

FILOMENA DOMIIT CABILING, PETITIONER, VS. THE PRISON OFFICER OF THE MILITARY PRISON OF QUEZON CITY, RESPONDENT.

G.R. No. L-23. August 14, 1945

Ponente: MORAN, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a322c95a5677/>

MORAN, C.J.:

Lino Cabling is a staff sergeant of the Philippine Scouts, United States Army, and was charged with having killed Sergeant Epifanio Roce with premeditation on or about the 27th of June, 1945, by shooting him with a carbine. He was tried and found guilty by the General Court-Martial appointed by the Commanding General of Philippine Base Section, United States Army, and sentenced to (a) dishonorable discharge, (b) forfeiture of all pay and allowances, due and to become due, and (c) confinement at hard labor for seven (7) years. He is now detained at the Philippine Detention and Rehabilitation Center, Apo 75, by order of the Commanding General aforesaid.

It is alleged in the petition for habeas corpus filed in his behalf that he is illegally detained, the General Court-Martial having no jurisdiction to try and convict him for the crime charged.

Rule 102, section 4, of the Rules of Court, is as follows:

"When writ not allowed or discharge authorized.—If it appears that the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge, or by virtue of a judgment or order of a court of record, and that the court or judge had jurisdiction to issue the process, render the judgment, or make the order, the writ shall not be allowed; or if the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgment, or order. Nor shall anything in this rule be held to authorize the discharge of a person charged with or convicted of an offense in the Philippines, or in any part of the United States, and who ought to be delivered up to the executive power of the United States, or of any State or territory thereof; or of a person suffering imprisonment under lawful judgment."

Under this provision, the only question to be determined is whether or not the General Court-Martial was vested with jurisdiction to try and convict the petitioner for the crime of murder. There seems to be no doubt that it had such jurisdiction. According to Article of War 12 "General Courts-Martial shall have power to try any person subject to military law for any crime or offense made punishable by these articles, * * *." The petitioner, being a staff sergeant of the Philippine Scouts, United States Army, is a person subject to military law, under Article of War 2, and in time of war, the crime of murder committed by a person subject to military law, comes within the jurisdiction of a court-martial, in accordance with Article of War 92. (U. S. vs. Colley, 8 Phil., 58, 63; U. S. vs. Tubig, 3 Phil., 244 and U. S. vs. Grafton, 6 Phil., 55, 60.) Under proper charge of murder the accused may be convicted by the court-martial for a lesser included offense. (See Articles of War 47, 49, 93, and 96.)

It is maintained, however, that the Philippines has already been liberated and the Government of the Commonwealth reestablished. But the war against Japan by the United States and the liberated Philippines is still

going on, and this is within the judicial notice of courts.

Petition is dismissed, without costs.

Ozaeta, Paras, Jaranilla, Feria, Pablo, and Espiritu, JJ., concur.

CONCURRING

DE JOYA, J.:

Courts-martial have jurisdiction to try offenses against the military law, committed by individuals in the service (Smith vs. Shaw, 12 Johns [N. Y.], 257). The decision and sentence of a court-martial having jurisdiction of the person accused and of the offense charged, and acting within the scope of its lawful powers, cannot be reviewed or set aside by writ of habeas corpus (Johnson vs. Say re, 158 U. S., 109; 15 Sup. Ct, 773; 39 Law. ed., 914); although by habeas corpus, the legality of the action of a court-martial— whether it was legally constituted and had jurisdiction— may be inquired into (In re Reed, 100 U. S., 23; 25 Law. ed., 538; Carter vs. Roberts, 177 U. S., 496; 20 Sup. Ct., 713; 44 Law. ed., 861; Carter vs. McClaughry, 183 U. S., 365; 22 Sup. Ct., 181; 46 Law. ed., 236; Grafton vs. U. S., 206 U. S., 333, 347; 27 Sup. Ct, 749; 51 Law. ed., 1084).

