

[G.R. No. 2448. July 25, 1906]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SIXTO MERCADO ET AL.,
DEFENDANTS AND APPELLANTS.**

D E C I S I O N

CARSON, J.:

There is no competent evidence in the record of this case connecting the appellants with the crime with which they were charged.

The prosecution introduced in evidence written statements purporting to be confessions of guilt signed and sworn to by each of the appellants before the justice of the peace of Mabalacat, but we are of opinion that these statements must be excluded because "it does not affirmatively appear that they were "freely and voluntarily made and not the result of violence, intimidation, threats, menace, or promises or offers of reward or leniency." (Sec. 4, Act No. 619, Philippine Commission.)

The fact that these alleged confessions were executed before the justice of the peace was not denied, but at the trial of the case in the Court of First Instance the defendants did deny the truth of the facts set out therein and alleged that these confessions were the result of violence, intimidation, and threats on the part of certain Constabulary officers and soldiers and that they were not freely and voluntarily made.

The justice of the peace testified that no improper measures were used while the statements were being executed in his presence, but the testimony of the accused was to the effect that these statements were the result of the violence and intimidation to which they were subjected before being brought into his presence, and it does not appear that he took any measures to relieve their minds of the fear occasioned by any abuse to which they might have been previously subjected. Where violence or intimidation has been used to extort a confession from an accused person, the mere fact that a confession made by him some time

thereafter appears to have been made freely and voluntarily is not sufficient to justify the admission of such confession unless it is proven beyond a reasonable doubt that the mind of the accused was wholly relieved of the fear which would naturally ensue from being subjected to such violence or intimidation.

A number of witnesses were introduced by the prosecution in rebuttal of the testimony of the accused, but we do not feel that their evidence was sufficient to sustain a finding that the accused were not in fact subjected to violence and intimidation while in the hands of the Constabulary.

Anacleto Antonio, Ignacio Barmiento, and Juan Tullo having died pending their appeal, the complaint is dismissed as to them, with their proportionate share of the costs of both instances *de officio*, and the remaining appellants are acquitted of the crime with which they are charged, with their proportionate share of the costs of both instances *de officio*, and they will be set at liberty forthwith, and to this end judgment will be entered immediately upon the filing of this decision. So ordered.

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