

EMILIANO DULAOGON, PETITIONER, VS. HONORABLE JUAN PONCE ENRILE, SECRETARY OF NATIONAL DEFENSE, LT. REX PIAD OF THE CRIMINAL INVESTIGATION SERVICE AND COL. CESAR G. VILLARIN, PRO...*G.R. No. L-45363. June 19, 1984*

Ponente: FERNANDO, C.J.

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The issue posed in this application for the writ of habeas corpus is the validity of the detention of petitioner under an arrest, search and seizure order for alleged complicity in the killing of a certain Adriano Antonio, after he was already investigated by the Provincial Fiscal of Iloilo, without being there-after included in the information filed in such case. This Court issued the writ and required a return to the petition. In such return, there was an admission of the investigation conducted, but there was an allegation that the subsequent non-inclusion in the information did not bar the issuance of a search and seizure order. In a subsequent pleading, respondents explained why such search and seizure order was issued. The Philippine Constabulary Command in Iloilo was of the view that petitioner was one of those responsible for the crime of murder committed by a band, an offense falling within the jurisdiction of Military Tribunals. Such view was sustained by the then Acting Assistant Secretary of Legal Affairs of the Department of National Defense. On the basis thereof, the then Secretary of National Defense, now Defense Minister, Juan Ponce Enrile, issued the arrest and seizure order.

It turned out that after the lifting of martial law petitioner was released. That was set forth in a Manifestation filed with this Court on May 5, 1983 by Solicitor Dominador G. Cariaso of the Office of the Solicitor General. He referred to the information coming from "Atty. Jose Mercado of the Legal Division of the Philippine Constabulary, Criminal Investigation Service, Camp Crame, Quezon City [that] petitioner Emiliano Dulaogon was released on July 12, 1982." [1] The prayer in such Manifestation was for the dismissal of this petition on the ground of its being moot and academic. Subsequently, there was confirmation of petitioner no longer being in detention from a Manifestation filed by his counsel, stating: "He has personal knowledge that petitioner Emiliano Dulaogon was already released from confinement and is now residing in Barangay Rosario, Dumangas, Iloilo." [2]

WHEREFORE, this petition is dismissed for being moot and academic.

Teehankee, Aquino, Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., De La Fuente, and Cuevas, JJ., concur.

Concepcion, Jr., and Guerrero, JJ., did not take part.

Makasiar, J., on leave.

[1] Manifestation dated May 5, 1983.

[2] Manifestation dated May 23, 1983.

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