The presumptions in favor of official action preclude attack on the sentences of courts-martial, though they are courts of special or limited jurisdiction (In re Chapman 166 U. S., 670; 17 Sup. Ct, 677; 41 Law. ed., 1154); and they are entitled to the same finality as to the issue involved as the judgments rendered by civil courts (Grafton vs. U. S., 206 U. S., 333; 27 Sup. Ct, 749; 51 Law. ed., 1084). Questions of procedure, the alleged improper admission of evidence, and the like, are not grounds of collateral attack on the judgment of a court-martial (Swaim vs. U. S., 165 U. S., 553; 17 Sup. Ct, 448; 41 Law. ed., 823).

Under Article 12 of the Articles of War, general courts martial may take cognizance of any offense committed by an officer or soldier in the territory or area within which he is serving; this is concurrent with civil courts; if the former first obtains jurisdiction, its judgment can be disregarded by the civil courts only for reasons affecting its jurisdiction (Grafton vs. U.S., 206 U. S., 333; 27 Sup. Ct., 749; 51 Law. ed., 1084).

For the foregoing additional reasons, I concur in the opinion prepared by Chief Justice Moran.

CONCURRING

PERPECTO, J.:

In her petition for a writ of habeas corpus, Filomena Domiit Cabiling is praying that her husband, Lino Cabiling, be immediately set free from the military prison of Quezon City where he has been detained since June 27, 1945, on the ground that said detention is illegal.

She alleges that Lino Cabiling is a staff sergeant in the United States Regular Army; that he was accused of a

violation of section 92 of the Articles of War, United States Army, indicated for the facts specified as follows:

"Specification: In that Staff Sergeant Lino Cabiling, Philippine Scouts Detachment, PHIBSEC, APO 75 did, on or about 27 June 1945, with malice aforethought, willfully, deliberately, feloniously, unlawfully, and with premeditation kill one Sergeant Epifanio Roce, a human being, by shooting him with a carbine."

It is also alleged by the petitioner that said accused was tried on July 23, 1945, before a court-martial of the United States Army, where he was sentenced to seven years' imprisonment, as guilty of manslaughter.

The petitioner contends that said court-martial lacks jurisdiction to take cognizance of the crime imputed to Sergeant Cabiling on the ground that General Douglas MacArthur, Commander in Chief of the United States Armed Forces, issued on July 5, 1945, a proclamation declaring the whole Philippines completely liberated from the invading Japanese forces; that the Government of the Commonwealth of the Philippines has been reestablished in this country since February 27, 1945, and that, therefore, all offenses committed against said Government, such as the crime of homicide or manslaughter imputed to Lino Cabiling, should be tried by the civil courts as martial law has ceased to exist.

The respondent, in his return, alleges that respondent Major General Ewart G. Plank, is the Commanding General of the Philippine Base Section, APO 358, a Command of the United States Army; that Lino Cabiling is held at the Philippine Detention and Rehabilitation Center, APO 75, Muntinlupa, Rizal; that said Cabiling was, on June 27, 1945, and is now, a staff sergeant of the Philippine Scouts, United States Army, under the command of respondent, and, as such, under Article of War 2, subject to the jurisdiction of the United States Army court-martial; that at the time of, and subsequent to, the commission of the offense for which said sergeant was tried, all proceedings had thereafter, including the confinement of the accused, were taken by order of respondent in his official capacity as Commanding General of the Philippine Base Section, United States Army, or by his predecessors in office; that said sergeant was charged, under the United States Army Article of War 92, with the wrongful and felonious killing of one Sergeant Epifanio Roce and was duly tried by the general court martial appointed by the Commanding General of the Philippine Base Section, United States Army, and was, on July 23, 1945, duly found guilty and sentenced to (a.) dishonorable discharge, (b) forfeiture of all pay and allowances due and to become due, and (c) confinement at hard labor for seven years at such place as the reviewing authority may direct; that said accused is being detained pending further action on his case; that the general court martial by which Lino Cabiling was tried, found guilty, and sentenced, had jurisdiction over said Lino Cabiling; that the Supreme Court will take judicial notice of war now existing between the United States and Japan; that by virtue of the facts stated and Judicial Rule 102, section 4, and Act No. 272 as amended by Act No. 421, the Supreme Court is without jurisdiction.

