

1 Phil. 740

[G.R. No. 1032. February 19, 1903]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. AGUSTIN ABLAZA,
DEFENDANT AND APPELLANT.**

D E C I S I O N

WILLARD, J.:

The fact that defendant confessed his guilt can not be considered as an extenuating circumstance within the meaning of article 9 of the Penal Code.

The case shows that the extenuating circumstance defined in article 9, 5, should be taken into account.

The application for the benefits of the amnesty of July 4, 1902, must be denied, without considering other grounds, for the reason that it does not appear that the defendant took part against the United States or Spain in the insurrection mentioned in the amnesty. (United States vs. Manuel Garcia, August 16, 1902.)

In cases not covered by the terms of the proclamation the special application therein permitted must be made to the executive and not to the judicial authorities, as has been done in this case.

The judgment is modified by changing the penalty from fourteen years eight months and one day to twelve years and one day. In all other respects it is affirmed. The appellant must pay the cost of this instance. So ordered.

Arellano, C. J., Torres, Cooper, and Ladd, JJ., concur.

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