

IN THE MATTER OF THE PETITION FOR THE ISSUANCE OF A WRIT OF HABEAS CORPUS OF: FLORENTINO CAYAGA, JUANITO BENOYA AND DIONISIO CAYAGA, JULIO B. PEQUET, PETITIONERS, VS. LT. COL. T...*G.R. No. L-40970. August 21, 1975*

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c86f9b5851b1/>**FERNANDO, J.:**

This habeas corpus application seeking the release of Florentino Cayaga, Juanito Benoya and Dionisio Cayaga, alleged to be confined in the Philippine Constabulary stockade in Iba, Zambales, upon orders of respondent Lt. Col. Teotimo Tangonan, was filed on July 18, 1975 by petitioner Julio B. Pequet, an attorney of the Citizens Legal Assistance Office of the Department of Justice. The illegality of such detention was premised on the absence of an investigation and a warrant of arrest. This Court, on July 21, 1975, issued a writ of habeas corpus returnable to it on Friday, July 25, 1975 at 10:30 a.m. and required the respondent to make a return not later than the aforesaid date and time. What transpired at the hearing thereof is set forth in a resolution of that date: "When this case was called for hearing this morning, Atty. Teodoro C. San Juan, assisted by Atty. B. Pequet, appeared and answered questions propounded by the Court, while Assistant Solicitor General Santiago M. Kapunan, assisted by Lt. Col. Tangonan, appeared and argued for the respondents. Counsel for respondents manifested that the persons ordered to be brought before this Court were not available, since they were already released. In view thereof, the Court Resolved: (a) to [set anew] the hearing of this case on Wednesday, July 30, 1975, at 10:30 a.m.; and (b) to require the respondents to [submit] a formal return of the writ not later than Monday, July 28, 1975." [1]

On such date, there was a motion to postpone, which was granted. A new hearing was scheduled on August 1, 1975 at the same time. In the return to the writ, there was a specific narration of the facts and circumstances giving rise thereto as well as this assertion: "The urgency of the situation did not give respondent Provincial Commander time to apply for an order of arrest from the proper authorities. But as soon as investigation of the persons arrested was completed and on the assurance that they would not commit further acts in violation of law the respondent Provincial Commander ordered the release of the persons arrested on July 18, 1975." [2] Then came this portion: "The absolute and unconditional release of the persons in whose behalf the application for writ of habeas corpus was filed has rendered this case moot and academic. *** Certificates of release, evidencing the discharge from custody of the persons arrested, are hereto attached as Annexes 5, 5-A and 5-B." [3] It was likewise set forth: "In their Certificates of Release, the persons in whose behalf the application for habeas corpus was filed expressly acknowledge that they have 'no complaint and whatever grudge against the 162nd PC Company and Zambales Constabulary Command.' These certificates were executed by them after the filing of the application for habeas corpus in this case." [4] The return concluded on this note: "Even granting arguing that the persons arrested have any valid complaint arising from their arrest and detention by respondents, their remedy is elsewhere but it cannot be in these proceedings for habeas corpus where the only issue is detention. Since they have been unconditionally released from custody, the proceedings at bar are now moot and academic." [5] The

prayer was for the dismissal of the petition.

At the hearing on August 1, 1975, Florentino Cayaga, Dionisio Cayaga and Juanito Benoya were present and answered questions propounded to them by the Justices. Counsel for both sides were likewise present. There was a motion of petitioners to file a reply which was granted. Then came such pleading filed on August 5, 1975 and thereafter a rejoinder on the part of respondent filed on August 14, 1975. There was no denial on the part of petitioners of the fact that their detention had ended. There was, on the part of respondent, a reiteration of their principal contention: "Indeed, the release of the persons in whose behalf the application for writ of habeas corpus in this case was filed has rendered this case moot and academic as the only issue in habeas corpus proceedings is detention (*Herrera v. Enrile*, L-40181, February 25, 1975, 62 SCRA 547)."[6]

