

3 Phil. 233

[ G.R. No. 555. January 22, 1904 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. PANTALEON GIMENO,  
DEFENDANT AND APPELLANT.**

**D E C I S I O N**

**WILLARD J.:**

The guilt of the defendant was clearly proved by the evidence.

In the court below no objections were made to the sufficiency of the complaint, but in this court it is claim that it is deficient in several respects. When a complaint alleges, as this one does, that the defendant, armed with a gun, at midnight entered the house of the complaining witness, and after beating him with the butt of the gun took from his family money and other property and departed with it, it is not necessary to add thereto the statement that the defendant acted "feloniously."

The complaint alleged that the property described therein was taken by the defendant from the family of the complaining witness. At the trial it was shown Without objection on the part of the defendant to what particular member of the family each of said articles belonged. No substantial right of the defendant on the merits was prejudiced by the failure to state these details in the complaint. Even if the complaint was defective in this respect we can not reverse the judgment for that reason. (G.O. No. 58, sec. 10.)

The same thing can be said of the claim that the defendant's lawyer was not present when the sentence was pronounced.

The judgment is affirmed with the costs of this instance against the appellant.

G.R. No. 1401. January 27, 1904

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

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