defense of this appellant. This knowledge probably could have been used to advantage in the prosecution of Iyon and to the prejudice of the appellant. At least, there was an opportunity to do so. If the attorney was appointed after the Iyon case was closed, he would have had no reason, of course, for developing the testimony in the case against Iyon which would have aided the defense of the appellant. Viewed from any standpoint, there was an opportunity for the attorney to have acted in a double capacity. The appearance of such injustice to clients must be avoided. Courts will give approval in no degree to the conduct of Mr. Lozano. He should have called the attention of the trial court to these facts, and the court would then no doubt have relieved him as attorney de oficio for the appellant. Public policy prohibits him from defending the appellant under these circumstances; the reason for this prohibition is found in the relation of attorney and client, which is one of confidence and trust in the very highest degree. An attorney becomes familiar with all the facts connected with his client's cause. He learns from his client the weak points of the case as well as the strong ones. Such knowledge must be considered sacred and guarded with great care. No opportunity must be given attorneys to take advantage of the secrets of clients obtained while the confidential relation of attorney and client exists. The members of the profession must have the fullest confidence of their clients. If it may be abused, the profession will suffer by the loss of the confidence of the people. The good of the profession as well as the safety of the clients demands a strict recognition and enforcement of the rules governing the relation of attorney and client. We believe there are sufficient reasons in this case under the facts and circumstances as presented to hold that Mr. Lozano was disqualified and could not legally represent the defendant in the court below.

The judgment appealed from must be set aside and a new trial ordered.

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

Carson and Moreland, JJ., concur on the ground last set forth.

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.