

2 Phil. 193

[G.R. No. 1234. May 06, 1903]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. E. S. LEWIS,
DEFENDANT AND APPELLANT.**

D E C I S I O N

LADD, J.:

The appellant was convicted October 24, 1902, by the Court of First Instance of Manila, of larceny, and sentenced to eight months of *presidio correccional*. He appealed, and November 4, 1902, he furnished a bond and wa[^]s admitted to bail by the trial court. The appeal has not yet come on for hearing in this court.

Two motions have been presented, one by the Government asking that a period be fixed within which the sureties on the bail bond be required to bring the accused before this court, and that upon their failure so to do the bond be declared forfeited; the other by Mr. Tutherly, counsel for the appellant, who makes affidavit to the effect that his client has left Manila for parts unknown, and is probably beyond the jurisdiction of the court, and asks that all proceedings in the case be suspended during his absence.

The presence of the appellant in this court is not necessary in order that the appeal may be heard and judgment rendered, nor do the sureties on the bail bond given by him undertake that he will be present in this court either before the hearing or at the hearing; their undertaking is "that lie will pay such fine as the appellate court may direct, or will surrender himself in execution of such judgment as the appellate court may render, or tuit, in case the cause is remanded for a new trial, lie will appear in the court to which it may be remanded and submit himself to the orders and processes thereof" (G.O., No. 58, sec. 65). The sureties may of course prevent the accused from leaving the jurisdiction, if they think it is unsafe to allow him to do so (G. O., No. 58, sec. 75) ; the court may increase the amount of the. bond if it is insufficient (G. O., No. 58, sec. 72), hut the Government can not enforce a forfeiture of the bond until a breach of the condition has occurred, which can not be before

the rendition of judgment by this court.

For the reasons stated, both motions are denied.

Arellano, C.J., Cooper. Willard, Mapa and McDonough, JJ., concur.

Torres, J., did not sit in this case.

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