

4 Phil. 510

[ G.R. No. 1781. May 01, 1905 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. DAMASO SALVADOR ET AL., DEFENDANTS AND APPELLANTS.**

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

**ARELLANO, C.J.:**

This case having been brought in accordance with Act No. 518, the court acquitted Paulino Bonifacio and Eugenio Pangan and sentenced Damaso Salvador, Marcelo de Jesus, and Eustaquio de los Reyes to ten years' imprisonment. The judgment has become final and executory as regards Paulino Bonifacio and Eugenio Pangan, for the reason of being an acquittal. It is likewise final as regards Eustaquio de los Reyes, because the latter did not appeal therefrom, and although the prosecution also appealed, yet such appeal can not now alter the condition of that judgment for the reason that the appeal of the Government can not be admitted, according to repeated decisions of this court agreeing with the decisions of the Supreme Court of the United States in the case of Kepner vs. United States.<sup>[1]</sup> As regards Damaso Salvador and Marcelo de Jesus, the prosecution also appeals, but for the same reason this appeal can not be taken cognizance of and had the defendants themselves not appealed, the judgment which we now have before us would have already become executory as regards all the defendants.

Deciding then, this appeal interposed by the defendants, Damaso Salvador and Marcelo de Jesus, we believe that their guilt is well found and we rectify the error made in the Spanish text of Act No. 1121, amendatory of Act No. 518, by reason of the incorrectness of the translation. In the Spanish text of Act No. 1121 it reads that the

penalty prescribed is “death or imprisonment for a period *less* than twenty years, in the discretion of the court.” The text of Act No. 518 reads:

“The penalty of death or imprisonment for a period no less than twenty years, in the discretion of the court.”

This text conforms with its English text, which is the governing one, the English being as follows:

“By death or imprisonment for not less than twenty years, in the discretion of the court.”

This typographical error in Act No. 1121 induced the judge to understand that it was an amendment to Act No. 518 and that although the latter act established a penalty of not less than twenty years, Act No. 1121 stated that the penalty should not be more than twenty years—that is to say, that it should always be less than twenty years.

Therefore we sentence Damaso Salvador and Marcelo de Jesus to twenty years’ imprisonment, with the costs in both instances. So ordered.

*Torres, Mapa, and Carson, JJ., concur.*

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<sup>[1]</sup> 195 U.S., 100.

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