

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JOSEPH L. WILSON AND ALFREDO DOLORES, DEFENDANTS AND APPELLANTS.

G.R. Nos. 30012-15. March 07, 1929

Ponente: OSTRAND, J.

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OSTRAND, J.:

In criminal cases Nos. 35408, 35426, 35447, and 35473 of the Court of First Instance of Manila, the defendant Joseph L. Wilson was convicted of the crimes of falsification of a telegraphic dispatch, estafa through falsification of a mercantile document, falsification of a mercantile document, and estafa, respectively. He appealed to this court from the judgments in all four cases. After the cases were submitted, but before the decisions had been rendered, the appellant, who was admitted to bail, fled the jurisdiction of the court and left the Philippine Islands under an assumed name.

Upon reliable information as to the defendant Wilson's action, the Attorney-General moved that the appeal taken by said defendant from the judgments of conviction rendered by the Court of First Instance in the aforesaid four cases be declared withdrawn and that said judgments be declared final. Counsel for the defendant opposes the motion and, in substance, argues that inasmuch as his client has duly perfected the appeal and has presented his brief in due time, it is the duty of the court to decide the case on the merits.

The law upon the subject is well settled, and the authorities are practically unanimous that in the absence of a statute regulating the practise, it is within the sound discretion of the appellate court to determine whether the case shall be postponed to await the recapture of the accused, or the appeal shall be dismissed. And this rule applies whether the accused escapes from custody in jail or is constructively in custody by being admitted to bail. (Warwick vs. State, 73 Ala., 486; People vs. Redinger, 55 Cal., 290; Bronk vs. Bronk, 46 Fla., 474; McGowan vs. People, 104 Ill., 100; State vs. Scott, 70 Kan., 692; Wilson vs. Com., 10 Bush [Ky.], 526; State vs. Wright, 32 La. Ann., 1017; People vs. Genet, 59 N. Y., 80; State vs. Jacobs, 107 N. C., 772; Tyler vs. State, 3 Okla. Crim., 179; U. S. vs. Ravidas, 4 Phil., 271. See also note in 3 Ann. Cas., 512.) The principle upon which this rule rests is that a party appealing who flees the jurisdiction, pending the appeal, is in-contempt of the authority of the court and of the law and places himself in position to speculate on the chances for a reversal, meanwhile keeping out of the reach of justice and preparing to render the judgment nugatory or not, at his option. Such conduct is intolerable and does not invite leniency on the part of the appellate court.

The defendant has fled to a foreign country, is now a fugitive from justice, and there is a presumption that the judgments of the court below are in accordance with the law and the facts. Said judgments against Joseph L. Wilson are therefore declared final, and his appeal is dismissed with the costs against the defendant. So ordered.

Johnson, Street, Malcolm, Johns, Romualdez, and Villa-Real, JJ., concur.

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