

[G.R. No. 1596. April 22, 1904]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. HILARIO ZAFRA ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

TORRES, J.:

October 6, 1903, the provincial fiscal of the Province of Rizal filed an information with the Court of First Instance accusing Hilario Zafra, Basilio Capistrano, and Carlos San Diego of the crime of insurrection (the original information, filed in the justice's court, charges them with brigandage) in that the accused, in or about the year 1902, until they were captured early in 1903, within the jurisdiction of the township of Meycauayan, willfully and illegally promoted and abetted an insurrection against the Government of the United States in the Philippine Islands, contrary to the statute in the case made and provided.

This information was amended October 23, 1903, before trial, by the provincial fiscal, who filed another information against the three defendants charging them with the crime of brigandage in that they on or about after (sic) the 12th of November, 1902, and until they were captured in Bulacan in the months of May or June, 1903, they, the defendants, had willfully and voluntarily been members of a band of thieves under the command of the so-called General San Miguel, and subject to the immediate orders of Ciriaco Contreras, Julian Santos, and others, who were engaged in the robbery of personal property by force and violence, and wandered about the roads armed with deadly weapons, contrary to the statute in the case made and provided.

The amended information having been filed and the accused arraigned thereon, they pleaded not guilty. Upon the evidence introduced at the trial the court

convicted them and sentenced them each to twenty-four years' imprisonment, and to the payment of the costs, from which judgment the defendants appealed.

From the proceedings had in the course of the trial it appears that the witnesses Ricardo Aquino, Gervasio Gimenez, Enrique Pasion, and Jorge San Pedro were acquainted with Hilario Zafra, and knew him to be one of the members of the band lead by Faustino Guillermo, which band was operating in the Provinces of Bulacan and Rizal, in combination with the bands lead by Ciriaco Contreras and Julian Santos. These different bands, composed in all of about one hundred men, were armed with firearms and other weapons, and recognized the so-called general, San Miguel, as the principal leader.

The other witnesses, Miguel Pascual, Marcelo Magsalin, and the witnesses above named, Enrique Pasion and Jorge San Pedro, also testified that the accused Basilio Capistrano and Carlos San Diego were members of the Contreras gang, a band composed of armed men which, together with other smaller bands, under the command of Faustino Guillermo, Julian Santos, and Apolonio Samson, wandered about the country in the Provinces of Kizal and Bulacan, and that these smaller bands recognized Luciano San Miguel as their chief.

From the facts stated it appears that the evidence is sufficient to disclose the existence of the crime of brigandage, and to show that the defendants were members of bands composed of more than three armed men which early in the year 1903 wandered about the Provinces of Bulacan and Rizal, engaged in robbery and other crimes against person and property, and in making resistance to the authorities.

Even if it were true that the said bands were organized with a political character, and that their purpose, as testified to by several witnesses, was to defend their country, and that the accused Capistrano and San Diego were captured by these bands—although this alleged capture has not been proven—the fact nevertheless remains that the accused, under arms, took part in the acts of vandalism committed by the various parties of the numerous bands under the general command of Luciano San Miguel and his subordinates, Guillermo, Contreras, Samson, and Santos.

The evidence shows that these accused committed a robbery one night in stores

of four Chinamen in Meycauayan; that they assaulted and robbed the office of the president of Navotas, from which they took \$195 in cash and some arms; that they attacked the Constabulary barracks in the town of Santa Maria, and took therefrom guns, clothing, and rice; that they killed two Constabulary soldiers in the town of Pasig, and robbed several of the inhabitants; that they stole three carabaos belonging to an inhabitant of San Miguel, and furthermore that they are guilty of armed resistance to and attacks upon the agents of the authorities.

These facts appear from the testimony of the witnesses named. Consequently there can be no doubt that the three defendants are guilty of the offense defined and punished by section 1 of Act No. 518, enacted November 12, 1902.

For the reasons stated it is our opinion that the judgment appealed must be affirmed, with one-third of the costs of both instances to the defendants. The case will be remanded to the trial court with a certified copy of this opinion and of the judgment to be entered in accordance therewith for its execution. So ordered.

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