

2 Phil. 429

[ G.R. No. 1198. August 21, 1903 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. INOCENCIO MENDOZA ET AL., DEFENDANTS AND APPELLANTS.**

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

**MCDONOUGH, J.:**

The defendants were convicted of abduction, in that on the 10th day of November, 1902, at Manaoag, they had abducted, with unchaste designs, Augustina Tamayo, a girl 14 years of age.

The defendant Pedro Meiuloza went to the home of Augustina Monday morning, November 10, 1902, in the absence of her parents in the rice fields, and while no one was present but a younger sister, and required her to go with him to Dagupan, where the other defendant, the son of Pedro, resided. The girl testified that Pedro threatened to kill her if she refused to go with him, and consequently she accompanied him.

They walked the full distance and were several days on the road. The girl testified that while on the way this defendant forcibly assaulted her, and that, when they arrived where the other defendant was employed, Pedro left her with the defendant Inocencio, with whom she remained a day or so, and who also, she testified, had carnal intercourse with her.

The defendant Pedro denied using force or threats to compel the girl to accompany him, and also denied assaulting her. lie testified that she went with him voluntarily—in fact, asking him to take her to his son, and that he did take her with a view of having them married. Inocencio denied having forcible intercourse with Augustina.

When asked why the marriage ceremony was not performed, both defendants said it was because they had not money enough to pay the expenses.

The court below found the defendants guilty, and sentenced Pedro, as the principal

offender, to imprisonment for twelve years and one day, pursuant to the provisions of article 438 of the Penal Code, and, inasmuch as the other defendant, Inocencio, was under 18 years of age, and article 85 of the Code applied to him, he was sentenced to a term of imprisonment of six years and one day.

After considering the complaint and the evidence in this case<sup>1</sup>, we are of the opinion that the defendants are guilty of abduction under article 446 of the Penal Code. The court concludes from the evidence that Augustina consented to the abduction, with a view to matrimony, she being a virgin 14 years of age, and that the accused abducted her for lewd purposes. As to the defendant Pedro Mendoza, there are no circumstances, either aggravating or mitigating, to modify the punishment, and the corresponding penalty must be imposed in the medium grade. With respect to Inocencio Mendoza, who is between the age of 15 and 18 years, we must apply the second special mitigating circumstance established in article 9 of the Penal Code.

We therefore direct judgment that the defendant Pedro Mendoza be imprisoned for a term of two years eleven months and ten days of *prision correccional*, and that the defendant Inocencio Mendoza be imprisoned for a term of four months of *arresto mayor*, with costs of both instances to the defendants.

*Arellano, C. J., Cooper, Torres, Willard, and Mapa, JJ., concur.*

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