

## CHARLES K. ANDREU, PETITIONER, VS. COMMISSIONER OF IMMIGRATION AND DIRECTOR OF PRISONS, RESPONDENTS.

*G. R. No. L-4253. October 31, 1951*

Ponente: PADILLA, J.

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### **PADILLA, J.:**

Charles K. Andreu applies for a writ of habeas corpus.

Petitioner claims under oath that he is a stateless and was born in Latvia; that since 17 April 1940 he has resided in Manila, conducted himself in an irreproachable manner, been engaged in the practice of his profession as architect and contractor, and has never been charged with and convicted of any crime; that on 24 June 1946, he was arrested by order of the Commissioner of Immigration; that without previous hearing he was ordered deported on 18 December 1946; that from 16 May to 2 June 1947 he was shipped to Shanghai but was refused admission there because he was not a Chinese citizen; that upon his return to this country he was detained at the Immigrant Station; that on 9 December 1947) he was released provisionally by authority of the Secretary of Justice and resumed the practice of his profession as architect and contractor; that on 20 March 1943, he was again apprehended and flown to Cebu to be deported aboard any of the two Russian vessels lying at anchor in Cebu but the masters of the Russian ships refused his being placed aboard their ships; that since then he has been detained and confined; that he applied to this Court for a writ of habeas corpus (G.R. No. L-2838) but his petition was denied on 16 September 1949; that from that date to the date of the filing of the petition he has been deprived of his liberty for 13 months and from 24 June 1946, for 46 months. Upon this claim he prays that the writ applied for issue and that after hearing the writ prayed for be granted.

The return of the writ denies that the petitioner is a stateless and was born in Latvia; that the Commissioner of Immigration seemingly will fail to carry out the deportation of the petitioner, he not being a subject of any foreign power; that for that reason his detention will be endless and without due process of law. The respondents deny any knowledge or information sufficient to form a belief that the petitioner has resided in Manila, conducted himself in an irreproachable manner, been engaged in the practice of his profession, and has never been charged with and convicted of any crime; that he was not investigated nor was he informed, of the charges against him; that after his release provisionally by the President he resumed the practice of his profession; and that as a result of his confinement he lost all his property and has become destitute. They admit that on 24 June 1946 the petitioner was arrested; that on 18 December 1946, a warrant of deportation as an undesirable alien was issued; that he was deported to Shanghai but refused admission not on the ground that he was not a Chinese citizen but for lack of proper visa; that upon return to this country he was detained at the Immigrant Station; that he was granted a provisional release not by the Secretary of Justice as claimed by him but by the President of the Philippines; that on 20 March 1943, he was again arrested and flown to Cebu for the purpose of deporting him but the captains of the Russian steamers refused to allow him to board their ships not because he was not a Russian citizen as claimed by him but for lack of permission of the Russian Government to take him aboard their ships; that since then he has been detained; that he filed a petition for a writ of habeas corpus which was denied on 16 September 1949; that he

has been detained for deportation for 13 months since denial of the first petition for a writ of habeas corpus and for 46 months since he was arrested on 24 June 1946.

It is further stated in the return that the petitioner was investigated upon charges that he was an undesirable alien, having gained entry into the country by fraudulent means, engaged in espionage and failed to register as such alien in violation of Com. Act No. 653; that he was a habitual drunkard, without visible means of support and lawful employment; that after investigation the Deportation Board recommended his deportation to the President of the Philippines "for being an undesirable alien whose conduct and mode of life render his presence in the Philippines inimical and dangerous to public interest;" that the President finding the recommendation well founded ordered the deportation of the petitioner; that for the best interest of the country's national security the petitioner's detention is advisable and necessary while arrangements for his deportation are being made; and that the question raised by the petitioner has already been adjudged in the previous petitioner's application for the same writ.

We do not have before us the proceedings held in the Deportation Board to enable us to determine whether the espionage activities with which the petitioner was charged fall under the terms of the Proclamation issued by the President on 22 October 1950 which suspended the privilege of the writ of habeas corpus. Not having such proceedings before us, we may reasonably presume that such activities with which the petitioner was charged and upon which, after hearing, the Deportation Board partly relied to make its recommendation to the President of the Philippines, do not come under the aforesaid Proclamation, for if such activities fall under it, the Solicitor General would not have failed to allege such fact in the return he made to the writ, the petition in this case having been filed on 30 October and the return of the writ by the Solicitor General on 14 November 1950, or subsequent to the issuance and promulgation of the Proclamation.

Such being the case, we feel bound by the rule laid down in three similar cases, to wit: *Mejoff vs. The Director of Prisons*, supra, p. 70; *Borovsky vs. The Commissioner of Immigration and The Director of Prisons*, supra, p.107; *Chirskoff vs. Commissioner of Immigration and Director of Prisons*, supra, p. 256. It would serve no useful purpose to re-state the reasons for the rule laid down in those cases which are incorporated herein. Adhering to our opinion in said cases we order that the writ issue directing the respondents to release the petitioner from custody under the following terms and conditions: The petitioner shall be placed under the surveillance of the immigration authorities or their agents in such form and manner as may be deemed adequate to insure that he keep peace and be available when the Government is ready to deport him. The surveillance shall be reasonable and the question of reasonableness shall be submitted to this Court or to the Court of First Instance of Manila for decision in case of abuse. He shall also put up a bond for the above purpose in the amount of P5,000 with sufficient surety or sureties, which bond the Commissioner of Immigration is authorized to require by Section 40 of Commonwealth Act No. 613. No costs will be taxed.

Paras, C. J., Feria, Bengzon, Tuason, Reyes, Jugo and Bautista Angelo, JJ., concur.

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## DISIDENTE

**PABLO, M.,**

Disiento por las mismas razones que expuse en mis disidencias en las cuasas nos. L-4352, *Borovsky contra El Comisionado de Inmigracion y otro*, Septiembre 28, 1951, y L-4254, *Mejoff contra El Director de Prisiones*, Septiembre 26, 1951.

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