

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. NGAN PING, DEFENDANT AND APPELLANT.

G.R. No. 11425. August 02, 1916

Ponente: JOHNSON, J.

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JOHNSON, J.:

This defendant was charged with the illegal possession of opium. The complaint alleged that on or about the 12th of August, 1915, in the city of Manila, Philippine Islands, he did then and there willfully, unlawfully, and feloniously have in his possession and under his control forty centigrams of cocaine, contrary to law.

Upon said complaint the defendant was arrested, arraigned, pleaded not guilty, was tried, found guilty, and sentenced to be imprisoned for a period of three months and to pay a fine of P300. From that sentence the defendant appealed to this court and alleges that the facts adduced during the trial of the cause are not sufficient to show that he is guilty of the crime charged in the complaint.

The defendant is a Chinese boy, seventeen years of age. At the time of his arrest he was employed in a tienda located on Calle Nueva, city of Manila, which tienda belonged to his father, his uncle, and his brother. The defendant had no interest whatever in said tienda, but was evidently working therein, assisting his father, uncle and brother.

An examination of the proof shows that on or about the 12th of August, 1915, the defendant was in the tienda, together with his brother, and one of the other owners of the same; that between six and seven o'clock in the evening of said day, one Henry Rusland, a policeman, and Samuel Stokes, an employee in a saloon, who was then, as the record shows, acting as a spy, entered said tienda and asked the defendant for a small package; that the defendant offered to deliver the package to Stokes, whereupon Stokes told him to deliver the same to Rusland. The proof further shows that at about 1 o'clock in the afternoon of the same day, the said Stokes entered the tienda where the defendant was working and left with him a package, stating that he would call for it later; that Stokes was an occasional visitor or customer at the tienda, buying wine from time to time; that the defendant took the package from Stokes and laid it on a shelf near the clock in the tienda, and it was in plain view to all persons in the tienda; that the package which had been delivered to the defendant at 1 o'clock on the day in question and which was laid upon the shelf in the tienda was the same package which the defendant tried to deliver to Stokes and Rusland at about 6 o'clock in the evening of that day. In our opinion there is nothing in the record which justifies a finding that the defendant is guilty of having in his possession cocaine. There is no proof that he knew what the package contained. There is no proof that he tried to find out what was in the package. There is not the slightest proof showing that the defendant intended to violate the Opium Law.

From all of the foregoing, we are of the opinion that the sentence of the lower court should be reversed, that the defendant should be absolved from all liability under the law, the complaint dismissed, and that he be discharged from the custody of the law. And without any finding as to costs it is so ordered.

Torres, Moreland, Trent, and Araullo, JJ., concur.

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