

2 Phil. 16

[G.R. No. 948. March 09, 1903]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. MACARIO CALLOTES,
DEFENDANT AND APPELLANT.**

D E C I S I O N

LADD, J.:

The evidence shows that on the evening of September 11, 1901, six armed men entered the convent of the pueblo of Bagoc, Bataan, intimidated the family of Calixto Tiangco, who was living in the convent at the time, and took and carried away a small sum of money, a revolver, some provisions, and other articles belonging to Tiangco, and a hat which belonged to Ildefonso Batol.

The defendant admits that he was with the bandits when the convent was robbed, but claims that he had been sequestered by them.

Batol's hat was found in the possession of the defendant when he was arrested. He says he took it from one of the bandits when he separated from the band. He also admits that he had a revolver, which was given to him by Isidro Mendigoren, the leader of the band, and which he turned over to one Munti, from whom it appears to have been recovered by the inspectors. It does not appear whether or not this revolver was the one taken from the convent.

The defense of sequestration is a familiar one in these cases, and is of such a character as not to be entitled to much consideration unless supported by strong evidence. Not only is there here no evidence that the defendant was an involuntary member of the band, except his own assertion to that effect, but the circumstance that the leader of the band allowed him to carry a revolver strongly discredits any such theory. We can entertain no doubt as to the defendant's guilt.

There was no evidence as to how the bandits effected an entrance into the convent. The conviction under article 508 of the Code can not, therefore, be supported. The defendant is convicted of the crime defined in No. 5 of article 503 in connection with article 504, with the aggravating circumstance of article 10, No. 20, and the penalty fixed at ten years of *presidio mayor*, with costs. In other respects the judgment is affirmed, and the cause will be returned to the Court of First Instance for the execution thereof. So ordered.

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