

4 Phil. 580

[G.R. No. 2160. July 07, 1905]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. AGATON GONZALES,
DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

The defendant was charged with the crime of larceny of the sum of P500 and a ring of the value of P250. He was tried by the Court of First Instance of the city of Manila, found guilty of the crime charged, and sentenced to be imprisoned for, the period of two years of *presidio correccional*.

An examination of the facts adduced during the trial shows that the defendant was a servant in the house of Nicolasa Eugenio, the person from whom the said property was stolen. There exists, therefore, the aggravating circumstance of abuse of confidence. There were no extenuating circumstances.

It is the judgment of this court that the defendant should be punished under paragraph 2 of article 520 of the Penal Code for the period of six years of *presidio correctional*, to return to Nicolasa Eugenio the property stolen, or to indemnify her in the value thereof, and in case of insolvency to suffer subsidiary imprisonment which shall not exceed one year, and to pay the costs of both instances. So ordered.

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

