

FLORA CADIMAS, PETITIONER, VS. THE DIRECTOR OF PRISONS, RESPONDENT.

G.R. No. L-9725. October 18, 1955

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

It appearing that petitioner's husband, Donato Cachola, is at present a prisoner at the Iwahig Penal Colony, under the control of respondent Director of Prisons, pursuant to a final decision of the Court of First Instance of Ilocos Sur dated January 18, 1955, sentencing him to five (5) years imprisonment and a fine of P1,000, with subsidiary imprisonment in case of insolvency, for the crime of illegal possession of military ammunition (hand grenade), committed on or about March 16, 1951, allegedly in violation of Republic Act No. 4;

Considering that in March of 1951, such unlicensed possession of firearms or ammunitions was not unlawful, for the reason that Republic Act No. 482 had extended the period for the surrender of unlicensed arms and ammunition to June 10, 1951; that during the extended period, only making use thereof, or carrying them on the person of the possessor, was made punishable; and neither of these acts was attributed to the accused Donato Cachola;

Considering, further, that while Donato Cachola pleaded guilty to the information, such plea, as pointed out in the return of the Solicitor General, constituted only an admission of the facts alleged in the information, but was not an admission that the acts charged were unlawful, nor did it have the effect of curing the defect in the Court's jurisdiction (*People vs. Santos Lopez*, 45 Off. Gaz., [No. 5] 2089);

Considering that the information against Donato Cachola did not charge any crime, and therefore, his conviction was void;

The writ of habeas corpus prayed for is granted, and in view of the admitted facts, the prisoner Donato Cachola is ordered released from custody. Without costs.

Bengzon, Acting C. J., Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, and Concepcion, JJ., concur.

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