

1 Phil. 669

[ G.R. No. 975. January 29, 1903 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. IGNACIO DACOTAN ET AL., DEFENDANTS AND APPELLANTS.**

**D E C I S I O N**

**WILLARD, J.:**

It is true that there was only one witness who testified against the defendants. But in the present condition of the law a person can be convicted upon the testimony of one witness if the court is satisfied beyond a reasonable doubt that such testimony is true.

The evidence in this case is in our opinion sufficient to sustain the conviction. The penalty imposed upon the defendants of 12 years and 1 day is, however, not in conformity with law. The offense falls within article 503, No. 5, of the Penal Code. The maximum penalty allowed by that article is ten years. The aggravating circumstance of abuse of confidence ought not to be considered. The complaining witness went into the house of the defendants at their invitation and his money was taken from him by force, in the middle of the day. This indicates an abuse of confidence no more than would an invitation by them that he should accompany them to a retired place where they could rob him without interference.

No aggravating nor attenuating circumstances appearing, the penalty should be imposed in the medium grade, and we fix it at three years eight months and one day of *presidio correccional*, with indemnification of 27 pesos, Mexican, restitution of the value of the two undershirts as may be fixed by experts if said underwear is not returned, and in case of insolvency defendant is sentenced to the corresponding subsidiary imprisonment and to the payment of costs of both instances. So ordered.

*Arellano, C., J., Torres, Cooper, and Ladd, JJ., concur.*

*Mapa, J., did not sit in the case.*

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