

[G.R. No. 1503. March 14, 1905]**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. ALEJO RAVIDAS ET AL., DEFENDANTS AND APPELLANTS.****D E C I S I O N****MAPA, J.:**

The complaint in this case charges the defendants with the crime of insurrection. Out of the twenty-five defendants, five of them, to wit, Alejo Eduria, Francisco Eduria, Bruno Labnutin, Vicente Abales, and Francisco Nagor, were acquitted in the court below. The other twenty were found guilty of the said crime and sentenced to two years less one day of imprisonment, with the exception of Isidoro Nalagum, who was sentenced to one year's imprisonment, and Alejo Ravidas and Narciso Melliza, who were sentenced to five and three years' imprisonment, respectively. All of the twenty defendants appealed. The appeal was granted. Numeriano Aniar, Andres Factura, Florencio Opog, Vicente .Maambong, Urbano Karros, Isidoro Nalagum, Natalio (*alias* Julio) Raiz, and Leonardo Nalagum withdrew from the appeal. In the course of the appeal proceedings Inocencio Pagaling, Macario Beemen, Fermin Paday, Valentin Leona, Catalino Opog, Iginicio Opog, Romualdo Tactacon, Jose Macaubos, Victoriano Ello, and Dionisio Jamero escaped from the provincial jail in Cagayan de Misamis, where they were confined, as appears from a part of the record in the case. The sentence of the Court of First Instance with regard to the eight first named was made final as to them by reason of their withdrawal from the appeal. It has also become final as regards the other eight on account of their escape. Such escape implies withdrawal within the meaning of the principles governing the prevailing criminal procedure. The appeal is, therefore, only continued in this instance as regards Alejo Ravidas and

Narciso Melliza.

The counsel for the Government in this case prays for the acquittal of both defendants, as "it is not proven," he says with respect to Alejo Ravidas, "that he permitted or encouraged insurrection or engaged in the same by abetting them directly or indirectly." The only fact disclosed by the evidence adduced in the case is that Alejo Ravidas knew that there were insurgents in a place called Manila, jurisdiction of the town of Agusan, of which he was municipal president, and his duty as such president required him to report this fact to the senior officer of the province, but he did not do so, nor did he take any steps toward pursuing or denouncing the insurgents or to protect the people from their probable depredations. However reproachful the silence of the defendant may be, it does not in itself constitute the crime of insurrection. Act No. 292 defines and specifies the acts which shall be punished as insurrection, but among those acts the silence of the defendant is not enumerated. This silence is not an act; it is, rather, an omission. We quite agree with these suggestions of the counsel for the Government, since nothing more than the aforesaid facts has been proven against Alejo Ravidas. These facts are not sufficient to hold him liable for the crime of insurrection.

The same can be said with reference to Narciso Melliza, as there is no evidence showing that he had promoted, encouraged, or aided any insurrection or that he in any way participated in the same. From the fact that he sold rice in great or small quantities to persons who afterwards appeared to be insurgents, and had the rice so sold even been taken to the insurgents' camp, which is the only fact which can be considered proven with respect to the defendant Melliza, it is not in itself conducive to criminal liability. It is not shown that he sold the rice to the insurgents knowing that they were such and with the deliberate purpose of aiding the insurrection.

In view of the foregoing considerations, we reverse the judgment below with regard to Alejo Ravidas and Narciso Melliza, both of whom we acquit with costs *de officio*. The former's release shall be ordered immediately, as he is the only one confined in prison. Narciso Melliza is out on bail.

We decide further that the appeal entered by Dionisio Jamero, Inocencio Pagaling, Macario Beemen, Fermin Paday, Valentin Leona, Catalino Opog, Ignacio Opog, Romualdo Tactacon, Jose Macaubos, and Victoriano Ello be dismissed. The judgment of the court below as regards these latter-named defendants is affirmed and made final, with the corresponding costs in this instance upon each one of them. So ordered.

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

Date created: April 24, 2014