

EN BANC

[G.R. No. 12779. September 10, 1917.]

THE UNITED STATES, *plaintiff-appellee*, **vs. DIONISIO SANTOS**,
defendant-appellant.

DECISION

MALCOLM, J :

The sole facts of controlling force in the present case are these:

Dionisio Santos, a policeman of Pateros, Province of Rizal, acting under the orders of his chief who desired to put a stop to pilfering in a certain locality, patrolled this district, and about midnight, seeing two persons in front of an uninhabited house and then entering an uninhabited *camarin*, arrested them without warrant, although no crime had been committed, and took them to the municipal presidencia where they were detained in the jail for six or seven hours when they were released. Was the accused guilty of coercion as found by the trial court? Or was he guilty of coercion as found by the trial court? Or was he guilty of the lesser offense of arbitrary detention as suggested by the Attorney-General? Or was he innocent as argued by his counsel?

The powers of peace officers in the Philippines, generally stated, are the same as those conferred upon constables under the Anglo-American Common Law. The extent of their authority to make arrests without warrant and the limitations thereon, as held by the Supreme Court, are as stated in the language of the Legislature in the Charter of the city of Manila. (U. S. vs. Fortaleza [1909], 12 Phil. Rep., 472.) The Administrative code (sec. 2204, edition of 1916; sec. 2258, edition of 1917) enjoins municipal policemen to "exercise vigilance in the prevention of public offenses."

The accused herein cannot justify the arrest by reason of acting in obedience to legal process which it was his duty to obey. He must justify, if at all, under the rule that peace officers may pursue and arrest without warrant any person found in suspicious places or under suspicious circumstances reasonably tending to show that such person has committed, or is about to commit any crime or breach of the peace. Probable cause for an arrest without warrant is such a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves as to warrant a reasonable man in believing the accused to be guilty. Besides reasonable ground of suspicion, action in good faith is another protective bulwark for the officer. Under such conditions, even if the suspected person is later found to be innocent, the peace officer is not liable.

One should however not expect too much of an ordinary policeman. He is not presumed to exercise the subtle reasoning of a judicial officer. Often he has no opportunity to make proper investigation but must act in haste on his own belief to prevent the escape of the criminal. To err is human. Even the most conscientious officer must at times be misled. If, therefore, under trying circumstances and in a zealous effort to obey the orders of his superior officer and to enforce the law, a peace officer makes a mere mistake in good faith, he should be exculpated. Otherwise, the courts will put a premium on crime and will terrorize peace officers through a fear of themselves

violating the law. (See generally Voorhees on Arrest; 5 Corpor Juris, pp. 399, 416; 2 R. C. L., p. 450.)

The Common Law rule as to the arrest without warrant of suspicious night-walkers is of particular interest. Blackstone says, "Watchmen, either those appointed by the statute of Winchester (13 Edw. I, c. 4) to keep watch and ward in all towns from sun-setting to sun-rising, or such as are mere assistants to the constable, may *virtute officii* (by virtue of their office) arrest all offenders, and the particularly night-walkers, and commit them to custody till the morning." (II Cooley's Blackstone, p. 1445.) The cases hold that a peace officer might arrest and detain in prison for examination persons walking in the street at night whom there is reasonable ground to suspect of felony, although there is no proof of a felony having been committed; but the arrest would be illegal if the person so arrested was innocent and there were no reasonable grounds of suspicion to mislead the officer. (Miles vs. Weston [1871], 60 Ill., 361, citing English decisions.) The reason of the rule is apparent. Good people do not ordinarily lurk about streets and uninhabited premises at midnight. Citizens must be protected from annoyance and crime. Prevention of crime is just as commendatory as the capture of criminals. surely the officer must not be forced to await the commission of robbery or other felony. The rule is supported by the necessities of life.

The foregoing are the applicable principles of the American and English Common Law as to the powers of peace officers. The principles of the Spanish law are not essentially different. (See U. S. vs. Sanchez [1914], 27 Phil. Rep., 442.) Both rest upon the same foundation of reason and common sense.

Judgment is reversed and the defendant and appellant acquitted, with the costs *de officio*. So ordered.

Arellano, C.J., Johnson, Carson, Araullo and Street, JJ., concur.