

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

*G.R. No. 6082. March 18, 1911*

Ponente: CARSON, J.

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### CARSON, J.:

The defendant in this case was found guilty in the court below of the crime of "illegal and arbitrary detention" of the complaining witness for a period of three days, and sentenced to pay a fine of 625 pesetas, with subsidiary imprisonment in case of insolvency, and to pay the costs of the trial.

We are of opinion that under all the circumstances of this case there can be no doubt of the lawful authority of the defendant, in the exercise of his functions as municipal president, to make arrest of the complaining witness which resulted in his alleged unlawful detention. As we understand the evidence, the alleged offense with which the complaining witness in this case was charged was committed by him in the presence of the municipal president, who must be held to have had all the usual powers of a police officer for the making of arrests without warrant, under the doctrine laid down in the case of *U. S. vs. Fortaleza* (12 Phil. Rep., 472).

The judgment of conviction of the court below must, therefore, be reversed, unless the evidence discloses that having made the arrest, the defendant arbitrarily and without legal authority, as it is alleged, caused the complaining witness to be detained for a period of three days without having him brought before the proper judicial authority for the investigation and trial of the charge on which he was arrested. But so far as we can gather from the extremely meagre record in this case the arrested man was in fact brought before a justice of the peace as soon as "practicable" after his arrest. True, three days were expended in doing so, but it was conclusively proven at the trial that at the time of the arrest neither the local justice of the peace nor his auxiliary were in the municipality, and to reach the justice of the peace of either of the two adjoining municipalities, it was necessary to take a long journey by boat. The evidence discloses, moreover, that with all practicable dispatch, the prisoner was forwarded first to one and then to the other of the adjoining municipalities for trial, the failure to secure trial on the first occasion being due to the fact that the written complaint, which was intrusted to the policeman in charge of the prisoner, was either lost or stolen. It does not appear why the prisoner was not sent to the same municipality on both occasions, but in the absence of proof we must assume that in this respect the officers in charge were controlled by local conditions, changes in the weather, or the like, which, as appears from the uncontradicted evidence of record, made the journey by boats safer and more commodious sometimes to one and sometimes to the other of the two adjoining municipalities.

It may be that the defendant was not friendly to the arrested man, and that he was not sorry to see him exposed to considerable inconvenience and delay in the proceedings incident to his trial, but there is nothing in this record upon which to base a finding that this defendant caused the arrest and the subsequent detention of the prisoner otherwise than in the due performance of his official duties; and there can be no doubt of his lawfully authority in the premises. The trial judge lays great stress upon the trivial nature of the offense for which the arrest was made, but keeping in mind the fact that there was no judicial officer in the remote community where the incident

occurred at the time of the arrest, and no certainty of the early return of the absent justice of the peace, or his auxiliary, we are not prepared to hold, in the absence of all the evidence on this point that in a particular case of a defiance of local authority by the willful violation of a local ordinance, it was not necessary, or at least expedient, to make an arrest and send the offender forthwith to the justice of the peace of a neighboring municipality, if only to convince all would-be offenders that the forces of law and order were supreme, even in the absence of the local municipal judicial officers.

The judgment of the lower court convicting and sentencing the defendant must be reversed and he is hereby acquitted of the offense with which he is charged, with the costs in both instances de oficio. So ordered.

Arellano, C. J., Mapa, Moreland, and Trent, JJ., concur.

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