

[G.R. No. 1391. January 30, 1904]

**THE UNITED STATES, COMPLAINANT AND APPELLANT, VS. LEONCIO PAPA,
DEFENDANT AND APPELLEE.**

D E C I S I O N

JOHNSON, J.:

The defendant was charged with the crime of *bandolerismo* and was tried in the Court of First Instance of the Province of Rizal on the 16th of January, 1903. That court dismissed the said defendant under the charges of *bandolerismo* and directed the fiscal to present a complaint against him for the crime of insurrection. From this sentence the fiscal of the Province of Rizal appealed to this court.

The evidence showed that the town of Pasig, the capital of the Province of Rizal, was attacked on the night of the 24th of December, 1902, at about midnight by a band of armed men consisting of from 100 to 400 men. At the time of the attack a great number of shots were fired by the attacking band. The attack was repulsed by the members of the Constabulary then in the town of Pasig. During the attack two or more of the Constabulary were killed and one wounded; also some of the attacking party were killed. The evidence shows that the defendant with five others sequestered Juan Dominguez, Gervasio Luna, and Victorino Angeles on the night of the attack, and that the defendant, as well as the other five, were armed at the time they sequestered the said persons. The evidence shows that the band was under the command of Faustino Guillermo; it further shows that the object of the band was to steal personal property and that the particular purpose or object of attacking the pueblo of Pasig at that time was to rob the Constabulary of their arms and supplies as well

as to rob the Provincial treasury. The attack was repulsed before the said band was able to reach the quarters of the Constabulary or the office of the provincial treasury. Members of the said band did enter the house of one Paterno in the barrio of Rosado on the night of the attack and carried away some money.

Victoriano Angeles testified that he was captured on the night of the said attack by a member of the band, one of whom being the accused. That he saw Faustino Guillermo on that night and that he was the leader of the band and in command of the same at that time. That the band killed Maximo Colayo, a policeman, and after killing him took his gun. That Maximo Colayo was a policeman on watch in the barrio of Rosado, pueblo of Pasig, on that night.

The testimony of Gervasio Luna showed that he was a member of the Constabulary; that he was present in the town of Pasig on the night of the said attack and that on the same night he saw the defendant and recognized him, and that the defendant was then and there armed. That he knew Faustino Guillermo and saw him on the said night in one of the barrios of Pasig. He further stated that in his judgment there were 400 armed men in the band and that the object of the band was to rob, and that on the night of the said attack members of the said band did enter the house of one Paterno and did then and there take and carry away money from said house, and that the said accused was one of the parties who entered the house of Paterno, That he was also sequestered on this night and was taken with the band.

Herbert B. Harpold testified that he was a member of the Constabulary; that he knew the accused; that the accused admitted to him voluntarily that he was a first lieutenant under General San Miguel, and that his commission was signed by General San Miguel.

The defendant attempted to prove an alibi and swore that on the night of the attack he was in the house of one Pio all night. Pio was called as a witness and stated that the defendant was at his house on the evening of the night of the attack between 7 and 8 o'clock, and that his house was about two hours' walk from the town of Pasig.

The evidence showed that the said attack took place at about midnight on the night of the 24th of December, 1902.

The evidence adduced at the trial justifies the following conclusions:

- (1) That an armed band composed of from 100 to 400 men existed in the Province of Rizal on or about the 24th of December, 1902.
- (2) That the said band was under the command and leadership of one Faustino Guillermo and General San Miguel.
- (3) That said band was organized for the purpose of the robbery of carabaos and other personal property.
- (4) That said band did go out upon the highways of the said province and did commit robbery of personal property.
- (5) That the accused in this cause was a member of said band and went with it in its raids of robbery.

And therefore the judgment of the Court of First Instance of the Province of Rizal dismissing the said defendant is hereby revoked, and the said defendant is hereby sentenced to be imprisoned for the term of twenty years and to pay the costs of this suit.

Arellano, C. J., Torres, Cooper, Willard, Mapa, and Mc-Donough, JJ., concur.