

3 Phil. 468

[ G.R. No. 1297. March 28, 1904 ]

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

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

**TORRES, J.:**

On March 24, 1903, the prosecuting attorney filed a complaint against the three defendants, charging them with the crime of illegal detention committed as follows: That on or about the 21st of March, 1903, the said Julio Mendoza, Santiago Santos, and Cirilo Cueto did willfully, unlawfully, feloniously, and by impersonating peace officers, detain and deprive of his liberty in Manila, Philippine Islands, one Mateo Ventura, a youth of 11 years of age, and inflict upon him serious wounds, thereby endangering his life, and confined him in the office of the pail system station in Tondo, and did actually bind his hands and feet with a rope and tie him to a post, in which state he remained twelve hours, more or less, contrary to the statute in such cases made and provided.

From the record of the trial had, it appears that the lad, Mateo Ventura, testified under oath that one night, date forgotten, he was detained on Aceiteros Street by the defendants, who maltreated him and then took him to the police station, where he was given his liberty; that Cirilo Cueto then took him to the office where they were employed, and on his arrival there Santiago Santos maltreated him and then bound his hands and feet with a rope to a post and that he remained in this state, watched by Julio Mendoza, till the morning of the following day, when Mendoza set him at liberty, that his hands and feet showed the marks of the rope, he having been bound very tightly and having thereby

suffered all the hours of his detention; that this ill treatment was due to the fact that, feeling the necessity of relieving himself, he had entered a public water closet near the sea, and in order to see if the seat was clean, he had lighted a match which he then threw in the howl, causing some paper in it to burn; that he was then caught by Cirilo Cueto, who accused him of being an incendiary and took him to the police station, where Corporal Jadoc set him at liberty; that, notwithstanding this, the said Cueto took him to the office of the pail system, and here Santiago struck him and bruised him on the shoulder and continued-striking him despite his cries and tears; that the said Santos and Cueto slapped him and struck him with their fists; that Santos then ordered his detention in the said office.

Police Corporal Simplicio Jadoc confirmed Ventura's statements and testified that the latter was brought to the police station by Cirilo Cueto between 9 and 10 o'clock of the night of the 20th of March; that upon investigation he found the charge unfounded and set the lad at liberty; that the following day the lad came back, while Pail Inspector Rusca was there, and on examination it was found that his hands showed rope marks. Police Captain Jose Crame testified that the boy, Ventura, was brought to him the morning of March 21, having been arrested as an incendiary the previous night; that he held an investigation and the boy told him what he had done in the public water-closet, and of his maltreatment and detention; that Corporal Jadoc had confirmed the boy's statements; that finding no reason for holding the boy, he set him at liberty; that he had the defendants called before him; that Santos confessed to the detaining of the boy to avoid his escape and for the purpose of reporting the matter to Inspector Rusca on the following day.

The facts in the case, fully established by the testimony of trustworthy witnesses and by the confession of two of the defendants, constitute the crime of illegal detention defined and punished under article 483 of the Penal Code, inasmuch as the defendants, lacking authority therefor, and not being peace officers, did apprehend the boy, Mateo Ventura, and. detain him in the health inspector's office for over

eight hours with his hands and feet bound to a post, this without just cause. Even though we accept the theory advanced that he was detained for the purpose of delivering him to the authorities, through Inspector Rusca, for attempted incendiarism, the defendants are still liable, not only because they maltreated the boy when they arrested him, and afterwards when they bound him to the post, but also because, after taking him to the police station where he was discharged after the investigation held, they detained him again and took him to their office and there maltreated him once more, keeping him tied to the post till the following day. There is no doubt that the defendants are guilty of the crime defined in article 483 of the Penal Code.

Defendants pleaded not guilty. Cirilo Cueto stated under oath that no one ordered the detention of the boy, Mateo Ventura; that he simply took him to the office of the pail system, where he left him to wait for the arrival of the inspector; that he had ordered no one to hold the boy in said office; that the following day he learned that Santiago Santos had beaten the boy, but denied having maltreated him when he arrested him at the public water-closet and before taking him to the police station; that although the boy had been set at liberty by the police corporal, defendant had taken the boy to his office to report to the inspector, in whose absence defendant left the boy in charge of a woman, who appears to be a servant, and who was to tell the said inspector; that Julio Mendoza was there.

Julio Mendoza testifies that Mateo Ventura was detained one night by Cirilo Cueto; that the boy was kept in the office from 10 o'clock at night until 6 the following morning; that defendant remained that night in the office where Cueto had charged him to watch the boy; that it was Santiago Santos who bound the boy, but that four minutes after Cueto had left, Santos untied the boy by order of the wife of the then absent inspector; that he did not know who had ordered the arrest of the boy nor who had maltreated him.

Burt H. Burull, a witness called in rebuttal, testified that he was acquainted with Cirilo Cueto, who is in charge of the water-closets of Aceiteros Street; that neither Cueto nor any other person in charge of

said closets had authority to arrest anybody.

Despite the statements of defendants, their guilt of detaining the boy without any just cause is clearly demonstrated, especially in view of the fact that he had been discharged by the police of the district through the uncertainty of the charge. Even though defendants may have intended to send the boy to the authorities through their inspector, Rusca, they should have reported the matter to said inspector without waiting till he came to the office the next day. In the meantime defendants maltreated the boy and tied him to the post without any reason whatever and contrary to law. Such unlawful abuses can by no means be allowed, particularly when the victim is a lad of 11 or 12 years of age.

In the commission of this crime aggravating circumstance No. 6 of article 10 of the Penal Code must be taken into account in view of the maltreatment inflicted, which was certainly unnecessary punishment and, as there is no mitigating circumstance, the penalty must be imposed in its maximum degree.

For the reasons stated it is our opinion that the sentence of the court below must be reversed, and we sentence Julio Mendoza, Santiago Santos, and Cirilo Cueto each to six months of *arresto mayor*, the accessories of article 61, to pay a fine of 1,250 pesetas, and in case of insolvency to subsidiary imprisonment not to exceed two months, and payment of one-third of the costs each. The record will be returned to the court below with a certified copy of this decision and of the judgment to be entered thereon. So ordered.

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

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