The main contention of petitioner is that the crime for which Lino Cabiling is being detained is a common crime which should be tried by the civil courts, as the Philippines has been completely liberated and the Government of the Philippine Commonwealth reestablished.

Representation for the petitioner pretends not to know whether Sergeant Lino Cabiling belongs or not to the United States Army, a fact affirmatively asserted in the return. It contends that peace has been restored, although without denying the evident fact that the global war against Japan, the remaining still undefeated Axis partner and common enemy of all the democracies of the world, still raging, and said country is shelled and bombed to a screaming crescendo. In fact, while this very case was being argued and considered, the most tremendous weapon ever invented by man, the atomic bomb, had been unleashed upon Hiroshima to destroy the seventh largest city of Japan, and Russia has declared war against the same. It is also a matter of judicial notice that remnants of the Japanese Armed Forces under Lieutenant General Tomoyuki Yamashita, the conqueror of Singapore, are still fighting in the mountains of Northern Luzon, and that a division of Filipino soldiers is being organized to take

part in the momentous invasion of the Japanese homeland to help accomplish the final victory cherished by all peace-loving peoples.

Attorney for the petitioner criticises the practice of relying on judicial precedents in the decision of court cases, and is impugning the authority of the decision relied upon by respondent to support the theory that the general court martial which tried and sentenced Lino Cabiling had jurisdiction over said accused and the crime for which he has been prosecuted, but he himself failed to mention even one legal provision he can rely upon, to support his theory in impugning the jurisdiction of said court-martial, nor to support the theory that the Articles of War of the United States Army, under which the offense committed by Cabiling has been tried, should not apply.

"The law governing courts-martial is found in the statutory enactments of Congress, particularly the Articles of War, in the Army Regulations, and in the customary Military Law." (Carter vs. Me Claghry, 183 U. S., 365; 22 Sup. Ct., 181.)

"Courts-martial in this country derive their jurisdiction and are regulated by an act of Congress in which the crimes that may be committed, the manner of charging the accused, and of trial, and the punishment that may be inflicted, are expressed in terms, or they may get jurisdiction by fair deduction from the definition of the crime that the statute comprehends." (Dynes vs. Hoover, 20 How., 65.)

"A general court-martial has jurisdiction under the 62d Article of War, as of a crime not capital, to try a soldier for a homicide punishable under the Penal Code of the Philippine Islands, art. 404, by imprisonment" (Grafton vs. United States, 206 U. S., 33; 27 Sup. Ct. Rep., 749.)

The usefulness of judicial precedents as a guide in finding what the law is and how it should be applied, cannot reasonably be denied. They are usually the product of well-trained intellect of wise men and well-recognized jurists or experienced statesmen.

It appeared during the hearing of this case that the accused tried in courts-martial are provided with officers to defend them, who are trained for said purpose, although they are not necessarily duly licensed attorneys-at-law.

It is a fact that an officer who is not a lawyer cannot handle the defense of an accused with the same efficiency as an attorney-at-law, and miscarriage of justice might happen, as it did in the historic trial for sedition in which Rizal had been convicted and executed. The ignorance of law and procedure and the inefficiency shown by the Spanish officer who handled the defense of Rizal are well known facts.

And it is a matter of common knowledge that there are cases wherein the accused, even with the assistance of a lawyer, have not been properly represented and defended, and their rights were not adequately protected.

But in this case it was not shown that any substantial right of the accused has been denied due to the fact that he was not properly defended.

It is an unassailed doctrine that the civil courts may review and set aside decisions of court-martial when it is shown that the Constitution has been violated, that the fundamental rights of the accused had been ignored, or that there are strong grounds for the belief that a grave injustice has been committed.

Section 2 of Article VIII of the Constitution specifically provides that the Supreme Court may not be deprived of its jurisdiction to review, revise, reverse, or modify final judgments and decrees of inferior courts in all cases in which the jurisdiction of any trial court is in issue, or the penalty imposed is death or life imprisonment, or an error or question of law is involved.

