

4 Phil. 263

[G.R. No. 1944. March 13, 1905]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. JOSE BUCOY ET AL.,
DEFENDANTS AND APPELLANTS.**

D E C I S I O N

JOHNSON, J.:

The defendants here were charged with the crime of *lesiones menos graves*, defined and punished in article 418 in connection with article 419 of the Penal Code. The said defendants were tried by the Court of First Instance of Zamboanga and each was sentenced to be imprisoned for a period of one year eight months and one day of *presidio correccional*. The defendants appealed to this court.

The evidence shows that on the night of the 7th of February, 1904, the defendants did attack and beat one Ildefonso Rodriguez, vice-president of the pueblo of Zamboanga, which attack and beating resulted in wounding the said Rodriguez in a manner so that he was unable to follow his usual occupation for a period of more than eight days and for a period less than twenty days.

The court, in imposing the sentence of one year eight months and one day, took into consideration the provisions of article 419 of the Penal Code. Article 419, among other things, provides that injuries inflicted on persons holding public rank or authority shall be punished with *prision correccional* in its minimum and medium degrees. The record shows that Ildefonso Rodriguez, the person injured, was vice-president of the pueblo of Zamboanga, but that at the time the offense complained of here was committed the regular president of the pueblo of Zamboanga was acting in such capacity, and therefore the vice-president had no power or

authority to exercise the functions of president of the said pueblo, and could not, therefore, during the period when the president was acting, be regarded as a public functionary; he had no more authority as a public functionary than any other private citizen of the pueblo. The provisions of article 419, therefore, have no application to the facts in this case. The penalty should not have been increased by reason of the fact that the crime was committed against this particular person, who might at some time during the disability or absence of the president become president of the pueblo and thereby a public functionary.

The facts, without considering the circumstance that the crime was committed against a public functionary, show the defendants to be guilty of inflicting *lesiones menos graves*, and should be punished according to the provisions of article 418 of the Penal Code, which provides the punishment of *arresto mayor*, or panishment, and a fine of from 325 to 3,250 pesetas, in the discretion of the court.

The judgment of the inferior court is therefore reversed and the defendant is hereby sentenced to be imprisoned for a period of four months and one day and to pay the costs of both instances. So ordered.

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