

4 Phil. 424

[G.R. No. 2134. April 17, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. EUSEBIO CAGAYAN ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

TORRES, J.:

In a complaint dated June 6, 1904, Eusebio Cagayan and Feliciano Felino (*alias* Baguio) were charged by the provincial fiscal of Rizal with the crime of *bandolerismo*. The complaint stated that the defendants after November 13, 1902, until before the date of the complaint, conspired with Macario Sacay and others to form a band of robbers, with the object of stealing carabaos and other personal property by means of force and violence; that these individuals were confederated with Sacay and others unknown, the band being composed of more than three persons armed with guns, revolvers, and other deadly weapons, roaming over the country and mountains in violation of the law, invading the towns, stealing money, jewelry, clothes, rice, food, and other property of private persons, sequestering people in order to obtain ransom, by means of force and violence.

The judge, considering the complaint and the evidence, sentenced the two defendants to twenty years of *presidio* each, and to the payment of costs, from which judgment the defendants appealed. That these bands, of which these two defendants were members, were the ones which twice entered the town of Bosoboso in January, 1904, and which sequestered and tortured its municipal president, Nazario Crisostomo; that members of this band also invaded, in the following April, the town of Teresa, robbing from the houses jewelry, clothing, rice, and other articles, cruelly treating Rafael Mangona, taking him prisoner, together with Anastasio Hinto Santos, Felipe Santos, Hugo Francisco, Maximo Caribilla, and Marcos Cruz, having secured from said Rafael Mangona, as ransom for granting him his liberty, the sum of 53 pesos, although they demanded 500 pesos, and he was unable to give it to them. This appears from the testimony of the governor, Arturo Dancel, and the witnesses Rafael Mangona and Marcos Cruz. Governor Dancel further stated that he knew

Sacay because the latter was his agent before he went to the mountains, and was also a clerk and collector of one Poblete; also that he had received official communications from several municipalities of the province about the doings and depredations of said party and letters which Sacay wrote asking them for money, rice, and other goods.

The two defendants, Feliciano and Eusebio, when arraigned, confessed to having joined an organized party, the former saying that he had complied with orders of its leader through fear that his family might be molested; the latter denied having committed the robberies imputed to him in the complaint, and for this reason they pleaded not guilty. There are facts duly proven in this case that Eusebio Cagayan and Feliciano Felino were members and formed part of the band of brigands commanded by Macario Sacay. This appears not only from the confession of the two defendants but also from the testimony of several witnesses who were examined during the trial, whose testimony fully proves that said Cagayan and Felino took part in the robberies and sequestration of persons on two occasions in the town of Bosoboso and once in Teresa. It also appears proven in this case that said band of Sacay was composed of more than three individuals armed with firearms and cutting weapons and devoted themselves to robbery, sequestration of people, and other excesses and depredations, and roamed over the country and mountains in the Province of Rizal, its members being exclusively devoted to brigandage and rapine, for which reason the defendants, as members of said band, have incurred the penalty provided for in section 1 of Act No. 518.

It must be noted that the liability of Feliciano Felino is greater than that of the other, because he was the vice-president of the town of Bosoboso when he joined said band, thus failing in his duties as such municipal officer. It is in no manner established that he was taken prisoner by the band, but, on the contrary, it is shown that he joined it voluntarily, according to his own confession during the trial.

By virtue of these considerations and of those stated in the judgment appealed from, we are of the opinion that the latter should be confirmed, it being understood, however, that Feliciano Felino is sentenced to the penalty of twenty-five years' imprisonment, and both to pay the costs, one-half each. This case to be returned to the court of its origin, together with a certified copy of this decision and of the judgment which shall be rendered in accordance herewith. So ordered.

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

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