

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JACINTO BORROMEO ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 7150. September 06, 1911

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PER CURIAM:

This is a motion by Macario Adriatico made the 31st day of August, 1911, alleging himself to be the attorney for the defendant-appellant, Jacinto Borrromeo, for time to study the cause and prepare his case on appeal.

The appellant, Jacinto Borrromeo, was convicted of the crime of rapto in the Court of First Instance of the city of Manila in November, 1910, In that court he was defended by Sr. Mariano Legaspi, an attorney of this court. After the conviction and on the 17th day of November, 1910, a notice of appeal was filed by Sr. M. Legaspi Florendo as attorney for said appellant.

On the 7th day of July, 1911, Senor Alfonso Mendoza filed in this court the following notice:

"The clerk will please note my appearance in the above-entitled cause as attorney for the accused."

And, lastly, Sr. Macario Adriatico, on the 31st day of August, 1911, as attorney for the appellant, filed the following as above mentioned:

"The undersigned, in the name of and representing the accused, Jacinto Borrromeo, prays the court that he have time to study the cause above mentioned."

As is seen from the above, there have been three changes made in attorneys for the accused in this case. No formalities whatever were observed in those changes. No consent of the accused to such changes was filed or presented. No consent of the previous attorney to such substitution was filed or presented; and no notice of the motion for such substitution was served upon such attorney.

We can not permit such practice to prevail. No substitution of attorneys will be allowed unless the following requisites concur:

- There must always be filed a written application for such substitution.
- There must always be filed the written consent of the client to such substitution.
- There must always be filed the written consent of the attorney substituted if such consent can be obtained.
- In case such written consent can not be procured, there must be filed with the application for substitution proof of the service of notice of such motion in the manner required by the rules upon the attorney to be substituted.

Unless these formalities are complied with no substitution will be permitted and the attorney who properly appeared last in the cause before such application for substitution will be regarded as the attorney of record and will be held responsible for the proper conduct of the cause.

The petitioner, Macario Adriatico, having no standing in this case, according to the records of the court, the motion is denied, without prejudice to subsequent proceedings for the substitution of attorneys in accordance with the requirements herein laid down.

Torres, Mapa, Johnson, Carson, and Moreland, JJ.

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