

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ISIDRO SERVILLAS, DEFENDANT AND APPELLANT.

G.R. No. 4515. November 11, 1908

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

The defendant was prosecuted for the illegal use of opium, and the Court of First Instance of Surigao sentenced him to three months' imprisonment and to pay a fine of P200, or to suffer subsidiary imprisonment at the rate of P2.50 per day, and costs.

The cause having been appealed by the accused, it appears that he was convicted even by his own testimony, as he declared that the articles, the instruments of the crime, were found in his house, and that he, being an inveterate smoker of opium, is trying to gradually break himself of the habit—that is, he smokes it every now and then—and that the opium contained in the pots that were seized is for smoking.

The judgment is in accordance with the law and with the penalty prescribed in section 4 of Act No. 1461, in force since April 1, 1906, with the exception of the subsidiary imprisonment. The latter was not authorized at the time the said Act was enacted, inasmuch as subsidiary imprisonment in default of payment of a fine imposed by virtue of Acts of the Philippine Commission was only provided by Act No. 1732, in effect November 1, 1907.

Moreover, for the uniformity of the penalties that are applied to crimes of the nature of the one at bar, this court, in reviewing the cases submitted to it, follows a rule tending to establish judicial precedents, and therefore, as in similar cases, the penalty of imprisonment imposed should be reduced to two months.

Hence, it being understood that the penalty imposed shall be two months' imprisonment, and that the subsidiary imprisonment in case of insolvency in the payment of the fine is set aside, the judgment appealed from is hereby affirmed with the costs of this instance. So ordered.

Torres, Mapa, Johnson, Carson, Willard, and Tracey, JJ., concur.

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