

4 Phil. 216

[G.R. No. 1728. February 15, 1905]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. ANTONIO DALUSONG,
DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

The defendant here was charged with a violation of section 5 of Act No. 619 of the Philippine Commission. The complaint alleges that on or about the 10th day of February, 1903, at 3 o'clock a. m., in the pueblo of San Jose, Province of Nueva Ecija, the defendant being then and there a soldier of the second class of the Insular police, and being then and there a sentinel on duty on said night, ran away and shamefully abandoned his post of duty, at a time when the cuartel of said Insular police was attacked by several armed persons, and that he did not return to his post of duty until after the said armed persons who attacked the said cuartel had been repulsed.

Upon hearing the evidence the Court of First Instance of the Province of Nueva Ecija found the defendant guilty of the crime charged in this complaint, and sentenced him to be imprisoned for a period of two years and six months and to pay a fine of \$1,000 and the costs.

Section 5 of Act No. 619 provides: "Any member of the Constabulary who misbehaves himself before any outlaw, robber, or other enemy, runs away or shamefully abandons any post or guard, or advises or persuades others to do the like, or casts away his arms or ammunition, or quits his post or command to plunder or pillage, shall be fined not exceeding three thousand dollars or imprisoned not exceeding three years, or both."

The evidence adduced in the trial of said cause by two or more

witnesses establishes the fact that the defendant on the night of the 10th of February, 1903, was a member of the Insular police and a soldier of the second class; that at about 3 o'clock a. m. the cuartel of the Constabulary in the pueblo of San Jose of the Province of Nueva Ecija was attacked by a band of armed men; that the defendant abandoned his post of duty as sentinel and ran away out of the said cuartel, without attempting in any manner to assist in repelling the said attack; that after running away he hid himself in an estero near the said cuartel, and that he did not return to his post of duty until two hours after the said band of armed men had been repulsed and driven away by his companions, who remained in the cuartel of said police.

These facts are sufficient to justify the sentence of the Court of First Instance of the Province of Nueva Ecija, and it is therefore affirmed, with costs of both instances. So ordered.

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