

[G.R. No. 2754. April 16, 1906]

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CIPRIANO JARANDILLA ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

WILLARD, J.:

The defendants and appellants in this case took part in the robbery of which Evaristo Poblador has just been convicted. That the robbery took place as testified to by the witnesses for the Government is not questioned. The only question made is as to the participation of these defendants and appellants in that robbery. We are satisfied from the evidence that the decision of the court below convicting the defendants is correct.

At the trial of Simeon Tamayo and his three companions, after the evidence for both the Government and the defendants had been completed, counsel for the defendants asked for a continuance in order to obtain and present a copy of the testimony of one of the witnesses for the Government which had been given in another case. This motion was denied. He also asked for a reasonable time to procure the testimony of Evaristo Poblador, who was at that time a prisoner in Bilibid. This motion was denied. He also asked for a reasonable time in which to have Evaristo Poblador brought before the court as a witness. This motion was denied. These rulings of the court were properly made, as the motions presented by the defendants came too late. No reason is shown why the testimony sought to be introduced could not have been obtained and presented at the trial.

The judgment of the court below is modified so as to provide for imprisonment of *presidio mayor* for ten years instead of ten years and one day. In all other respects it is affirmed with the costs of this instance against the appellants. After the expiration of ten days from the date of final judgment to be entered in accordance with this decision, let the case be remanded to the court below for proper action. So ordered.

Arellano, C. J., Torres, Mapa, and Carson, JJ., coneur.

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