

[G. R. No. 3479. July 29, 1907]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. WILLIAM BOSTON,
DEFENDANT AND APPELLANT.**

D E C I S I O N

WILLARD, J.:

The appellant in this case, William Boston, was, with Mateo de la Cruz, charged in the court below with the violation of section 3 of Act No. 619. That section is as follows:

“Any Constabulary officer or non-commissioned officer of the Constabulary who countenances, allows, or permits the whipping, maltreatment, abuse, or torture of any native of the Philippine Islands or of any other person for the purpose of extorting or obtaining any confession, information, or declaration whatsoever shall be punished by imprisonment for a period not exceeding live years or by a fine not exceeding five thousand dollars, or both such fine and imprisonment, in the discretion of the court.”

Boston was tried separately at his request, convicted and sentenced to twenty months of imprisonment and the payment of costs. From this judgment he has appealed. It appears that the other defendant, Mateo de la Cruz, died on the 23d of June, 1906.

That the complaining witness, Francisco Garcia, was thrown upon his back and vinegar poured into his mouth and nose by the soldiers under the command of Boston, is not disputed. It is claimed, however, by the appellant that he was not present when this was done, did not order it, and had nothing to do with it; and he produced witnesses who testified that he, the appellant, was not in the building where the complaining witness, Francisco Garcia, said he was maltreated.

Upon this point we are satisfied beyond a reasonable doubt that the testimony of the

witnesses for the Government is true, and that even if Boston did not take a material part in the act, yet he was present at the time it was done, and being in command of the persons who did it, he was responsible therefor.

The testimony of the complaining witness was sought to be impeached by the presentation of a document signed by him, in which he stated that the appellant had nothing to do with the commission of the offense and that he was not present when the "water cure" was administered. At the trial he testified that the statements contained in this declaration, so far as they referred to the presence of Boston, were not true, and that he signed it while he was held under a charge of brigandage and through fear that he would be sent to Bilibid if he did not make it. The testimony of Boston to the effect that Garcia came to his office of his own motion and voluntarily made this statement can not be believed. Its sole and exclusive purpose, as appears on its face, was to relieve Boston of any responsibility for the act charged.

Among the other errors assigned by the appellant in this court is, that the court below erred in overruling his demurrer to the complaint, which he claims was defective because it did not allege that the appellant was a member of the Philippines Constabulary. This defect, if it existed, was cured by amendment in the court below.

It is claimed also by the appellant that a written report of the injuries received by the complaining witness, made by a doctor soon after the occurrence, was admitted in evidence without the testimony of the doctor given in open court. This statement is not borne out by the record. It appears therefrom that the doctor was called as a witness and testified that the matter stated in his report was true.

The evidence in this case showing the connection of the appellant with the Constabulary is practically the same as that given in the case of the United States vs. Prank (6 Phil. Rep., 433), and that case is authority for the ruling of the court below that the appellant was a member of the Constabulary.

The judgment of the court below is affirmed, with the costs of this instance against the appellant. So ordered.

Arellano, C.J., Torres, Johnson, and Tracey, JJ., concur.

Date created: May 05, 2014