

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SEE CHO, DEFENDANT AND APPELLANT.

G.R. No. 12321. August 23, 1917

Ponente: CARSON, J.

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CARSON, J.:

The undisputed evidence of record conclusively establishes the guilt of the defendant and appellant of the offense of which he was convicted in the court below.

In corroboration of the testimony of the witnesses for the prosecution, to the effect that the house mentioned in the information was a notorious "opium-den" or "opiumjoint," the Government submitted in evidence the records of various cases on file in the court below, with the unchallenged statement that these records disclosed that, on more than one occasion, it had been judicially declared that this house was in whole, or in part, an "opium-joint," or "opium-den," These records were not brought here together with the record of this case on appeal, and if the oral evidence of record did not conclusively establish the character of the house, we would be compelled to acquit this appellant, or to suspend these proceedings in order that the record might be perfected in this regard. We are satisfied, however, in view of the oral evidence, that the failure to bring these records to this court on appeal has in nowise prejudiced the substantial rights of the appellant. It was, of course, the duty of the clerk of the trial court to forward these records together with the record of the case under consideration, and it was also the duty of the Government to take the proper measures to perfect the record as soon as the omission was discovered, and our action in this case should not be construed as putting the stamp of approval upon such omissions in the future. But counsel for the appellant having deemed it expedient to refrain from exercising his undoubted privilege to have the case suspended until the omissions in the record could be corrected ; and there not being any evidence in the record tending in the slightest degree to put in doubt the truth of the testimony of the witnesses as to the fact that the house in question was an "opiumden;" we think it will make for the prompt administration of justice and for the best interests of the appellant himself to confirm the judgment entered in the court below, without the delay incident to the issuance of and compliance with orders looking to the bringing of the records in question to this court.

We conclude that the judgment entered in the court below, convicting and sentencing this appellant, should be affirmed, with the costs of this instance de officio. So ordered.

Arellano, C. J., Johnson, Araullo, Street and Malcolm, JJ., concur.

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