

JOSE ESTEVA Y DE LOS REYES, PETITIONER, VS. THE DIRECTOR OF PRISONS, RESPONDENT.

G. R. No. L-2499. October 25, 1948

Ponente: BENGZON, J.

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BENGZON, J.:

The petitioner seeks to be released from the custody of the Director of Prisons alleging that he is undergoing a term of imprisonment ordered during the days of Japanese occupation by the Court of Special and Criminal jurisdiction of Manila, and that such court had no authority to try and punish him.

According to the return of the respondent, Jose Esteva y de los Reyes is held in prison by virtue of the following commitments:

"a) Commitment order dated June 13, 1944 pursuant to the decision of the Court of Special and Exclusive Criminal Jurisdiction in Criminal Case No. 31 sentencing the petitioner to 10 years of G. R. No. L-2499 — 2 imprisonment for illegal possession of firearms;

"b) Commitment order dated October 23, 1947, pursuant to the decision of the Court of First Instance of Manila in Criminal Case No. 1513 (C.F.I. Manila) sentencing the petitioner to one month and 1 day of imprisonment for the crime of damage to property thru reckless imprudence;

"c) Commitment order dated November 21, 1947, pursuant to the decision of the Court of First Instance of Manila in Criminal Case No. 1590 (C.F.I. Manila) sentencing the petitioner from 1 year to 3 years of imprisonment for the crime of illegal possession of firearms;"

The first commitment, signed by the Hon. Gaudencio Garcia, Judge, Court of Special and Exclusive Criminal Jurisdiction, Branch II of Manila, remitted the prisoner to the Director of Prisons, for the crime of illegal possession of firearms, to serve a jail term of ten years commencing on the 13th day of June, 1944. The validity of this commitment is challenged by petitioner.

In *Peralta v. Director of Prisons*[1], 42 Off. Gazette 198, we held that sentences of that court on crimes of similar nature punished by Act No. 65 of the war-time Philippine Republic (rebellion, sedition, illegal possession of firearms, etc.) although good and valid during the military occupation of the Philippines by the Japanese forces, nevertheless ceased to be valid upon the reoccupation thereof by the American forces and the restoration of the Commonwealth.

It is clear that this first commitment lost its force and effect upon the advent of liberation from the Japanese invaders. And herein petitioner would undoubtedly be entitled to his freedom right now except for the two other commitments above mentioned which were ordered by our existing courts of justice and which petitioner does not question in any manner. These add up to a maximum term of three (3) years, one (1) month and one (1) day, which, with good conduct time allowance would in due course be completed on May 26, 1950. This, upon a computation that begins from October 23, 1947.

The months and days the prisoner stayed in Bilibid from the date of liberation to October 23, 1947 may not of course be imputed to the terms of imprisonment provided in these last two commitments. The reason is that we can find no law authorizing such imputation. However, in fairness to the prisoner we could state that there is nothing to prevent the corresponding authorities, in the exercise of their administrative discretion, to consider such incarceration under a voided order as an equitable factor in their deliberations to determine whether this prisoner should now be permitted to march out on parole or otherwise, inasmuch as he has admittedly served the minimum period fixed in the valid sentences presently holding him in restraint. Which is to say that applicant's road to freedom lies in another direction.

The petition for habeas corpus may not be granted. Writ denied.

Moran, C.J., Ozaeta, Paras, Feria, Pablo, Perfecto, Briones, Tuason, and Montemayor, JJ., concur.

[1] 75 Phil., 285.

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