

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JERSON DASMARIÑAS Y GONZALES, BILLY JOE SCHOFIELD Y CIPRIANO AND NERRY BOY CALANDA, ACCUSED-APPELLANTS.

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MACALINO, J:

For this Court's resolution is the Motion to Withdraw Appeal[1] filed by Accused-Appellant Billy Joe Schofield y Cipriano ("Schofield"), through his counsel, on June 26, 2014. In the said Motion, Schofield's counsel averred that he received an indorsement[2] from the Office of the Court Administrator with a letter[3] signed by Schofield, communicating his intention to withdraw his appeal before this Court in order that he may be eligible for parole. After a meeting with his counsel who explained the legal implications of the withdrawal of his appeal, Schofield executed a handwritten statement[4] and a "Pagpapatunay"[5], both dated June 25, 2014, confirming his firm resolve to withdraw his appeal.

In a Minute Resolution[6] dated August 8, 2014, this Court ordered Plaintiff-Appellee to file a comment to Schofield's Motion within ten (10) days from notice. Due to sheer volume of work of the Office of the Solicitor General ("OSG"), however, Plaintiff-Appellee moved[7] for a thirty-day extension from September 7, 2014 or until October 7, 2014 to file a comment. We thus grant Plaintiff-Appellee's Motion for Extension and note its Comment[8], which was timely filed on October 7, 2014.

In its Comment, Plaintiff-Appellee expressed the view that Schofield's motion is sanctioned by law for the following reasons: (1) it was filed voluntarily despite his knowledge of the implications of the withdrawal of his appeal; (2) since the object of an appeal is solely for the protection of the accused, it may be waived like any other right; and (3) Section 3, Rule 50 of the Rules of Court treats the withdrawal of an appeal as a matter of right before the filing of an appellee's brief.

This Court resolves to grant Schofield's Motion to Withdraw Appeal.

Section 3, Rule 50 of the Rules of Civil Procedure, which is applicable to the instant case pursuant to Rule 124, Section 18[9] of the Rules of Criminal Procedure, provides:

"Sec. 3. Withdrawal of appeal. – An appeal may be withdrawn as of right at any time before the filing of the appellee's brief. Thereafter, the withdrawal may be allowed in the discretion of the court."

In this case, Schofield has not yet filed his appellant's brief when he moved for the withdrawal of his appeal on June 26, 2014. On the other hand, Plaintiff-Appellee filed its Consolidated Brief[10] only on November 4, 2014 as manifested[11] by the OSG. The said Consolidated Brief, in turn, elicited a Manifestation (In Lieu of Reply Brief)[12] from Accused-Appellant Jerson Dasmariñas y Gonzales, which was filed on November 18, 2014. Clearly, Schofield's withdrawal of appeal is a matter of right consistent with the aforementioned provision.

Faced with the same issue of whether it could grant the motion to withdraw the appeal filed by an accused-appellant, the Supreme Court had the occasion to rule in *People v. Paradeza*[13] as follows:

"As a statutory remedy to correct errors which might have been committed by the lower court, the object of an

appeal is simply and solely (for) the protection of the accused. The right to appeal is a mere statutory privilege and is not a natural right or part of the due process. Like any other right or privilege, it may be waived. x x x

x x x Regardless of his reasons, in our view, he is within his rights to seek the withdrawal of his appeal. This option should not be closed to herein accused-appellant except for clearly important substantial reasons of law and policy.

x x x His exercise of the option to withdraw appeal before the case is submitted for this Court's decision, but fully cognizant of its legal consequences at this stage of the case, not only saves the Court precious time and resources. It also opens soonest the path for the reformation of the contrite offender, pursuant to the ideal of a just and compassionate society envisioned in our fundamental law. x x x" (Underscoring supplied)

Hence, as in *Paradeza*, this Court is not without justifiable reasons to grant *Schofield's* motion.

WHEREFORE, premises considered, the appeal filed by Accused-Appellant Billy Joe Schofield y Cipriano is hereby ORDERED WITHDRAWN.

SO ORDERED.

Villon, S.E., (Chairperson), and Reyes-Carpio, A.,[*] JJ., concur.

[*] Acting Junior Member per Office Order No. 500-14-ABR dated December 1, 2014.

[1] *Rollo*, pp. 93-96.

[2] *Id.*, p. 97.

[3] *Id.*, p. 98.

[4] *Id.*, p. 99.

[5] *Id.*, p. 100.

[6] *Id.*, p. 119.

[7] *Id.*, pp. 128-130.

[8] *Id.*, pp. 131-134.

[9] Sec. 18. Application of certain rules in civil procedure to criminal cases. – The provisions of Rules 42, 44 to 46, and 48 to 56 relating to procedure in the Court of Appeals and in the Supreme Court in original and appealed civil cases shall be applied to criminal cases insofar as they are applicable and not inconsistent with the provisions of this Rule.

[10] *Rollo*, pp. 135-160.

[11] *Id.*, pp. 124-127.

[12] *Id.*, pp. 161-163.

[13] G.R. No. 144590. February 7, 2003.

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