

3 Phil. 645

[G.R. No. 1447. April 12, 1904]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. PERFECTO DE LEON ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

COOPER, J.:

The defendants, Perfecto de Leon, Ismael Francisco, Silverio de la Cruz, Domingo Inocencio, Andres de Lopio, and Vicente del Mundo, are charged with the crime of *bandolerismo* and were convicted by the Court of First Instance.

Perfecto de Leon was sentenced to imprisonment for the period of twenty-eight years, Silverio de la Cruz and Vicente del Mundo to twenty-six years of imprisonment, Ismael Francisco and Andres de Lopio to twenty-four years of imprisonment, and Domingo Inocencio to twenty years of imprisonment. From this judgment the defendants have appealed to this court.

It is contended that there is no conclusive proof in the record which shows that the supplies and provisions taken in the towns were obtained by force and violence; nor is it plainly proven that the carabaos which were delivered to some of the party had been obtained by violence and intimidation employed against the possessors of said property; and further, that the organization had for its object to attack and contend with the Constabulary forces and municipal police of the towns for the purpose of appropriating to themselves arms and ammunition and to supply themselves for the purpose of forming an army for a future insurrection; in other words, that the band was of a political nature and that the appropriation of property by the band was for the purpose of supporting them in attaining political ends.

In several cases which have been decided by this court where it appeared that the organization of the party was of a political nature and that the members who formed such party or band committed acts coming within the definition of Act No. 518 against highway robbery or brigandage, they may be properly convicted under this Act.

Roman de Jesus, a witness for the prosecution, testified that in the month of February, 1903, he was captured at his home, situated at Novaliches, by Vicente del Mundo, who carried him to San Miguel and Faustino Guillermo; there were nine armed men in the party; he remained there eight days, during which time the fight at Corral-na-Bato occurred; when this battle took place he ran off and left them and presented himself to the Constabulary; when the band captured him they carried him to a place called Pugad-babuy, Province of Rizal, where he saw about two hundred persons armed with guns and revolvers; among them he recognized Faustino Guillermo, San Miguel, and Andres Roque.

Ventura Albada, a witness for the prosecution, testified that he was at the barrio of Pantuquin about the middle of December, 1902; that he there met with Perfecto de Leon, who tied him and carried him off to a place called Pasong-Baliti; he was a policeman of the presidencia; the band was armed with revolvers; they stripped him of clothes, shoes, one peso, and two rings; afterwards they took off the cords which bound him and carried him to the mountain of Rubog; when they took him they tied his hands and feet and threw him on the ground and were about to kill him; he remained in Pasong-Baliti about five days; he saw there Silverio de la Cruz; he also saw Ismael Francisco, and also saw Anatalio Austria and Julian Santos; he saw about fifty men in Pasong-Baliti; there were about forty armed with Remingtons and Springfields, and others were engaged in preparing the meals; Anatalio Austria was commander and Julian Santos general; Ismael Francisco was not an official; Perfecto de Leon was an official; they all carried arms; after he left Pasong-Baliti he went to the Rubog Mountains; there were about fifty of them who had Remingtons and Springfields; he saw Luciano San Miguel, there, who was called General San Miguel; he also saw there Domingo Inocencio, whom he also identified as present at the trial; San Miguel and Vicente del

Mundo carried revolvers; Domingo Inocencio carried a Remington; he remained in the Rubog Mountains a week; they went down toward Manila; when they were near Manila they separated and he then made his escape.