There is merit to such a defense. It appears undoubted, that the persons detained have now been released. The matter, therefore, has become moot and academic.[7] It is the involuntary and illegal restraint that habeas corpus as a swift and efficacious remedy is intended to reach. Nonetheless, there is pertinence to the observation that the military is called upon to exercise care and prudence to avoid incidents of this character. Martial law has precisely been provided in both the 1935 Charter and the present Constitution to assure that the State is not powerless to cope with invasion, insurrection or rebellion or any imminent danger of its occurrence. When resort to it is therefore justified, it is precisely in accordance with and not in defiance of the fundamental law. There is all the more reason then for the rule of law to be followed. For as was so eloquently proclaimed in *Ex parte Milligan*: [8] "The Constitution is a law for rulers and for people equally in war and in peace and covers with the shield of its protection all classes of men at all times and under all circumstances." [9] It is true, of course, as admitted by Willoughby, who would limit the scope of martial law power that the military personnel are called upon to assist in the maintenance of peace and order and the enforcement of legal norms. [10] They can therefore act like ordinary peace officers. In effecting arrests, however, they are not free to ignore, but are precisely bound by, the applicable Rules of Court and doctrinal pronouncements.

Another regrettable aspect that was brought out during the hearing of this petition is that the controversy out of which the incident arose is traceable to a vexing land problem. If there is any distinctive feature of martial law in the Philippines, admittedly rather unique, it is the solicitude and concern shown by the Administration for the Filipinos who are at the bottom rung of the economic pyramid. That way, there is the justifiable hope that the festering sores in the body politic brought about by great disparity in wealth will be remedied. It will be a grave disservice, therefore, to such an admirable aspect of the present regime if through inadvertence or otherwise, those who have less in life will be made to feel that the government, instead of coming to their succor, is found on the side of the more economically affluent. It is not a sufficient answer to say that measures which smack of oppressive exercise of conceded state authority may emanate from certain elements in the military with undue and overriding concern for the avoidance of the least disturbance in the public order or even the likelihood of its occurrence.

This petition, however, as mentioned earlier, no longer calls for any affirmative action on the part of this Court in view of the release of the persons detained.

WHEREFORE, this petition for a writ of habeas corpus is dismissed for being moot and academic. No costs.

Makalintal, C.J., Barredo, Aquino, and Concepcion Jr., JJ., concur.

Antonio, J., is on official leave.

[1] Resolution of this Court dated July 25, 1975.

[2] Return to the Writ and Answer to the Petition, par. 8.

[3] Ibid, par. 10.

[4] Ibid, par. 11.

[5] Ibid, par. 12.

[6] Respondent's Rejoinder, 2-3.

[7] Cf. *Tan Me Nio v. Collector of Customs*, 34 Phil. 944 (1916); *Zagala v. Ilustre*, 48 Phil. 282 (1925); *Gonzales v. Viola*, 61 Phil. 824 (1935); *Lino v. Fugoso*, 77 Phil. 933 (1947); *Camasura v. Provost Marshall*, 78 Phil. 142 (1947); *Vivo v. Morfe*, L-25410, Dec. 18, 1967, 21 SCRA 1309; *Aquino v. Ponce Enrile*, L-35546, Sept. 17, 1974, 59 SCRA 183; *Herrera v. Enrile*, L-40181, Feb. 25, 1975, 62 SCRA 547.

[8] 4 Wall. 2 (1866).

[9] Ibid, 123.

[10] He pointed out that upon the declaration of martial law, citizens are warned "that the military powers have been called upon by the executive to assist him in the maintenance of law and order, and that, while the emergency lasts, they must, upon pain of arrest and punishment, not commit any acts which will in any way render more difficult the restoration of order and the enforcement of law." 3 Willoughby on the Constitution of the United States, 2nd ed., 1591 (1929).

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