

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. GERONIMO GELLADA, DEFENDANT AND APPELLANT.*G.R. No. 5151. January 31, 1910*

Ponente: TORRES, J.

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At about 5 p. m. on the 24th of January, 1907, Sixto Gentugao, a servant in the house of Geronimo Gellada, situated in the barrio of Tayuman, town of Himamaylan, Occidental Negros, had a dispute with Gellada's daughter Felicidad, on account of the viciousness of a horse which the said Gentugao had ridden when he went to the field. When the master, Gellada, arrived at his house and heard the dispute he seized a stick and tried to beat his servant, who thereupon started to run; but shortly thereafter Gellada, with the help of Filoteo Soliman, who was then living in the house, managed to catch him, and they at once bound and tied him with a rope to the partition of the house, and an hour later sent him to the justice of the peace of the town of Himamaylan, in charge of an officer of the barrio of which the said Gellada was a lieutenant. The servant was turned over to the justice of the peace and kept in detention during the whole of that night until 9 a. m. the next morning, the 25th, when the justice of the peace, being informed of the matter and of the contents of the official letter remitting the man, immediately ordered his release, there being no reason for his detention.

Subsequently a complaint was filed by the provincial fiscal with the Court of First Instance, charging Geronimo Gellada with the crime of illegal detention and ill treatment. The present proceedings were instituted, and the trial judge entered judgment on the 10th of September, 1907, sentencing the defendant to pay a fine of 500 pesetas and to suffer subsidiary imprisonment in case of insolvency, with costs. From the said judgment the accused has appealed. .

The above-stated facts, fully proven in this case, are characteristic of the crime of arbitrary detention committed by an agent of the authority, such as is the lieutenant of a barrio, as defined by article 200, No. 1, of the Penal Code, inasmuch as, by order of the defendant, who was a lieutenant of the barrio, Sixto Gentugao was detained and taken to the justice of the peace, and, during many hours, deprived of his liberty without any lawful reason to justify such procedure, so that the said justice of the peace, upon being informed of the case on the following morning, set him at liberty.

The defendant testifies that he delivered the injured party to the justice of the peace with an official communication because, while the said party was drunk, he pushed the defendant and because, with the stick that he was carrying, he might have injured the inmates of defendant's house; but this allegation and the other exculpatory statements made by the defendant are not sustained, and the conflicting testimony of his witnesses has not weakened the evidence adduced by the prosecution.

It has, therefore, been proven, beyond all doubt, that the defendant, as lieutenant of the barrio, detained the injured party on the afternoon of January 24, 1907, and sent him to the justice of the peace without any reason therefor, such as the commission of a crime, and without having authority to do so, and that the said party only obtained his

liberty on the following morning by the decision of the justice of the peace, in view of the fact that there was no reason for the detention.

The erroneous classification of the act set out in the complaint, and which is extremely damaging to the defendant, does not prevent his being declared guilty of the crime of arbitrary detention, nor can it affect the sentence that may be rendered when taking into consideration the fact that said crime was committed, inasmuch as both classifications refer to acts which are generically the same, if not identical, although they may be classified differently, according to the character with which the person who executed the same is invested; and, moreover, the commission of acts charged in an information is established by the evidence, not by the allegations of the parties.

With respect to the imposition of a fine as a penalty, as in the present case, the courts are empowered to use their authority to the full extent of the law, taking into consideration not only the mitigating and aggravating circumstances, but principally the financial condition and intelligence of the guilty person, as prescribed by article 83 of the Penal Code.

Therefore, in view of the fact that the judgment appealed from is in accordance with the law, it is our opinion that the same should be and is hereby affirmed with the costs against the accused. So ordered.

Arellano, C. J., Mapa, Johnson, Moreland, and Elliott, JJ., concur.

Carson J, dissents.

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