Francisco Callao, a witness for the prosecution, testified that near Christmas of last year he was in the pueblo, he being one of the soldiers of Faustino Guillermo; they entered Pasig one night and fired some shots and after having killed a man they left; there were about forty in the band, under the command of Basilio; there were also present Captain Tura, Apolonio Sampson, Juan Castillo, Leoncio Papa, and Geronimo de Leon; Julian Santos was there or near there; they killed one of the Constabulary band; when they left Pasig they carried off a gun which they obtained from the dead person; witness was with the party about two weeks; he was captured at Balic-Balic by Leoncio Papa and they made a soldier of him within the jurisdiction of Sampaloc; they carried him thence to the mountain called Bago-bantay, in the Province of Rizal; he found many soldiers there, about a hundred men, armed, under the command of San Miguel; the others there in authority were Ciriaco Contreras, Julian Santos, and many lieutenants, among them Perfecto de Leon, Silverio de la Cruz, Domingo Inocencio, Vicente del Mundo, and others whose names he does not recall, all of whom were armed; the armed band went from Pasig to the mountains; some days afterwards they went to Cainta; they entered Cainta and there had a fight; they killed one man and took away twenty guns to the mountain; they also took cigars and tobacco from the stores, for which they paid nothing; there were about a hundred men who entered Cainta; on that occasion they were under the orders of San Miguel, Faustino Guillermo, Leoncio Papa, Geronimo de Leon, and Anatalio Austria; he does not know whether any of the accused now present were there; after they left Cainta they went to Antipolo and there had a fight with the Constabulary; they took off supplies and went from Antipolo to Bosoboso; there they had a fight and left, running to the mountains; they went to Pasong-damo; there were about fifty soldiers there under the command of San Miguel and Faustino Guillermo; he knew in Pasong-damo a man who was called Mariano; they took a carabao from him; Domingo Inocencio was a member of Vicente Guillerrao's party; they took

off the carabao and sold it in Manila; this occurred about two weeks after the attack on Pasig; after he was captured by Leoncio he remained with the party about three months; sometimes they separated and again came together; they recognized San Miguel as their chief; there were other officers in the party; Faustino Guillermo, Oiriaco Contreras, and Anatalio Austria were also officers in the band, all under the orders of San Miguel; he saw frequently, at different places, the defendants during the three months he was with the band; they always had arms; they were in the mountains and were obeyed by the people there; they wandered around from one place to another; were not in uniform; they obtained food by ordering the citizens to bring it from the barrios; they did not pay for these supplies; he left the party and went into Manila; he knew that the carabao was taken because he saw it taken; the taking of the carabao occurred before the occurrence at Pasig; of those whom he recognizes are: Perfecto de Leon, lieutenant; Ismael Francisco, lieutenant; Silverio de la Cruz, captain; Domingo Inocencio, soldier; Andres de Lopio, lieutenant; and Vicente del Mundo, captain; the herder of the carabao, who was sequestered by the band, remained with it for some time.

Miguel Pasqual, a witness for the prosecution, testified that from the 10th day of October, 1902, until the month of February, 1903, he carried a gun; he was associated with other persons, numbering about 200; sometimes this party was together and sometimes they separated; they were armed with Mausers, Remingtons, and Springfields; Luciano San Miguel was the general; the other leaders were Faustino Guillermo, lieutenant-colonel; Apolonio Sampson, colonel; Ciriaco Contreras, general; and Anatalio Contreras, commander; Vicente del Mundo was captain, Ismael Francisco, lieutenant; Silverio de la Cruz, captain; Perfecto de Leon, lieutenant; Inocencio Papa, lieutenant, and Andres de Lopio, lieutenant; of these he recognizes as present in court: Ismael Francisco, Silverio de la Cruz, Andres de Lopio, Vicente del Mundo, Perfecto de Leon, and Domingo Inocencio; the latter was his companion in the fight at Santa Rosa; he had seen them frequently since October of the past year to February of this year; they had guns and held meetings under Luciano San Miguel; these men operated in the Province

of Rizal; they moved continually from one place to another; they slept in one place and on the following day left; sometimes they were three days in a place; he first joined them in Bagbag of Novaliches, in Rizal; when he joined in Bagbag, all had guns and were commanded by Julian Santos; this was in the month of October, 1902.