Under section 1 of the same article, the designation of inferior courts comprehends all courts other than the Supreme Court.

"Where a court-martial has jurisdiction of the person accused and of the offense charged, and has acted within the scope of its lawful powers, its proceedings and sentence cannot be reviewed or set aside by the civil court." (Swaim vs. United States, 165 U. S., 553; 17 Sup. Ct. Rep., 448.)

"Courts-martial are lawful tribunals, with authority to finally determine any case over which they have jurisdiction, and their proceedings, when confirmed as provided, are not open to review by civil tribunals, except for the purpose of ascertaining whether the military court had jurisdiction of the person and subject-matter, and whether, though having such jurisdiction, it had exceeded its powers in the sentence pronounced." (Carter vs. McClaughry, 183 U. S., 365; 22 Sup. Ct. Rep., 181.)

"Civil courts may inquire into the jurisdiction of a court-martial, and if it appears that the party condemned was not amenable to its jurisdiction, may discharge him from the sentence." (United States vs. Grimley, 137 U. S., 147; 11 Sup. Ct. Eep., 54.)

"The decision and sentence of a court-martial acting within its jurisdiction and within the scope of its lawful powers cannot be reviewed or set aside by the civil courts, by writ of habeas corpus or otherwise." (Johnson vs. Sayre, 158 U. S., 109; 15 Sup. Ct. Rep., 773.)

"If a court-martial had no jurisdiction of the charge, or inflicted punishment forbidden by law, although its sentence be approved by superior officers, civil courts may, in an action by the aggrieved party, inquire into the want of jurisdiction and give redress," (Dynes vs. Hoover, 20 How., 65.)

The petitioner in this case was not able to show that the general court-martial which tried Sergeant Lino Cabiling had no jurisdiction, that in the case an error or question of law is involved, or that any substantial right of the accused has been denied or impaired.

On the contrary, the respondent has shown that, under the Articles of War of the United States Army, the general court-martial had jurisdiction on the person of the accused and of the crime for which he was tried and sentenced. Being a sergeant in the service of said Army, and having been indicted for an offense which is clearly defined in the Domiit Cabiling vs. Prison Officer of Military Prison Articles of War that it belongs to the jurisdiction of the court-martial, and no ground has been properly shown to doubt the legality of the detention of the accused, we are in duty bound to deny the petition.

The Judicial Rule 102, section 4, provides:

"If it appears that the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge, or by virtue of a judgment or order of a court of record, and that the court or judge had jurisdiction to issue the process, render the judgment, or make the order, the writ shall not be allowed; or if the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgment, or order. Nor shall anything in this rule be held to authorize the discharge of a person charged with or convicted of an offense in the Philippines, or in any part of the United States, and who ought to be delivered up to the executive power of the United States, or of any State or territory thereof; or of a person suffering imprisonment under lawful judgment."

Furthermore, even admitting the false hypothesis that the theory of the petitioner, to the effect that Lino Cabiling: should have been tried by a civil court of justice and not; by a court-martial, under the facts in this case, the petition shall appear just as an empty gesture purporting a change of venue and a useless, wasteful, and vexatious repetition of judicial proceedings, by invoking a purposeless technicality.

It was not shown nor alleged that the proceedings had in the court-martial had been irregular in any way, that the accused was compelled to testify against himself, that he was denied the opportunity of presenting all his evidence or of facing and cross-examining the witnesses for the prosecution, that he was denied his day in court or a fair

trial. It was not shown nor alleged that any wrong has been done or any substantial injustice has been committed at all. It was not shown nor alleged that the purposes of an honest and efficient administration of justice has in any manner been defeated. It was not shown nor alleged that if Cabiling had been tried by a civil court he would have been acquitted or, if convicted, he would have been given a lighter penalty.

Courts are only means and instrumentalities to an end of the highest order: justice. To serve justice, to render justice, to make justice a living reality, that is their mission. There is no reason in disturbing their proceedings if by said proceedings they have fulfilled that mission, the noblest that has ever been intrusted to a human being.

I, therefore, fully agree to the denial and dismissal of the petition.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.