

## THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SO FO, DEFENDANT AND APPELLANT.

*G.R. No. 7892. November 05, 1912*

Ponente: TRENT, J.

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### TRENT, J.:

This case is before us on appeal from a judgment condemning the defendant, So Fo, to pay a fine of P300 and to suffer the corresponding subsidiary imprisonment in case of insolvency, and to the payment of the of the cause, for having violated the provisions of section 31 of Act No. known as the Opium Law.

Counsel for the defendant insists that the court erred in finding as a fact that the defendant acknowledged in the presence of internal revenue agents that the opium found was his. Counsel further insists that the testimony presented does not establish the guilt of the appellant beyond a reasonable doubt.

The prosecution presented as witnesses two internal revenue agents, Best and Sargan. Best testified as follows:

"On Saturday, 23d of March (1912), about 12.30, in company with Agents Sargan, Benjamin and Ramos, I went to the residence 178 Santo Cristo, is some kind of a bakery; went into the rear part of the building where is a coal pile. I could not say how much coal is there, but it is about high from the ground and as much as from here to the window. Immediately Sargan shovelled off some coal on top and picked up some lumps and threw them out from the pile and under this coal was found this can of opium. I immediately took off my coat and got the shovel and went to work and sweat pretty hard, and went all through the coal pile a could not find any more. Worked for about an hour. I then brought out the can and held it up like this, and this Chinaman (indicating the defendant) 'It is mine.' I then looked at the license. His name was not on the license of the place.

"\* \* \* I said to Sargan: 'You ask him also so that we can all hear it.' And Sargan asked him too, and he (defendant) said it was his."

Sargan testified substantially as follows:

"I, Mr. Best, Mr. Ramos, and Benjamin went down to the place called San Cristo No. 178 and searched the place there. In the coal pile near where make some sugar I found this opium. When Mr. Best held up this can and said: 'Who is the owner of this can?' immediately this Chinaman (the defendant) answered saying that this can belonged to him. I asked him also, whose this can was and he said: 'It is mine.' I asked him in Tagalog and he appeared to understand what I said."

The defendant So Fo testified in his own behalf and stated in substance that he was an employee of the owner of the place where the opium was found; that the opium was not his; that he had never had it in his possession, and that he never confessed or stated to either Best or Sargan or to anyone that the can of opium which was found in the coal pile belonged to him. Tan Quin Chioc, who was, at the time this case was tried in the court below, serving a sentence of three months in Bil Prison, being called as a witness for the defense, testified that he live No. 178 Santo Cristo; that he placed the opium in the coal pile, and that it belonged to him.

That the can of opium exhibited in the court below was found in the coal pile at the time and place stated by the agents of the Bureau of Intern Revenue is not denied. Counsel for the defendant argues, as we have said that in view of the fact that defendant could not speak English and could only speak Tagalog (aside from his native language), the internal rev agents were mistaken when they said that the defendant stated to them that the opium was his property; and (2) that the testimony of record does not establish the guilt of the defendant beyond a reasonable doubt.

With reference to the first proposition, we think there can be no question that the defendant did state more than once when the opium was found that he was the owner of the same, and that these statements or confessions were made entirely upon his own volition. The two internal r agents testified that when they asked to whom the opium belonged they spoke in Tagalog and that the defendant answered them in the same language.

The second proposition raises the question whether or not an uncorroborated extrajudicial confession later denied upon the trial of the cause is sufficient upon which to rest a judgment of conviction. In *Hopt vs. People o Utah*, (110 U. S., 574, 28 L. ed., 262), Hopt was sentenced to death for murder of one Turner. In considering the probative force of an extrajudicial oral confession, the Supreme Court of the United States said:

"While some of the adjudged cases indicate distrust of confessions which not judicial, it is certain, as observed by Baron Parke in *Regina vs.* (2 Den., 430, 445), that the rule against their admissibility has been so carried too far, and in its application justice and common sense have to frequently been sacrificed at the shrine of mercy, A confession, if freely and voluntarily made, is evidence of the most satisfactory character. S confession, said Eyre, C. B. (*King vs. Warickshall*, 1 Leach., 2 deserving of the highest credit, because it is presumed to flow from the strongest sense of guilt and, therefore, it is admitted as proof of the c which it refers.'

"Elementary writers of authority concur in saying that, while from the very nature of such evidence it must be subjected to careful scrutiny and received with great caution, a deliberate, voluntary confession of guilt is among most effectual proofs in the law, and constitutes the strongest evidence against the party making it that can be given of the facts stated in such confession." (1 Greenl. Ev., sec. 215; 1 Archb. Cr. PL, 125; 1 Phil Stark, Ev., 73.)

The foregoing, coming from the highest court in the land and being beyond question the law on the subject, must necessarily be fallowed in this jurisdiction. The proposition is so well settled that further citation of authorities is unnecessary. The judgment being strictly in accordance with the law and the evidence, the same is hereby affirmed, with costs against the appellant.

Arellano, C, J., Mapa, Johnson, and Carson, JJ., concur.

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## CONCURRING

### TORRES, J.,

The undersigned concurs in the affirmation of the judgment appealed from, for the reason that the extrajudicial confession made by the accused So Fo to the officers who arrested him is corroborated by the circumstance that even though said accused did not live at No. 178 Calle Santo Cristo he frequented the place and was usually there as an employee of the owner of said house and also by the finding of the can of opium in question inside a coal pile within the yard or lot of said house.

Therefore, in view of the fact that the said extrajudicial confession, afterwards denied at the trial, is corroborated by said circumstantial evidence of the certainty of the facts confessed, it is proper to hold that the g the accused has been duly proved, as did the court in the judgment appealed from.

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