

****Title: Abay vs. Garcia****

****Facts:****

On May 21, 1973, Criminal Case No. 29688 was filed against Felix Abay, Sr., and Felix Abay, Jr., among others, for direct assault upon an agent of a person in authority. The accused were arraigned on May 27, 1975, and both pled not guilty. Trial began on July 26, 1976. Complainant Ramiro Garque testified partially but his cross-examination was incomplete, and the case was reset several times, with a new date set for July 1, 1977.

On July 1, 1977, the accused appeared without their lawyer. The Assistant Fiscal and Judge Felino Garcia were present, but private prosecutor Atty. Henry Trocino and the complainant Garque, who was to be cross-examined, were absent. Judge Garcia, observing these absences, *motu proprio* (on his own initiative) verbally ordered the case dismissed. No objection was raised by Fiscal Lobaton and the accused left the court.

Later on the same day, Atty. Trocino and Garque arrived in court. Trocino moved verbally to reconsider the dismissal. Judge Garcia allowed him to explain the circumstances of their absence. In an official written order, Judge Garcia granted the motion for reconsideration and reinstated the case setting a new trial date.

The accused filed a motion for reconsideration arguing double jeopardy. This was denied, prompting the accused to file a certiorari petition with the Court of First Instance (CFI) of Bacolod City. Judge Jose L. Coscolluela, Jr. of the CFI dismissed the petition, maintaining that the verbal order of dismissal was not final under the ruling in *Cabarroguis vs. San Diego*.

The Intermediate Appellate Court (now Court of Appeals) affirmed Judge Coscolluela's decision, asserting that without a finalized written order, the verbal dismissal lacked legal effect to be considered an acquittal, and thus double jeopardy was not an issue.

****Issues:****

1. Whether the verbal dismissal order, although not reduced to writing, constituted a judgment of acquittal sufficient to invoke double jeopardy protection.

****Court's Decision:****

The Supreme Court denied the petition, affirming the appellate court's decision. The Court

reasoned that the verbal order of dismissal was incomplete as it had never been reduced to writing and signed by the judge. Therefore, it did not constitute a final judgment or acquittal, and consequently double jeopardy was not triggered.

The Court cited Rule 120, Section 2 of the Rules of Court which mandates that judgments must be written, personally prepared, and signed by the judge. The verbal dismissal in the present case did not meet these requirements and was thus voidable, permitting the judge to set it aside and reinstate the case for further proceedings.

****Doctrine:****

A dismissal must be written and signed by the judge to take effect as a judgment of acquittal that can raise double jeopardy issues. A mere verbal order of dismissal does not satisfy this requirement and thus does not shield the accused from subsequent prosecution.

****Class Notes:****

- ****Double Jeopardy Principles:**** The principle that protects an individual from being tried twice for the same offense.
- ****Judgment Requirements:**** To be final and enforceable, a judgment must be written and signed by the presiding judge.
- ****Grounds for Reconsideration:**** Improper dismissals can be challenged and reconsidered if procedural requirements like written judgments are not met.

Legal provision: *Rule 120, Section 2 of the Rules of Court: 'The judgment must be written in the official language, personally and directly prepared by the judge, and signed by him.'

****Historical Background:****

This case was decided during a transitional period in Philippine jurisprudence, where procedural correctness and the integrity of legal processes were under reinforcement. The decision reiterates past precedents emphasizing strict adherence to procedural formalities, especially in criminal cases, to prevent arbitrary dismissals and unwarranted claims of double jeopardy, thus ensuring justice and reliability in judicial proceedings.