

**ANDRES R. CAMASURA, PETITIONER AND APPELLANT, VS. THE
PROVOST MARSHAL, MILITARY POLICE COMMAND, DAVAO, ETC.,
RESPONDENT AND APPELLEE.**

G.R. No. L-874. March 13, 1947

Ponente: PERFECTO, J.

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PERFECTO, J.:

Petitioner Andres R. Camasura, was arrested in the City of Davao on June 17, 1946.

On June 28, 1946, he filed with the lower court a petition for a writ of habeas corpus which in an order dated June 29, was registered free from court fees, granting petitioner's prayer that he be allowed to institute the case as a pauper.

This case happens not to be an ordinary one. On July 1, the corresponding writ of habeas corpus was issued, and on July 2, the respondent filed his return. After trial, the lower court denied on July 20, 1946, the petition for release of petitioner. The order of denial was promulgated only on July 29. On the same day petitioner appealed to this court.

For purposes of said appeal, the stenographic notes taken at the trial, consisting of eighteen pages, were delivered on August 12 to court stenographer Antonio Baz, for him to transcribe, with instructions to forward the transcript to this court. Said Stenographer's delays in complying with the instructions resulted in disagreeable consequences to petitioner.

The clerk of the lower court notified the parties that the records on appeal were to be forwarded to the Supreme Court on August 12, 1946. The record is silent as to why, notwithstanding the fact that the notice of appeal was received by the lower court at 11.30 a. m. on July 31, 1946, no steps were taken to give due course to the appeal until after twelve days.

On August 29, 1946, stenographer Baz was required by our clerk to forward to this court, within ten days from notice, the transcript of the stenographic notes taken in the case, with the warning that his failure will be reported to the court for appropriate action.

The stenographer failed to comply with the requirement, and on October 21, 1946, we resolved to warn said stenographer that disciplinary action will be taken against him unless he submit said transcript within ten days from notice.

On December 2, 1946, the stenographer sent a letter to our clerk, informing that the transcript that he had intended to forward to this court on the morning of said day, was burned the previous night in the fire that destroyed the building occupied by the Court of First Instance of Davao. He keeps silent as to the stenographic notes themselves and as to whether he can transcribe them again.

On December 9, 1946, we adopted a resolution requiring the parties to move in the premises within five days

from notice. Petitioner, after doubting the veracity of the alleged destruction, suspecting it as another move of his adversaries to keep him longer in confinement, ended with a general petition for justice. Considering that the questions involved are generally, if not entirely, of law and that the controversial points of facts can be proved and supported by original or authentic copies of documentary evidence, in justice to the petitioner, the Solicitor General moved that the appeal be given due course, provided petitioner can prepare and present his brief without availing himself of the transcript. Accordingly, the parties filed their briefs.

It may not be amiss that, impatient as to the outcome of his appeal, petitioner filed with this court on November 11, 1946, a new petition for a writ of habeas corpus sworn on the seventh of said month, and the case has been pending for our decision since November 27, 1946, the date of the filing of the Solicitor General's memorandum.

From the evidence in the record it appears that respondent's authority to arrest petitioner and keep him in confinement is based on the following communication of the Director of Prisons:

"June 14, 1946

"Sir:

"Confidential report has been received by this office to the effect that Andres Camasura y Relacion, alias Benjamin Gelbolingo who is one of the 'missing' prisoners, is now residing in the City of Davao.

"This prisoner has yet a long prison term to serve. Your cooperation in having him captured and re-committed to the new Bilibid Prison in Muntinlupa, Rizal, is requested. A copy of his picture and descriptive record are enclosed.

"Respectfully,

"ERIBERTO B. MISA

"Director of Prisons

"The Provost Marshal

"Philippine Army

"Davao City, Davao"

No commitment and no judicial decision or order was produced to justify petitioner's imprisonment. In view of respondent's failure to present evidence showing that petitioner is in custody under a warrant of commitment in pursuance of law, as mentioned in sections 13 and 14 of Rule 102, it is evident that petitioner would be entitled to be forthwith discharged from confinement in accordance with section 15 of the same rule.

