

1 Phil. 642

[ G.R. No. 1036. January 21, 1903 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. REGINO VALENCIA ET AL., DEFENDANTS AND APPELLANTS.**

**D E C I S I O N**

**WILLARD, J.:**

The evidence in this case was closed August 9, 1902, and the court ordered the fiscal and the counsel for the defendants to present their arguments. In compliance with this order the fiscal presented a written argument, stating therein that he did not think the evidence sufficient to warrant a conviction, and asked that the case be dismissed. The written argument of the counsel for the defendant merely expressed his agreement with the opinion of the fiscal. The court rendered a decision acquitting two of the defendants and convicting two. One of the latter, Santiago Regino, having appealed, now moves this court that the judgment be reversed and the cause dismissed because the fiscal in the court below withdrew the complaint and that without a complaint no judgment could be lawfully rendered.

The motion will have to be denied for two reasons: (1) The action of the fiscal was not a withdrawal of the complaint. It was simply his opinion upon the merits of the case which the court required him to present. (2) Even if it had been an attempted withdrawal, it would have been ineffectual. After the complaint has been presented, and certainly after the trial has been commenced, the court and not the fiscal has full control of it. The complaint can not be withdrawn by the fiscal without the consent of the court

*Arellano, C. J. Torres, Cooper, Mapa, and Ladd, JJ., concur.*

