

IN THE MATTER OF THE PRODUCTION OF THE BODY OF MANUEL DE GRACIA ON A WRIT OF HABEAS CORPUS. MANUEL DE GRACIA, PETITIONER, VS. THE WARDEN, MUNICIPAL JAIL, MAKATI, RIZAL; THE PRO...*G.R. No. L-42032. January 09, 1976*

Ponente: FERNANDO, J.

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It is settled law that habeas corpus is the appropriate remedy for release from confinement of a person who has served his sentence.[1] It is on such a doctrine that reliance is placed by petitioner Manuel de Gracia in this application for the issuance of such a writ. It is undisputed that while the information against petitioner charged him with the commission of frustrated homicide to which he pleaded not guilty, it was later amended to one of serious physical injuries. It is to such lesser offense that on September 10, 1975, he entered a plea of guilty. On the very same day, respondent Judge Reynaldo P. Honrado imposed upon him the penalty of four months and one day of arresto mayor without subsidiary imprisonment in case of insolvency. That period of confinement he had duly served by November 19, 1975, considering that he had been under detention since July 18, 1975.[2] This notwithstanding, the petition alleged that he was not set free, the reason being that on November 19, 1975, the last day of the prison term imposed upon him, "respondent Assistant Provincial Fiscal Marciano P. Sta. Ana filed with the respondent Judge, in the very same case where your petitioner was convicted and for which he served sentence, Criminal Case No. 15289, a 'Motion to Order the Warden to Hold the Release of Manuel de Gracia (your petitioner)' alleging as a ground that the 'father of the victim, Gilberto Valenzuela, informed the movant (respondent Asst. Fiscal, not the People of the Philippines), that the victim in the above-entitled case died and for this reason the undersigned will file an amended information.'"[3] Then came this paragraph in the petition: "That on the following day, November 20, 1975, the respondent Judge, despite the clear and incontrovertible fact that he had no jurisdiction to act on said motion because the case had long been terminated and his decision therein had already been executed, and, further, even assuming that the respondent Judge could still act in the case, he could not and should not act on the Fiscal's motion because the same was not set for hearing and no copy thereof was furnished to your petitioner whose very liberty was being sought to be deprived, still [he] persisted in acting upon the Fiscal's motion and granted the same 'in the interest of justice,' not at all minding that your petitioner, while maybe a convict in the eyes of the respondent Judge, is still entitled to due process of law and to some justice; * * *." [4] There was a motion for reconsideration, but it was fruitless.[5] Hence this petition.

On December 8, 1975, this Court issued the following resolution: "The Court [issued] the writ of habeas corpus returnable to this Court on Friday, December 12, 1975 and required the respondents to make a [return] of the writ not later than the aforesaid date. The Court further Resolved: (a) to set this case for hearing on Monday, December 15, 1975 at 10:30 a.m.; and (b) to [grant] the motion of petitioner to litigate as pauper in this case." [6] On the date set for hearing, respondent Judge Reynaldo P. Honrado filed this return, worded as follows: "1. That the petitioner Manuel de Gracia has already been ordered released by this court per order dated December 11,

1975, in view of the fact that Trial Fiscal Marciano P. Sta. Ana, Jr. has not as of this time filed the amended information for Homicide after the death of Florante Valenzuela, the offended party in this case, notwithstanding his motion entitled 'Motion to Order the Warden to hold the Release of Manuel de Gracia' dated November 19, 1975, * * *; 2. That in view of the release from custody of Manuel de Gracia, the present petition for habeas corpus has become moot and academic. * * *"[7] Respondent Marciano P. Sta. Ana, Jr., the Assistant Provincial Fiscal of Rizal, did likewise. The return stated: "1. That the petitioner is not in his custody or power although, as alleged in the petition, it was upon his motion that the respondent Judge issued the Order * * * ordering the warden to hold the release of the accused (herein petitioner). 2. That the reason for his said motion * * * is, as stated therein, that he was informed of the death of the victim and he was going to file an amended information. 3. That because of the necessity for immediate action so as to avoid the accused being released so that he could be held to answer for a crime of homicide, and in the honest belief at that time that the proper remedy was the filing of an amended information for homicide, the undersigned filed the motion on said ground. The information concerning the death of the victim was given to the undersigned by the victim's father only on November 19, 1975, the last day of confinement of the accused. However, after being able to study the applicable rule and jurisprudence, the undersigned concluded that the proper remedy is not amendment of the information because judgment had already been rendered on the first information, but the filing of a new information for homicide upon the authority of this Honorable Court's ruling in *People vs. Manolong*, * * * and prior similar cases." [8]

