

4 Phil. 106

[G.R. No. 1669. January 04, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. ESTEBAN EVANGELISTA, DEFENDANT AND APPELLANT.

D E C I S I O N

MAPA, J.:

The appellant, together with Mariano Bulos and Isaac Rance, was charged with the crime of insurrection. These three individuals having each been sentenced by the Court of First Instance to the penalty of two years' imprisonment and two hundred dollars fine, Evangelista was the only one who appealed, and for this reason the judgment of the Court of First Instance became final for the other two defendants.

The appellant is charged with having assisted and given food, in the barrio of Matiquio of the municipality of Paquil, to a band of ladrones under the command of Macario Sakay, so-called president of the Philippine republic, and Fidel Noble, secretary of war of the same, and to one Mateo Angeles and Aniceto Maristela, without reporting the fact afterwards to the proper authorities.

These facts, although they may be true, would not be sufficient to convict the defendant of the crime of insurrection, since it is not stated in the complaint that the band to which the said defendant gave aid and food was a band devoted to abetting, promoting, or aiding any rebellion or insurrection against the authority of the United States or the Government of the Philippine Islands, or the laws thereof, or that the said band was engaged in any rebellion or insurrection, which is a requisite according to section 3 of Act No. 292. The statement contained in the complaint that Macario Sakay and Fidel Noble, in

command of said band, are the president and secretary of war, respectively, of the so-called Philippine republic, is not in itself sufficient to cure that omission. As the prosecution says in its written argument, this does not involve the affirmation that they are insurgents. So true is this that the complaint itself does not call them insurgents, but *ladrones*.

The complaint, therefore, is insufficient to hold the appellant for the crime for which he has been sentenced by the Court of First Instance, and for this reason it can not be sustained.

Besides, it is not proved in any way that the appellant committed the crime with which he is charged in the complaint. No one testifies that he either gave food or assistance of any kind to the band of Sakay or Noble. The only fact which has been proved is that the defendant who was a municipal councilor representing the barrio of Matiquio, saw Mateo Angeles there. But it is likewise proven that the defendant immediately reported that fact to the municipal president of the said town. Further-more, it is not established that Mateo Angeles is known as an insurgent in the said barrio, where he appeared, according to the defendant, as a member of the Constabulary and with the uniform of such organization.

And if it is further taken into account that Aniceto Maristela, "one of those to whom the defendant gave aid," as the complaint says, explicitly denies this fact, adding that he does not know the defendant, and that he had never been in the barrio of Matiquio, we must necessarily arrive at the conclusion that there is no proof as to the certainty of the facts alleged by the prosecution.

In view of the foregoing statement, we reverse the judgment appealed from and entirely acquit the defendant, with the costs in both instances *de officio*. So ordered.

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

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