

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ONG SIU HONG, DEFENDANT AND APPELLANT.

G.R. No. 12778. August 03, 1917

Ponente: MALCOLM, J.

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MALCOLM, J.:

We find no reason to disturb the findings of the trial court, particularly relative to the credibility of the witnesses for the prosecution, members of the secret service. One point only requires consideration.

Counsel for appellant raises the constitutional question that the accused was compelled to be a witness against himself. The contention is that this was the result of forcing the accused to discharge the morphine from his mouth. No case exactly in point can be found. But, by analogy, the decision of the Supreme Court of the Philippine Islands in *U. S. vs. Tan Teng* ([1912] 23 Phil., 145), following leading authorities, and the persuasive decisions of other courts of last resort, are conclusive. To force a prohibited drug from the person of an accused is along the same line as requiring him to exhibit himself before the court; or putting in evidence papers and other articles taken from the room of an accused in his absence; or, as in the *Tan Teng* case, taking a substance from the body of the accused to be used in proving his guilt. It would be a forced construction of the paragraph of the Philippine Bill of Rights in question to hold that any article, substance, or thing taken from a person accused of crime could not be given in evidence. The main purpose of this constitutional provision is to prohibit testimonial compulsion by oral examination in order to extort unwilling confessions from prisoners implicating them in the commission of a crime. (*Harris vs. Coats* [1885], 75 Ga., 415.)

Following the practice of this court in cases of this character, the judgment of the lower court is modified by imposing the minimum penalty provided by law, i. e., three months imprisonment and a fine of P300 or, in case of insolvency, to suffer subsidiary imprisonment, with costs. (*U. S. vs. Lim Sing*, [1912] 23 Phil., 424; *U. S. vs. Sy Liongco*, [1915] 33 Phil., 53.) So ordered.

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

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