

4 Phil. 448

[G.R. No. 1881. April 25, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. EUSEBIO DE LA SERNA ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

MAPA, J.:

The appellants have been sentenced in the Court of First Instance as guilty of the crime of sedition. The complaint charges them with—

“Having, during the months of March and April, 1903, publicly and tumultuously, together with other unknown individuals armed with deadly weapons, with force and violence contrary to the legal manner, and with the purpose of destroying property of the inhabitants of the municipality of Barili, Province of Cebu, disturbed the peace and good order of said town, contrary to law.”

Absolutely no evidence was adduced at the trial to substantiate the charges against the defendants, as is acknowledged by the representative of the Government in this instance, although he considers it proven that the defendants conspired to commit the crime of sedition and asks that they be sentenced for such conspiracy. In our opinion there is no proof sufficient to sustain this allegation.

A witness testifies that on a certain occasion when he was in his house accompanied by several individuals the defendant Eusebio de la Serna spoke to him about the *pulajanes* trying to induce him to join the latter's band. This witness does not, however, affirm positively this last assertion, but says on the contrary that it is only a mere belief on his part, as the defendant did not speak to him openly and clearly. Another witness says that the defendant was once at his house together with four other individuals, all of them armed with bolos, and tried to take him with them, he not knowing their destination or the reason why

they wanted him, and so he resisted them, and that they contented themselves with asking him, in a courteous manner and as a supplication, for some corn, and that he gave them two hundred ears. Another witness, a sergeant of the Constabulary, asserts that said defendant told him that he was one of the colonels appointed, without telling him of what body, aggregation, or party, nor who had appointed him; that he told him also that he did not have his commission yet, but that some people, whom he did not know, had promised to bring him his commission when they returned. These data, which are the only facts existing against the defendant Eusebio de la Serna, do not prove sufficiently that he conspired to commit the crime of sedition. The supposed appointment as a colonel is not conclusive *indicia* of this fact, as it is not, in fact, specified from what band or aggregation was conferred that commission nor the object or ends of that band.

The prosecution in its brief says that said defendant confessed to the above-named sergeant of the Constabulary that he was “one of the members of the *pulajanes*, with a commission of colonel.” We have not seen anywhere in the record of the case that such confession was made, and the sergeant himself declares that the defendant did not tell him plainly to what band he belonged. Moreover, he declares, as already stated above, that said defendant told him that he did not even know the people who promised to give him a commission of colonel. As regards the other defendant, Enrique Camoñas, there is no more proof against him than the fact of there having been found at his house a so-called appointment of sergeant. We have already held in previous decisions that the mere possession of such an appointment, when it is not shown that the possessor executed some external act by virtue of same, does not constitute sufficient proof of the guilt of the defendant. (U. S. vs. Antonio de los Reyes,^[1] and U. S. vs. Silverio Nuñez et al.^[2])

By virtue of the above considerations, we reverse the judgment appealed from, freely acquitting the defendants, with the costs in both instances *de officio*. So ordered.

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

^[1] 3 Phil. Rep., 349.

^[2] Page 441, *supra*.

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