But we are not to issue such an order without first passing upon petitioner's own allegations, wherein it appears that he has been convicted in three cases by Commonwealth courts before the war, and in eight other cases in 1942 and 1943, by courts under the Japanese regime, and that on September 4, 1944, he was released by virtue of a pardon granted to him "by the Japanese Imperial Government" and by the consequent order "by the Vice-Admiral, Japanese Imperial Navy, Davao Base," and upon the legal questions arising therein.

What evidence respondent failed to produce as to judicial orders for commitment of petitioner has been made up by the numerous documentary evidence submitted by petitioner in the lower court and in this court at the hearing that took place on February 6, 1947. Among the documents presented by petitioner there appears a list prepared by the Bureau of Prisons of all criminal cases by virtue of which petitioner has been committed for confinement either as a detainee or as a prisoner to serve final and executory sentence. Said list is attached hereto as Appendix

A.

Therein appears that on August 23, 1941, he fully served his sentences in three cases, Nos. 56710, 55369, and 55579, and on August 24, 1941, commenced to run the sentences in the first three cases of the last group of eleven appearing in the appendix, i. e., Nos. 58719, 60060, 60061. The three cases were decided in 1941 before the Japanese invasion. There can be no question that the sentences in said three cases, where petitioner was sentenced to one year imprisonment in only one of them, have been fully served.

The remaining eight cases were all decided by courts under the Japanese regime, the first one on March 13, 1942, and the last one on September 23, 1943.

Petitioner impugns the validity of the sentences rendered against him in said eight cases upon two main grounds:

- That the courts which rendered the judgments were not constituted under the laws and authority of the Commonwealth and the judges presiding therein were not appointed according to the laws and Constitution of the Philippines;
- That the procedures which petitioner was made to undergo in said cases were unconstitutional and illegal, he having been compelled to plead guilty by means of intimidation and by brutal tortures, including water cure, whipping and hanging by police officer Charles Strebel and other Japanese stooges, with the cooperation of the Nippon kempei.

The first ground finds no support in the majority of this court. The legal question as to the validity of judicial processes during and under the Japanese regime has been squarely decided in the leading case of *Co Kim Cham vs. Valdez Tan Keh and Dizon* (75 Phil., 113), wherein the majority opinion and the dissenting opinions of Mr. Justice Hilado and the writer of this decision fully expound the relative legal positions of the members of this court.

The record offers ample basis in support of petitioner's contention as to the intimidation and tortures which compelled him to plead guilty in the eight occupation cases, after he had previously been acquitted in several previous other cases in which Judges Gervasio Diaz and Arsenio Locsin pronounced that the several confessions upon which the prosecution has relied have been extracted "through duress, intimidation and force" and that petitioner had to sign them to avoid further maltreatments, although he knew that the facts which he was pressed to admit were untrue, Judge Diaz concluding that "it would be shocking to human conscience to inflict serious punishment upon a person, based on his mere confession of doubtful reliability", while Judge Locsin said that "Camasura's confessions were successfully repudiated by him because they were extracted from him through torture, violence and intimidation." It appears that Camasura even had to plead guilty in cases which were burned and not reconstituted and in several others he had to withdraw his appeals to avoid further harm and torture from Strebel, one of the tools employed by the Japanese kempei to make more effective their inhumane and terroristic practices.

The facts proved by petitioner convince us that the sentences rendered in the eight cases in question are null and void and should not be given any effect.

Upon this conclusion, it seems unnecessary to introduce a discussion as to the validity and beneficial effects to petitioner of the pardon granted to him on September 4, 1944, by the Japanese Imperial Government through the Vice-Admiral, the Commander in Chief of the naval base of Davao, although, upon the authority of the pronouncements made in *Sameth vs. Director of Prisons* (76 Phil., 613), and *Caraos vs. Daza* (76 Phil., 681), petitioner's contention may easily find support in view of the fact that at the time the pardon in question was granted, the Japanese were still in full control of the Davao area.

Petitioner has also contended that his arrest was partly motivated by political reasons, and has endeavored to show that, due to his oratorical ability, he became very popular and contributed "to the bad licking" of political opponents in Davao. Petitioner also called our attention to the fact that of the thousands of other prisoners who were released by the Japanese by pardon or otherwise, no one except him has been re-arrested.

