

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
RAUL AZANZA Y RODRIGUEZ, DEFENDANT AND APPELLANT.***G. R. No. L-2729. February 01, 1951*

Ponente: PARAS, J.

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The defendant was charged in the municipal court of Manila with vagrancy, under section 822 of the Revised Ordinances of Manila, in that during the month of December, 1946, he habitually idly loitered about the public waiting rooms and hallways of the office of the city fiscal, City Hall, without giving a good account of himself or of his presence thereat. He was found guilty and sentenced to pay a fine of P50, with subsidiary imprisonment in case of insolvency, plus the costs. Upon appeal, the Court of First Instance of Manila again found the defendant guilty as charged, and sentenced him to suffer 2 months and 1 day of imprisonment and to pay a fine of P50, with subsidiary imprisonment in case of insolvency, plus the costs. From this judgment the defendant has appealed.

The evidence for the prosecution tends to show that one week prior to December 21, 1946, detective Ramon Somes of the Manila Police Department had observed the defendant to be habitually loitering in the lobby of the City Hall doing nothing except to talk to drivers who had been given TVR (traffic violation regulation) tickets obviously for the purpose of fixing their cases. Despite repeated warnings, the defendant continued the practice until December 21, 1946, when he was arrested by detective Somes.

In our opinion, the appellant should be acquitted. While the information, using the language of the law, charges him with having habitually idly loitered about the public waiting rooms and hallways of the office of the city fiscal, City Hall, without giving a good account of himself, he is at bottom being prosecuted, as may fairly be deduced from the tenor of the evidence for the prosecution, for fixing cases of drivers caught violating traffic regulations and failing to explain his means of livelihood. However, the appellant testified that, on the day he was arrested, he was to see his godfather, fiscal Villarosa, and was arranging the matter relating to the marriage certificate of his brother; that, aside from the fact that he was connected with the Republic Detective Agency as a bondsman, he had two jeeps in operation. These allegations at least are not contradicted. Moreover, appellant is not prosecuted for being unemployed. In essence, what was desired to be stopped by the arrest of appellant was his alleged practice of victimizing ignorant drivers under the ruse of fixing their cases, but he is not prosecuted for this act.

In view of what has been stated, it becomes unnecessary to rule on appellant's contention that the ordinance in question is unconstitutional.

Wherefore, the appealed judgment is reversed and the appellant acquitted with costs de oficio. So ordered.

Moran, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, Jugo and Bautista Angelo, JJ., concur.

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