

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.S.
HERMINIO CALDERON, ET AL., ACCUSED, ASSOCIATED INSURANCE
AND SURETY CO., INC, BONDSMAN-APPELLANT.**

G.R. No. L-9497. July 31, 1956

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

This is an appeal by the bondsman for the accused from an order of Judge Agustin P. Montesa, ordering the forfeiture of twenty per centum (20%) of the P4000.00 bond filed for each accused. It appears that in Criminal Case No. 3727 of the Court of First Instance of nueva Ecija Herminio Calderon and Soledad de Guzman were charged with the crime of adultery. They pleaded not guilty, and filed bail bonds of P4000.00 each. Trial was set for May 23, 1955. On May 21, 1955, Calderon filed a motion to postpone the hearing, giving as reason that he had to take his sick wife to Manila for hospitalization "as nobody can take care of her". Annexed to the motion was a sworn statement of Dr. Angel Gloria, that he had advised Herminio Calderon to take his wife to the hospital. The lower court, on the day of the trial, denied the motion for continuance, "for not having been made in conformity with law and with the rules"; and in the same order decreed the Insurance & Surety Co. Inc. 30 days to produce the accused and show cause why judgment should not be rendered against the bond.

Right the next day, May 24, 1955, the bondsman caused the bodies of the accused to be surrendered, and asked that the forfeiture of the bond be lifted. The Court denied the petition, because no explanation for the non-appearance had been given. Whereupon, the Surety Company asked for reconsideration on June 7, 1955, explaining at length the steps taken to produce the body of the accused the day after the order to produce was issued. As the court below remained adamant, the bondsman appealed.

We find the appeal meritorious in so far as the bond for Herminio Calderon is concerned. It is undenied that the bondsman acted with dispatch and surrendered him on May 24,. If no explanation was submitted then, such defect was cured in the motion to reconsider filed on June 7, that was well within the 30 day period given by the trial court in order of May 23, 1955, for the bondsman to show cause why judgment on the bond should not be rendered. The prosecution not having been impleaded, we are of the opinion that, as pointed out by the Solicitor General, there was no reason for the forfeiture of 20% of the bond. In *Peo. vs. Puyal*, G.R. No. L-8091, February 17, 1956, we pointed out that a spirit of liberality towards bondsmen that display due diligence in producing the bodies of the accused is counselled by the fact that the primary purpose of the bail bonds is to secure the presence of accused persons rather than to enrich the State with confiscated bonds; and that undue strictness might in the end result in limiting the constitutional right to bail, due to increased costs, and destroy the spirit of cooperation of bondsmen in helping the government effectuate the arrest of absconding accused.

In view if the circumstances, and as recommended by the Solicitor General, the partial consfiscation of the bond filed for accused Herminio Calderon is reversed and set aside. The order of confiscation, is no explanation having been given for her non-appearance. Without costs in this instances.

Paras, C.J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., and Endencia, JJ., concur.

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