

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
DIONISIO SERRANO Y SANDOVAL, DEFENDANT AND APPELLANT.***G.R. No. L-2647. March 30, 1950*

Ponente: MORAN, C.J.

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Appellant Dionisio Serrano y Sandoval was charged in the Court of First Instance of Manila, on October 16, 1948, with the offense of serious physical injuries, alleged to have been inflicted upon Francisco Augusto the day before or on October 15, 1948. In the information, it was alleged that said physical injuries "will require medical attendance for a period of more than thirty but less than ninety days, and " * * * prevented and will prevent the said Francisco Augusto from engaging in his customary labor for the same period of time."

On October 28, 1948, the accused-appellant was arraigned and, waiving his right to counsel, entered a plea of guilty. A few hours later, on the same day, he filed a petition to substitute his plea of guilty for one of not guilty upon the ground that his former plea was entered without the benefit of counsel and he then entertained the belief that the offended party would pardon him and withdraw the charge. The motion was denied on the following day, October 29, 1948. On November 5, 1948, judgment was rendered finding the accused-appellant guilty of serious physical injuries as charged, and sentencing him to six months of arresto mayor, with the accessories of the law, and to pay the costs. On November 10, 1948, the accused-appellant filed a motion to reopen the case and that he be allowed to substitute his former plea of guilty for another plea of guilty but of the lesser offense of slight physical injuries, upon the ground that the complainant's injuries had not incapacitated him for work and had healed in nine days, instead of more than thirty days as alleged in the information. To substantiate this ground, the accused-appellant offered as evidence the body and the testimony of the offended person, Francisco Augusto, which was rejected by the Court but the affidavit of the offended party which was marked as "Exhibit A" was allowed to remain in the record. According to this Exhibit, the physical injuries sustained by Francisco Augusto were cured in about nine days, without incapacitating him for work. The trial court, however, denied the motion; hence this appeal, with the Solicitor General seconding appellant's theory.

Under Rule 114, sec. 6 of the Rules of Court, "the court may in its discretion at any time before sentence permit a plea of guilty to be withdrawn. If judgment of conviction has been entered thereon and the same has not become final, the court may set aside such judgment, and allow a plea of not guilty, or, with the consent of the fiscal, allow a plea of guilty of a lesser offense which is necessarily included in the charge." It is clear from the language of this provision that the withdrawal of the plea of guilty is not a matter of strict right to the accused but of sound discretion to the trial court, and appellate courts should not interfere with such discretion in the absence of a clear abuse thereof.

As a general rule, where it is made to appear that the accused has voluntarily entered a plea of guilty, with a full realization of its meaning and consequences, and after the same has been clearly explained to him, the trial court's refusal to allow the withdrawal of the plea should by no means be disturbed. However, where, as in the instant case, notwithstanding the ordinary precautions that have been taken, still a clear mistake appears to have been

committed in good faith not only by the accused who was unaided by counsel, but also by the Fiscal, including the court itself, with the result that a serious injustice has been done against the accused who was convicted of an offense that was graver than the offense which in truth he had committed, it was certainly a clear abuse of discretion on the part of the Court to persist in the mistake thus committed once known and to deny a relief which under the circumstances was a simple matter of fairness to grant in order to save a person from the injustice of being convicted of a crime that he had never committed.

The mistake of the court and of both parties in this case was originated by the circumstance that the gravity of the offense charged was made to depend upon a future event. The information was filed the day following the commission of the offense, and it was therein alleged that the physical injuries "will require medical attendance for a period of more than thirty but less than ninety days" and "will prevent the said Francisco Augusto from engaging in his customary labor for the same period of time." The accused was arraigned on the thirteenth day after the offense was committed, and at that time whether or not the physical injuries would require medical attendance for more than thirty days was upon the face of the information still a matter of conjecture. The plea of guilty entered by the accused was indeed an admission of all the material facts pleaded in the information but not of the conjectures alleged therein. There being an uncertainty in the facts pleaded in the information with respect to the degree of culpability of the accused, it was the duty of the Court to require evidence and dispel the uncertainty as much as it was possible before fixing the penalties to be imposed. In that connection, the physician who was attending the offended person and the offended person himself should have been made to testify. And had this been done, the court would have found that at the time of the arraignment, the wounds of the offended person had already healed, according to his own affidavit, and that therefore, it was an injustice to convict the accused of the graver offense charged in the information.

This mistake of the court became more patent when after rendering improvidently a judgment of conviction for a serious offense its attention was directed by the accused to a new and true fact showing the offense to be slight. An offer was made to prove the slight offense with the body and testimony of the offended person himself, to which no rebutting evidence was offered by the prosecution. And notwithstanding all this the Court refused to reopen the case and to allow the withdrawal of the plea of guilty entered by the accused. We find absolutely no justification for such refusal.

The judgment appealed from is hereby set aside and the case remanded for new arraignment and new trial, with the costs de oficio.

Ozaeta, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, and Torres, JJ., concur.

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