

CARLOS ASPRA Y CRUSILLO, PETITIONER, VS. THE DIRECTOR OF PRISONS, RESPONDENT.

G.R. No. L-3643. March 07, 1950

Ponente: TUASON, J.

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TUASON, J.:

Carlos Aspra y Crusillo applies for the writ of habeas corpus directed to the Director of Prisons. In his return on behalf of the respondent, the Solicitor General agrees that the petition should be granted.

It appears that the petitioner was committed to the New Bilibid Prison in Muntinlupa, Rizal, of which the respondent is the director, on October 23, 1948, to serve six sentences meted out by the Municipal Court of the City of Manila in six different cases of estafa. In each case, the penalty imposed was 3 months and 11 days of arresto mayor with an indemnity the total of which was P144.

In *U.S. vs. Ballesteros*, (1 Phil. 208), this Court held that "A defendant convicted of eight crimes of estafa must be sentenced to a total penalty not to exceed three times the penalty provided by law for one of the crimes." And in *Bagtas vs. Director of Prisons* (85 Phil., 24), a case analogous to the case at bar in many particulars, it was ruled that the length of the petitioner's imprisonment should not exceed three times the most serious of the six sentences he got, plus subsidiary imprisonment for the total indemnity he had been condemned to pay the offended parties.

The petitioner in the instant case had up to the date of his petition gone through 1 year, 3 months and a number of days imprisonment, already beyond the period provided under the threefold rule of Article 70 of the Revised Penal Code.

The petitioner is therefore entitled to the writ, and the respondent is ordered to release him immediately, without costs.

Moran, C.J., Ozaeta, Pablo, Bengzon, Padilla, Montemayor, and Reyes, JJ., concur.

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