

[ G.R. No. 1766. April 29, 1905 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. JUAN ANGEL MICHELENA, DEFENDANT AND APPELLANT.**

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

**ARELLANO, C.J.:**

In an application to the Civil Service Board for examination, a document printed in accordance with the form prescribed by said Board, and in that part thereof which contains recommendations of the applicant, certificate No. 3 appears to be subscribed by Frank N. West, the latter having neither subscribed it nor written the contents thereof, the same not being correct in some respects, viz, as regards the age of the party certifying and the length of time which he knew the candidate recommended. The crime was fully proven. The candidate, now the defendant, failed to present himself for examination, notwithstanding having in his possession the ticket of admission.

The judge in his judgment qualifies this fact as an attempt at falsification of a public document. It is an attempt because the examination did not take place, and not having taken place the document was not put on record, for which reason it never became a public document. Therefore, the court sentenced the defendant to six months' *arresto mayor* and a fine of 1,000 pesetas, or the corresponding subsidiary imprisonment.

The prosecution in this instance considers the fact as a consummated crime of falsification of a public document comprised within article 301, in connection with paragraphs 2 and 4 of article 300 of the Penal Code, and asks that the defendant be sentenced to the penalty of *presidio mayor* and a fine of 1,250 to 12,500 pesetas which, according to it, is the penalty provided for the crime in its minimum degree. The act done by the defendant is simply the falsification of a certificate of merit provided for in article 311 of the Penal Code and punished with *arresto mayor*. This is the crime and this is the penalty which must be applied in its medium degree.

Therefore we sentence Juan Angel Michelena to two months and one day of *arresto mayor*, crediting him with one-half of the time of his detention already suffered, and the costs in both instances. So ordered.

*Torres, Mapa, Johnson, and Carson, JJ., concur.*

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