As no return of the writ had been filed on the date set for hearing by respondent wardens, a resolution of the following tenor was adopted by this Court: "When this case was called for hearing this morning, Atty. Salvador N. Beltran appeared for the petitioner while Assistant Provincial Fiscal Marciano P. Sta. Ana, Jr. and Major Edgardo Maristela appeared for the respondents. Thereafter, the Court resolved (a) to require Assistant Provincial Fiscal Marciano P. Sta. Ana, Jr. to file a [return] of the writ for the respondent wardens not later than 10:30 a.m. of Wednesday, December 17, 1975; and (b) to [reset] the hearing of this case on the aforesaid date and time." [9] It should be stated likewise that Major Edgardo Maristela assured the Court that petitioner had been released. What was declared orally by him was thereafter set forth in writing in accordance with his return dated December 16, 1975:" * * * III. That on Sept. 18, 1975, the Office of the Provincial Warden received a commitment order issued by Judge Reynaldo Honrado, dated 16 September 1975, * * *; IV. That by virtue of that commitment order which the petitioner was sentenced to suffer the penalty of from four (4) months and one (1) day, he was transferred to Makati Municipal Jail, on Sept. 18, 1975, to serve his prison term thereat pursuant to Presidential Decree No. 29 as said prisoner is classified as Municipal prisoner; V. That the petitioner was brought back and confined again to the Rizal Provincial Jail on Dec. 3, 1975, by virtue of Remittance order issued by Judge Pedro Revilla, Executive Judge CFI Rizal dated Dec. 3, 1975, * * *; VI. That on December 12, 1975, the Office of the Provincial Warden of Rizal received an Order from the Court of First Instance of Rizal presided by Honorable Judge Reynaldo Honrado, directing him to release Manuel de Gracia, the petitioner in this case; VII. That by virtue of said order * * * and the Order of Release, * * * the undersigned respondent released on said date the petitioner as evidenced by certificate of discharge from prison * * * and that is the reason why he cannot produce the body of said person before this Honorable Court; VIII. That he was not able to make the return of the writ immediately on the ground that he was at that time confined in the hospital, and he was discharged only on December 13, 1975." [10] There was likewise a return of the writ on such a date on behalf of respondent Cresencio T. Pimentel, Municipal Warden of Makati, Rizal. It was therein declared: "1. That the petitioner was not in his custody when he received copy of the petition as the petitioner was transferred to the Rizal Provincial Jail on December 3, 1975, as he was going to be charged with the crime of homicide and therefore, his confinement has to be in the Rizal Provincial Jail and that by virtue of said transfer, respondent Municipal Warden could not produce the body of the petitioner before this Honorable Court." [11]

On the morning of December 17, 1975, respondent Assistant Provincial Fiscal Marciano P. Sta. Ana, Jr. and the two aforesaid wardens appeared. Neither petitioner nor his counsel, Salvador N. Beltran, was present. There was this manifestation though: "[Petitioner], thru counsel, respectfully manifests that he has already been released from confinement, for which reason the present petition has been rendered moot and academic * * *." [12] It would appear, therefore, that with the release of petitioner, the matter had indeed become moot and academic. That disposes of this petition, except for one final note. There was a lapse in judicial propriety by counsel Salvador N. Beltran who did not even take the trouble of appearing in Court on the very day his own petition was reset for hearing, a lapse explicable, it may be assumed, by his comparative inexperience and paucity of practice before this Tribunal. It suffices to call his attention to such failing by way of guidance for his future actuations as a member of the bar.

Wherefore, the petition for habeas corpus is dismissed for being moot and academic.

Barredo, Antonio, Aquino and Concepcion Jr., JJ., concur.

[1] Escalante vs. Santos, 56 Phil. 483 (1932); Rodriguez vs. Director of Prisons, 57 Phil. 133 (1932); Bagtas vs. Director of Prisons, 84 Phil. 692 (1949); Alvarado vs. Director of Prisons, 87 Phil. 157 (1950). Cf. Toledano vs. Severino, 78 Phil. 783 (1947); Cuenca vs. Superintendent of Correctional Institution for Women, L-17400, Dec. 1961, 3 SCRA 897; Sotto vs. Director of Prisons, L-18871, May 30, 1962, 5 SCRA 293.

[2] Petition, Antecedents, pars. A-E.

[3] Ibid, pars. F and G.

[4] Ibid, par. H.

[5] Ibid, pars. I and J.

[6] Resolution of this Court dated December 8, 1975.

[7] Return of the Writ of Respondent Judge Reynaldo P. Honrado, 1-2.

[8] Return of the Writ of Respondent Mariano P. Sta. Ana, Jr., 1-2.

[9] Resolution of this Court dated December 15, 1975.

[10] Return of the Writ of Respondent Major Edgardo L. Maristela, 1-2.

[11] Return of the Writ of Respondent Cresencio T. Pimentel.

[12] Manifestation dated December 16, 1975.

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