

3 Phil. 630

[G.R. No. 1559. April 09, 1904]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. LORENZO ALBANO,
DEFENDANT AND APPELLANT.**

D E C I S I O N

COOPER, J.:

The defendant, Lorenzo Albano, is charged with the offense of sleeping on post while on duty as a sentinel in the Philippines Constabulary and was convicted by the Court of First Instance and sentenced to imprisonment at hard labor for the period of one year. He appealed from this judgment.

It is contended by counsel for the defendant that he was ill when placed upon duty and that extra duty was imposed upon him; that he was placed on guard from 6 p. m. until 12 o'clock the next day.

Benito de Leon testified that the defendant was placed on guard at 4 o'clock in the morning and was found asleep at half past 4. This witness also denies the statement made by the defendant that he had been placed upon extra duty on the night in question or that the defendant reported himself as ill at the time he was placed on guard.

The evidence in the case also shows there were several *insurrecto* prisoners sleeping on a large table in front of the defendant, over whom he was standing guard. The charge against him has been fully proven.

It appears in the record that the defendant has been in prison since the 1st day of May 31, 1903, and as he has served almost one year of the time for which he was sentenced, we are inclined to reduce his

punishment to one month's imprisonment, and to this end we modify the judgment of the Court of First Instance and sentence the defendant to thirty days' imprisonment in Bilibid and adjudge the costs of proceedings against him.

So ordered.

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

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