For all the foregoing, with the reversal of the lower court's action, it is ordered that petitioner Andres R. Camasura be immediately released from confinement, this order being addressed to any officer who has the actual custody of the person of petitioner.

Pablo, Hilado, and Briones, JJ., concur.

Moran, C.J., Paras, and Bengzon, JJ., concur in the result.

CONCURRING AND DISSENTING

TUASON, J.:

I concur in the result of the decision of this court on the authority of *Sameth vs. Director of Prisons* (76 Phil., 613), and *Caraos vs. Daza* (76 Phil., 681). I disagree in so far as the decision impliedly if not expressly repudiates the sufficiency of the Director of Prisons' letter to the Provost Marshal of the Philippine Army in Davao City as authority for the arrest of the petitioner. The Director of Prisons, personally or through his subordinates or agents, is not only authorized but is duty bound to arrest without arrest warrant a prisoner who, before the completion of his sentence, evades it, or is found at large without lawful permission or authority.

I also dissent from that part of the decision which expressly or impliedly holds that the petitioner is entitled to discharge on the ground that "sentences rendered in the eight cases in questions are null and void and should not be given any effect", for the reason, according to the decision, that he had to plead guilty in some of these cases and had to withdraw his appeals in others because of maltreatment and fear of full her harm and torture. These premises, granting their truth for the sake of argument, do not constitute legal basis for habeas corpus. The legality and fairness of the trials is not challenged. Remedy lies in a different direction in such case.

The court has gone out of its way when it makes, apparently as one of the grounds of discharge, the findings that petitioner's "arrest was partly motivated by political reasons, and there is evidence in record that, due to his oratorical ability, he became very popular and contributed to the bad licking of political opponents in Davao" and "that of the thousands of other prisoners who were released by the Japanese by pardon or otherwise, no one except him (petitioner) has been re-arrested." These facts are not alleged in the pleadings and should be ignored.

DISSENTING

PADILLA, J.:

I cannot agree with the majority "that the sentences rendered in the eight cases in question are null and void and should not be given any effect." This conclusion is based on the claim that "confessions upon which the prosecution has relied have been extracted 'through duress, intimidation and force' and that petitioner had to sign them to avoid further maltreatments, * * *."

In the first place the validity of a sentence imposed by a competent court cannot be attacked collaterally; in the second place confessions wrung from the petitioner "of doubtful reliability," in the words of Judge Diaz, or "through torture, violence and intimidation," in the language of Judge Locsin, were precisely the reason for

petitioner's acquittal in said cases. Besides, this court cannot and should not rely on excerpts from decisions, which are not duly certified to by the legal keeper of the original thereof, to draw the inference that the proceedings in other cases in which the petitioner entered a plea of guilty or was found guilty were tainted with illegality.

The crimes for which sentences were imposed upon the petitioner in the last eight cases by the courts during the enemy occupation, had been committed by the petitioner before the outbreak of the war, with the exception of the last. They were crimes punished by the Revised Penal Code, and under the Commonwealth the petitioner would have been punished just the same. I see no valid and legal reason for invalidating the sentences imposed upon the petitioner in those cases simply because they were imposed by the courts during the enemy occupation.

The pardon allegedly granted him by the Japanese Imperial Government on September 4, 1944, is invalid, because only the President of the Republic could have granted it for crimes committed against the laws of the Republic.

There is no evidence to substantiate the claim that he was pardoned by the PCAU. Contrary to such claim, it appears that on August 22, 1945, the Acting Governor of Davao, upon instruction of Major J. J. Mason, Civil Affairs Officer of Davao City, requested the chief of police to apprehend the petitioner and deliver his person to the governor's office (Exhibit E).

If article 70 of the Revised Penal Code, as amended by Commonwealth Act No. 217, is to be applied, petitioner has to undergo a long stretch of confinement which does not warrant the granting of the writ prayed for.

Other reasons advanced by petitioner should be addressed to the proper department of the Government, for they have no room in this proceeding.

For the foregoing reasons, I am of the opinion that the judgment of the lower court should be affirmed.

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