

4 Phil. 419

[ G.R. No. 1557. April 17, 1905 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. AMADO SANTOS,  
DEFENDANT AND APPELLANT.**

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

**ARELLANO, C.J.:**

The existence of the crime having been proven, as well as the defendant's guilt, by positive evidence consisting of articles found in his possession at the time of his arrest, and strengthened furthermore by the testimony of a great number of witnesses, the defendant should be convicted.

As to the first error alleged by the defendant, there is no foundation of fact. It does not appear that the defendant asked for any time within which to answer to the complaint. As to the second error alleged by the defense, there is a foundation of fact, for the reason that the defendant, assisted by his attorney at the beginning of the trial, asked for two days within which to prepare his defense, but there is no foundation of law, as defendant was not denied any inherent right when he was denied time and an adjournment of the trial was refused. Eleven days had already elapsed since his answer to the complaint, he having pleaded not guilty, and this was sufficient time for him to prepare his defense, and in fact he had so prepared, because he immediately presented his witnesses. If on answering the complaint he did so without the assistance of a lawyer, this would not be ground for alleging a defect in the procedure. To be able to urge this, it should first appear that the defendant had asked for the assistance of a lawyer to answer the complaint and that the trial had proceeded

without any attention being paid to his request.

The court did not err when it denied defendant's motion to suppress the testimony of the witnesses Crame, Brown, Domingo, and Pascual; at least, no legal reason appears why their testimony should be stricken out. The testimony of the first two relates to the arrest and the articles found in the possession of the defendant at the time of his arrest; and that of the latter two does not establish the facts of the participation with which the defendant is charged, and, above all, this case is not one of mere conspiracy where the testimony of an accomplice should be rejected, unless the conspiracy be proven by other means.

Nor has the court erred in eliminating the testimony of Mauricio Buenaventura, a witness for the defense, as regards the fact of his having given the bands of Faustino Guillermo and Luciano San Miguel a different character from that which they are credited with in this case, since it was established that said bands had the character which was imputed to them, regardless of said testimony, when we take into consideration the acts of robbery committed by said bands, as they appear in the case.

Nor for the mere reason that the motion for a new trial was denied, it being based on the fact that the defendant had answered to the complaint without the assistance of a lawyer, has the court erred as to the law, as at first sight might appear by reason of the absence of such assistance.

It remains then that the defendant, Amado Santos, was sentenced according to the evidence in the case, but according to the doctrine established by this court the acts executed by the bands and the participation of the defendant therein are not sufficient for the imposing on the defendant of the death penalty. We are of the opinion that temporary imprisonment is the proper penalty.

Therefore, in accordance with section 1 of Act No. 518, we sentence Amado Santos to twenty-five years' imprisonment and the costs. So ordered.

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

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