

1 Phil. 372

[ G.R. No. 895. September 13, 1902 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. BRAULIO ROQUE,  
DEFENDANT AND APPELLANT.**

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

**LADD, J.:**

The defendant was convicted in the court below of falsification under article 304 in connection with No. 1 of article 300 of the Penal Code. The evidence at the trial tended to show that he had been furnished by his employer, Captain Harford, with money to pay certain shop bills contracted by the latter, and among others one of H. Price & Co. for 64 pesos; that he signed the name of M. Legaspi, an employee of that firm, to what purported to be a receipt for the bill, which he then delivered to Captain Harford; and that he retained the money for about two weeks thereafter, when, having learned that his deception had been discovered, he sought out H. Price & Co. and paid the bill to them. But as there was no evidence that he imitated or attempted to imitate Legaspi's handwriting in the signature to the receipt the conviction can not be sustained. In order to constitute the crime of *falsification* by "counterfeiting or feigning any writing, signature, or rubric" (Penal Code, art. 300, No. 1) there must be, as the language in which the crime is described imports, a similitude between the genuine and the pretended writing, signature, or rubric. This is the settled doctrine of the supreme court of Spain, and it has been adopted by this court. (The United States vs. Emiliano Paraiso, decided November 13, 1901, citing decisions of the supreme court of Spain.) The complaint should have been for *estafa*.

The judgment will be reversed and the defendant acquitted, with costs de oficio. So ordered.

*Arellano, C. J., Torres, Gooper, and Willard, JJ., concur.*

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

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