

34 Phil. 260

[ G.R. No. 9164. March 17, 1916 ]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. VY BO TEC, DEFENDANT  
AND APPELLANT.**

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

**JOHNSON, J.:**

The present proceedings were commenced by a preliminary examination on the 7th of April, 1913, in the department of customs. After the close of said preliminary examination the cause was referred to the Court of First Instance. On the 10th of April, 1913, a complaint was presented against the defendant, in which it was alleged that he was a Chinese person, a laborer, and that he had in the year 1908 knowingly, illegally, and wrongfully come from foreign ports into the Philippine Islands, without permission and without authority, contrary to the Chinese Immigration Laws.

Upon said complaint a warrant of arrest was issued for the defendant and he was taken before the court for trial. During the trial of the cause Exhibit A was presented, which was an application for a Chinese laborer's certificate, by the defendant. Exhibit A was presented on the 10th of July, 1906. It is admitted that, in accordance with said application, a certificate was issued to him as a Chinese laborer.

On the 27th of August, 1906 (see Exhibit B), there was issued to the defendant by the department of customs a Chinese laborer's return certificate which certified that he, a Chinese laborer described in application numbered 535, departed from the port of Manila for the port of Amoy, China, on the 27th of August, 1906, with the intention of returning to the Philippine Islands, via the port of Manila, within *twelve* months from said date.

In addition to the foregoing there was also presented Exhibit D which was a transcription of the declaration of the defendant presented during the preliminary examination in the department of customs. By an examination of said exhibit we find many contradictions in the statements of the defendant. In said declaration (Exhibit D), when asked what his business

was he said: "Fish store keeper; I used to dry fish." In his application for a Chinese laborer's certificate he stated that he was engaged in conducting passengers between China and the city of Manila. He further stated that he had been living in Manila all the time; that he had lived in Manila for eight years; that he had a cedula for each year; whereas the record shows that for the years 1909 and 1910 he had purchased two cedula in the city of Jolo, on the same day. When questioned whether or not he had been in the city of Jolo he at first answered "never." Later he admitted that he had been in Jolo for one year.

After the issuance of the Chinese laborer's return certificate above referred to (Exhibit B), the next time it was seen by the authorities was on or about the *20th of December, 1917*, when it was presented by one claiming to be the defendant, at the port of Jolo. The authorities at said port, upon an examination of said certificate, discovered that the defendant had not returned *within the twelve months fixed in said certificate*, and refused him the right to enter. The defendant claims that said return certificate had been lost, and attempted to show that it must have been presented at Jolo by some other person. He claims that he had not left the Philippine Islands under said return certificate.

During the examination in the Court of First Instance the defendant declared that he had purchased three cedula at Jolo, in the years 1907, 1908 and 1909. He also testified that he had only been at Jolo for a period of eleven months. He explained that the reason why he had purchased three cedula was due to the fact that he had not purchased them before.

It will be remembered that the said return certificate was issued on the 27th of August, 1906, and was presented to the customs authorities at Jolo on the 20th of December, 1907. The defendant testified that he went to Jolo *about sixteen months* after the said return certificate had been issued to him. It will be noted, that about sixteen months after the month of August, 1906, would be the month of December, 1907. It would seem therefore that the defendant, from his own statement, was at Jolo on or about the time said certificate was there presented. The said return certificate having been presented after the expiration of twelve months mentioned therein, the holder thereof was not permitted to enter the territory of the United States without having the same extended by some proper authority. We are of the opinion that the proof clearly shows that the defendant is the person who presented the return certificate at Jolo in the month of December, 1907, that he was rightfully denied admission because of the fact that he had not returned within the twelve months after its issuance; that he entered the Islands surreptitiously and without authority, and should therefore be deported. (Tin Lio vs. Collector of Customs, 32 Phil. Rep., 32.)

In this court the appellant alleges that the lower court committed an error in admitting Exhibit C. Exhibit C is a letter which purports to have been written by the acting collector of customs at the port of Jolo to the Insular Collector of Customs at Manila. By said letter it appears that the acting collector of customs at Jolo had sent to the Insular Collector of Customs at Manila a return certificate No. 3288 which was, in fact, the return certificate issued to the defendant on the 27th of August, 1906 (Exhibit B). Exhibit C contains no information of importance further than the fact that it shows how the said certificate reached the hands of the Collector of Customs at Manila. The fact that the said return certificate was received by the Collector of Customs at Manila is also established by the declaration of one of the witnesses. Exhibit C therefore may be disregarded so far as it constitutes proof of that fact. Exhibit C further states that the said certificate had been presented by the holder at Jolo on the 20th of December, 1907. The defendant claims that he lost his certificate some months after it had been issued to him. He does not claim however that he reported that fact to the department of customs. At the time he obtained said return certificate he deposited in the department of customs his Chinese laborer's certificate. He admitted that he had never applied to the Collector of Customs for the purpose of securing the return of his "laborer's certificate." Taking into consideration that the defendant was at Jolo, according to his own admission, within the time or about the time said return certificate was presented to the authorities there, we are not inclined to believe his statement that he had lost his certificate; but do believe, taking into consideration the many contradictions in his statement, that he himself presented said certificate to the collector of customs at Jolo and was denied admission because the same had not been presented within twelve months from the date of its issuance, and that he did enter the Philippine Islands surreptitiously, without permission and without authority. The Honorable A. S. Crossfield, who tried the cause in the court below, and who heard and saw the witnesses, reached the conclusion that the defendant presented the certificate at Jolo and, having been refused landing, succeeded in landing without permission. We are of the opinion that the record contains sufficient proof to show that the defendant is wrongfully within the Philippine Islands, without the required certificate, without taking into consideration any of the facts stated in Exhibit C. Had the defendant attempted to return to the Philippine Islands through the port of Manila, as was required by said return certificate, his original laborer's certificate would have been returned to him, and he would then have been possessed of evidence which would have been sufficient to justify his continuance in the Philippine Islands. Not having returned to the Philippine Islands through the port of Manila, or through any other port within twelve months from the date of the issuance of said return certificate, he was rightfully denied admission, and his entrance without the proper

permission given by the proper authorities was illegal and subjects him to deportation. We are fully convinced that the defendant is within the Philippine Islands without authority and that the judgment of the lower court ordering him to be deported should be and is hereby affirmed with costs. So ordered.

*Torres, Moreland, Trent, and Araullo, JJ., concur.*

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