In Bagbag they had a fight and captured two of the Constabulary force and killed one of them; they afterwards entered Navotas and captured a policeman and took away seven revolvers and some money; the commander who entered Navotas was Julian Santos; they had a fight also in Cainta, Bosoboso, Antipolo, and Corral-na-Bato, where they killed two men; in Cainta they captured some soldier scouts and killed a Constabulary soldier; the fight at Navotas was on the 26th day of September, 1902; after that of Navotas was the fight at Corral-na-Bato; on leaving Corral-na-Bato they went to Cainta and afterwards to Antipolo, where they had a fight with the Constabulary and captured rice belonging to them; from there they went to Bosoboso and at 7 o'clock at night had a fight with the Constabulary and Scouts and ran off; when they were at Bosoboso witness saw the presidente of the pueblo; on arriving there they asked food of the presidente and he did not wish to give it to them; Faustino compelled the presidente; there were many in the party armed; they afterwards went to Mariquina, and from there to Corral na-Bato, where, at 12 o'clock at night they had a fight and there was one man killed; they remained one night in Corral-na-Bato, and went from there to Bagbag, San Francisco del Monte, where they separated; witness left them and came to Manila to work, in 1903; when they were at Navotas, Julian Santos commanded; at Corral-na-Bato, Luciano San Miguel commanded, and San Miguel also commanded at Cainta and Antipolo and Bosoboso; San Miguel commanded the second time also at Corral-na-Bato; witness saw the defendant Perfeetode Leon in Bagbag and Pasong-tam6 and San Francisco del Monte also; witness saw Ismael Francifleo in (Bagbag and San Francisco del Monte and Pasong-tam6; he saw Sftvefto de la Oraz in Cainta, Bagbag, Pasong-tamo, Pasong-Baliti, and Corral na-Bato; lie knew Domingo Inocencio in Santa Rosa; Andres de Lopio in Pulong-lupa, Pasong-Baliti,

and Vicentedel Mundo in Bignay.

Gervasio Gimenez, a witness for the prosecution, testified that he lived in Polo in the month of November, the past year, and went from there to the mountains; he was captured by Lieutenant Cando, who told witness that Julian Santos had sent for him and witness was carried to his presence in Bagbag; there were many people with Julian Santos in Bagbag—about fifty; these men had arms and were in opposition to the Constabulary; they listened when they passed and fired on them, and captured one and killed two, and the Constabulary ran off; they stripped the one they captured of his clothing and gun and let him go; besides Julian Santos there were present Perfecto de Leon, Andres de Lopio, Silverio de la Cruz, Anatalio Austria, Ismael Francisco, and Andres Roque; these men were chiefs; they had Remington, Springfield, and Mauser guns; Silverio had a revolver, Perfecto had a gun and a revolver, Andres de Lopio had a revolver, and Captain Andres a revolver; the fight occurred in Bagbag in the month of December, the past year.

The witness identified as present in court all of the defendants. During the time he was with this band they did nothing else than go from place to place. The person in charge of getting provisions for them was Silverio de la Cruz ; they visited a place in the month of December near Novaliches; they had guns and there was a fight there and they took a horse, which escaped afterwards, and also took some guns; they went to San Francisco del Monte in the same month; he knew a man there who was called Maximo Morales; he saw, him the last time at Bagobantay, near San Francisco; they captured him there and carried him to Julian- Santos; Julian Santos asked him if he was a spy and said it was best that they should kill him and commanded that they should carry him to the middle of the field and gave to Alberto a dagger to kill him with; the spy wished Perfecto de Leon to protect him; as Perfecto de Leon could do nothing he left him to be killed.

On that occasion there were present in the company with Julian Santos all of those mentioned; there were about seventy men in the band; witness knew the person who is called Anatalio Austria; knew him

as their commander; after the occurrence of San Francisco del Monte the band met and were awaiting an occasion to fight; they changed constantly their places of stopping; sometimes they were in Bagbag and at other times in San Francisco del Monte; they drew their supplies from the neighboring country; Silverio de la Cruz was placed in charge by Julian Santos to gather provisions; Silverio carried with him a revolver; sometimes they looked for supplies at night and sometimes in the daytime.

