

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. TIN CHO CO ET AL., DEFENDANTS. ONG KIM, APPELLANT.

G.R. No. 8960. November 28, 1913

Ponente: CARSON, J.

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CARSON, J.:

The evidence of record in this case conclusively establishes the finding's of the trial judge that the appellant in this case, together with three other Chinamen, were surprised together in a locked room by three secret service agents who made their entry into the room through a window; that when the secret service agents entered the room, one of the Chinamen was smoking opium, another was stretched by his side half asleep and apparently under the influence of some drug, while the other two were lying near by sleeping profoundly; that when the sleepers were awakened they staggered like drunken men and behaved as though they had been heavily drugged; that the conduct of these men, when awakened, was such as might be expected from men who had stupefied themselves by smoking opium.

The four Chinamen were arrested, tried and convicted on the charge of smoking opium, but the defendant and appellant in this, case is the only one who has brought the proceedings to this court for review. His counsel vigorously contends that except as to the Chinaman who was caught in the act, the evidence of record is not sufficient to sustain a finding that any of the party were guilty of the offense of smoking opium. We are satisfied, however, that in the absence of some satisfactory explanation of the condition in which the appellant was found by the secret service agents, and having in mind all the surrounding circumstances, the trial court correctly found that he was guilty of smoking opium on the night of his arrest. The accused offered no reasonable explanation of the condition in which he was found, and we have no reasonable doubt as to his guilt of the offense of smoking opium, with which he was charged.

The judgment of conviction should be and is hereby affirmed, and the sentence of the trial court, modified by substituting a fine of P300 for so much thereof as imposes a prison sentence on the defendant and appellant, Ong Kim, should be and is hereby affirmed, with the costs of this instance against the appellant.

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

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