

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. DAVID BARBA ET AL., DEFENDANTS. PROCESA REQUESEN, APPELLANT.*G.R. No. 9494. January 07, 1915*

Ponente: MORELAND, J.

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The record in this case discloses that Procesa Requesen, together with many other defendants, was tried by the Couit of First Instance of Iloilo for a violation of the gambling law, it being alleged that on the night of the 1st of September, 1913, she, with others mentioned, was engaged in a game of monte at the house of one David Barba in the municipality of Balasan, Province of Iloilo. On arraignment all of the defendants, with one exception, pleaded guilty, including the appellant here. The court sentenced the appellant to three months' imprisonment and to pay a fine of P75, with subsidiary imprisonment in case of insolvency, and to pay her proportion of the costs. All the other defendants, with the exception of Barba and Inventor, were fined the sum of P75 each and to pay their share of the costs. Procesa Requesen is the only appellant.

We have held that an appeal from a judgment of conviction and the sentence imposed thereunder founded upon a plea of guilty, raises no question except the legality of the penalty. (U. S. vs. Tamarra, 21 Phil. Rep., 143.) The law fixes the limits of the penalties in cases of this character and gives the trial court full discretion within those limits. The penalty actually imposed being within those limits, this court cannot interfere.

The appellant contends that the reason given by the trial court for imposing relatively so severe a penalty on her was that she was a recidivist, whereas, as a matter of fact, there is nothing of record to show that the appellant was a recidivist ; that the best evidence thereof would be a certified copy of the prior judgment of conviction; that there being no such evidence in the record and there having been introduced no oral testimony on the subject, there is nothing which supports the court's assumption that the appellant was a recidivist.

This contention cannot be sustained. The original, as well as the amended information in the case, not only charged the appellant, together with other defendants, with a violation of the gambling law, but also alleged that "Pedro Gonzalez and Procesa Requesen are recidivists, they having been convicted by this court and fined P10 each on the 27th day of May, 1913, for a violation of Act No. 1757" (the Gambling Law).

It is a principle established by this court that the plea of guilty is an admission of all of the material facts alleged in the information. (U. S. vs. Look Chaw, 18 Phil. Rep., 573.) In the case of Crow vs. State (6 Texas, 334), it was held that a plea of guilty to an indictment amounts to nothing more than an acknowledgement of the facts charged; and in the case of Meyers vs. State (156 Ind., 388), it was decided that a plea of guilty entered by one accused of a crime is a confession of the charge. Moreover it is a well-known rule of pleading that material matters properly pleaded or alleged which are not denied stand admitted. (31 Cyc. 208; Dreyspring vs. Loeb, 119 Ala., 282.)

The judgment of conviction is affirmed, with costs against the appellant. So ordered.

Arellano, C. J., Torres, Johnson, and Araullo, JJ., concur.

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