

6 Phil. 9

[G.R. No. 2570. March 21, 1906]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. ANASTASIO ASUNCION ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

ARELLANO, C.J.:

This case having proceeded against the defendants, Victor Acabado, Eugenio Salvador, and Francisco Merced, only, as appears from the judgment appealed from, the court below acquitted the last two and convicted Victor Acabado, sentencing him to three years' imprisonment at hard labor, to pay a fine of \$2,000, United States currency, or in default thereof to suffer the corresponding subsidiary imprisonment, and to pay one-third of the costs of the proceedings, from which judgment the defendant, Acabado, appealed.

The complaint charged that Acabado gave shelter to Artemio Ricarte, while he was armed with a revolver, upon his return from Hongkong; that he stated to one Manuel Castino that Ricarte had written to the brigand leaders Felizardo and Montalan; and that he failed to notify the authorities of Ricarte's presence in town before the latter left, although it was publicly known that efforts were being made by the police to arrest the said Ricarte. He did notify the police, however, after Ricarte's departure.

These facts, in our opinion, are not sufficient to show that the defendant was implicated in any plans which Ricarte may have had. Much less can they constitute the crime denned and punished in section 4 of Act No. 292 of the Philippine Commission, which provides that "if two or more persons conspire to overthrow, put down, or destroy by force the Government," etc. None of the facts hereinbefore set out constitute such conspiracy as is penalized in the above-mentioned act.

The judgment appealed from is therefore reversed and the defendant, Victor Acabado, is acquitted, with his share of the costs *de officio*. So ordered.

Torres, Mapa, Johnson, Carson, and Willard, JJ., concur.

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