Enrique Pasion, a witness for the prosecution, testified that about the middle of the month of December, 1902, and to the end of January, 1903, he was with Faustino Guillermo and others in the mountains; he was in Corral-na-Bato and at MapulangJupa; he knew all of the defendants in this case; knew them at the above-mentioned places; their names are Lieutenant Perf eeto de Leon, Captain Silverio, Lieutenant Ismael, Domingo Inocencio, and Andres de Lopio; Vicente del Mundo was with them when they took away rice from Novaliches; in the month of January they visited the pueblo of San Mateo and during this visit took three carabaos; Domingo Inocencio is the person who took them and delivered them to Geronimo de Leon and the latter delivered them to witness; there were five of them in the party that took the carabaos;. all were armed at the time they took the carabaos the owner was not present; they were in charge of an employee; he said that he could not give them the carabaos because they were not his, to which Geronimo de Leon replied if he did not he would kill him; they took the carabaos to Pasong-tamo, and at midnight Domingo drove them to Manila; when they arrived at Pasong-tamo with the carabaos they were ten in number; when they went out they left General Luciano San Miguel there, Jbut when they returned he was not there; San Miguel was recognized as the chief of all of the troops and Geronimo de Leon was the immediate chief of the band to which witness belonged; there were other bands besides the party of Geronimo de Leon; there were two or three other bands.

Juan Zorrilla, witness for the prosecution, testified that his position was that of a spy for the Constabulary; that in December, 1902, he was a policeman of the presidencia of Meycauayan, of the Province of Bulacan; that the police of that place rose and went to the

mountains; they returned and took witness off, accusing him of being a they were accompanied by others, altogether about twenty-seven armed men; while they had witness tied in a drug store they entered into four Chinese stores and took off clothing, money, shoes, towels, rice, cigarettes, and tobacco; this occurred on the 28th or 29th of December of the past year; they carried witness off to the mountains; at that place witness saw Anatalio Austria, Vicente del Mundo, Lieutenant Mauricio, Vicente Guillermo, Andres Roque, Jorge San Pedro, and one that was called Lieutenant Vale, Silverio de la Cruz, and Ismael Francisco; witness remained with this party two months; during this time there was a change of place each day and each night; witness knew San Miguel during this time; he made a cook of witness for more than a month; San Miguel was changing his place of residence constantly; went from one point to another.

The witness identified present as persons whom he saw there, Vicente del Mundo, Ismael Francisco, Silverio de la Cruz; he knew these men about one month; saw them frequently in the mountains; they were all armed, and San Miguel was the chief in command; Faustino Guillermo. Apolonio Samson, Ciriaco Contreras, and Vicente del Mundo; the officer above Vicente del Mundo was Ciriaco Contreras; and Faustino Guillermo and Apolonio Samson ranked above Ismael Francisco and Silverio de la Cruz; sometimes they operated independently of each other and at other times they all were together; witness left them at the battle of Corral-na-Ba to and came to Manila; about twenty-nine of them entered Marilao; witness went to the house of the president and asked for his revolver and as the president did not wish to give them the revolver the soldiers fired two shots and took away the revolver, searching the house and taking away from it two watches, clothes, and other articles.

Gregorio Cervantes, a witness for the prosecution, testified that in the month of November he was at Corral-na-Bato with Julian Santos, who had with him about fifty men armed with Remingtons and revolvers; there were then present General Santos and Perfecto de Leon and their companions, twenty-five in number, all armed with guns; on this occasion they sequestered two men named Gozon and Ampil, taking them to Corral-na-Bato, delivering them to Julian Santos by whom they were

sentenced; they carried them to a place called Balaran; there were about twenty men present and when they arrived there, by order of General Santos, the two men were executed by Luis Alberta and Domingo Paombong; after they were killed their heads were cut off ; Julian Santos was present; there were four persons who formed the council to try the two men; they were Julian Santos, Domingo Paombong, Luis Alberta, and Perfecto de Leon. Witness was with the band of Julian Santos for seven months; he left the band about a week after the death of the two men.

Other witnesses testified in the case, whose testimony was equally conclusive.

Every element of the offense defined in section 1 of Act No. 518 has been fully proven. The judgment of the Court of First Instance is affirmed.

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