

[G.R. No. 1981. April 29, 1905]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ANSELMO DIRIS ET AL.,
DEFENDANTS AND APPELLANTS.**

D E C I S I O N

CARSON, J.:

Anselmo Diris, Olimpio Abarico, and Faustino Glinofria, the appellants in this case, were convicted of the crime of robbery in the Court of First Instance of Tayabas, and sentenced to six years and one day of *presidio mayor*, with the accessory penalties prescribed by law, and to the payment of P36, Philippine currency, to the complaining witness as civil damages, and further to the payment of their proportionate part of the costs of the proceedings.

The evidence adduced at the trial fully established the guilt of the appellants of the crime of which they were convicted, but it appearing that the said Olimpio Abarico and Francisco Glinofria were less than 18 and more than 15 years of age at the date of the commission of the offense, the penalty should have been imposed in accordance with the provisions of article 85 of the Penal Code.

The sentence appealed from is affirmed, except in so far as it imposes upon the said Olimpio Abarico and Faustino Glinofria six years and one day of *presidio mayor* and the corresponding penalties, as to which it is reversed, and instead thereof we sentence the said Olimpio Abarico and Faustino Glinofria and each of them to six months' *arresto mayor*, with the corresponding penalties prescribed by law, and upon each and all of the appellants we impose the payment of a one-third part of the costs of this appeal. So ordered.

Arellano, C. J., Torres, Mapa, and Johnson, JJ., concur.

