

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILLIAM O. CASIDO @ “MARIO,” AND FRANKLIN A. ALCORIN @ “ARMAN,”
ACCUSED-APPELLANTS.**

G.R. No. 116512. March 07, 1997

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In our Resolution of 30 July 1996, we ruled that “the conditional pardons granted in this case to accused-appellants William Casido and Franklin Alcorin are void for having been extended on 19 January 1996 during the pendency of their instant appeal,” and disposed of the incident as follows:

WHEREFORE, the accused-appellants’ Urgent Motion To Withdraw Appeal is hereby DENIED and the Bureau of Corrections is DIRECTED to effect, with the support and assistance of the Philippine National Police, the re-arrest of accused-appellants William Casido and Franklin Alcorin who shall then, forthwith, be reconfined at the New Bilibid Prisons in Muntinlupa, Metro Manila, both within sixty (60) days from notice hereof, and to submit a report thereon within the same period. In the meantime, further action on the appeal is suspended until the re-arrest of the accused-appellants.

The Court further resolves to REQUIRE the officers of the Presidential Committee for the Grant of Bail, Release, and Pardon to SHOW CAUSE, within thirty (30) days from notice hereof, why they should not be held in contempt of court for acting on and favorably recommending approval of the applications for the pardon of the accused-appellants despite the pendency of their appeal.

In a Comment for the members of the Presidential Committee for the Grant of Bail, Release or Pardon (hereinafter Committee), dated 28 August 1996, two members of the Committee’s Secretariat, namely, Nilo C. Mariano (Assistant Chief Prosecutor) and Nestor J. Ballacillo (Solicitor in the Office of the Solicitor General), submitted the following explanation in compliance with the above-mentioned resolution:

1. In line with the confidence building measures of government, the President on August 11, 1992 constituted the Presidential Committee for the Grant of Bail, Release or Pardon with the Secretary of Justice as the Chairman and Secretary of National Defense and the Secretary of the Interior and Local Government as members with the directive to establish guidelines for the grant of bail, release or pardon of persons detained or convicted of crimes against national security and public order and violations of the Articles of War. Subsequently, membership to the Committee was expanded to include the Chairman of the Commission on Human Rights and a member of the defunct National Unification Commission who was later on replaced by the Presidential Adviser on the Peace Process.

2. On 9 December 1992, the President issued an amendment to the guidelines incorporating therein a provision which reads: “Those charged, detained or convicted of common crimes but who can establish by sufficient evidence that they have actually committed any of the crimes/offenses enumerated above may apply for possible grant of bail, release or pardon under these guidelines.”

3. Corollary to the constitution of the Committee, a Secretariat was also constituted which was tasked to

process and evaluate the applications of those desiring to be granted pardon or recommended for release or bail under the aforementioned guidelines and which will recommend to the Committee those who qualify under the guidelines.

4. The members of the Secretariat are representatives of the Office of the Chief State Prosecutor, the Board of Pardons and Parole, the Office of the Chief State Counsel, the Bureau of Corrections, the Philippine National Police Legal Service, the Judge Advocate's Office-Armed Forces of the Philippines, the Office of the Solicitor General, and the Commission on Human Rights (Legal Services).

5. In the processing and evaluation of the applications for the grant of pardon, release or bail, it was the agreement between the Secretariat and counsels for the applicants who are usually the lawyers of non-government organizations (NGOs), such as the Task Force Detainees of the Philippines (TFDP), the Free Legal Assistance Group (FLAG), the KAPATID, PAHRA, among others, that simultaneous with the processing of the applications, motions for the withdrawal of the applicant's appeals must be filed by them with this Honorable Court.

6. With the arrangement, the processing and evaluation of the applications for the grant of pardon, release or bail by the committee resulted in the grant of conditional pardon to 123 applicants and absolute pardon to eight (8) applicants as of June 27, 1994.

7. The applications for conditional pardon of the aforementioned prisoners were recommended by the Committee to the President for the grant of Conditional Pardon (after the Secretariat had evaluated that the former committed the crimes for which they had been charged in pursuit of their political belief) per Memorandum dated May 25, 1995 and approved by the President on December 29, 1995. The Conditional Pardon paper was signed by the President on January 19, 1996 and the subject prisoners (accused-appellants) were released by the Bureau of Corrections on January 25, 1996.

8. Prior to their release, subject prisoners filed an "Urgent Motion to Withdraw Appeal" which was received by the Supreme Court on January 11, 1996. Unfortunately, the Committee failed to verify first whether the counsel of the accused had also withdrawn their appeal or that the NGO lawyers had filed in their behalf a motion to Withdraw their Appeal. It was upon the honest belief of the Secretariat that the NGO lawyers would perform their agreed undertaking, that the Secretariat indorsed the applications for conditional pardon of subject prisoners for favorable action by the Committee, and thereafter by the President.

9. There was no intention on the part of the Secretariat and the Presidential Committee to violate Section 19, Article VII, of the Constitution, but that what happened was a clear misappreciation of fact.

10. The Secretariat/Committee was only prompted to act, as they did, in their sincere and zealous effort to take part in the government's confidence building measure geared towards achieving peace and national reconciliation. To avoid repetition of grant of presidential clemency under similar circumstances, the Secretariat/Committee will require applicants for any executive relief to show proof that their appeal, if any, has been withdrawn and the withdrawal thereof has been also approved before acting on their applications as directed by President Fidel V. Ramos in his handwritten instructions to the Presidential Committee, thru the Executive Secretary, and upon recommendation of Chief Presidential Legal Counsel Rene Cayetano, for the Presidential Committee" to exercise better diligence." (See Annex "1", and its attachments).

11. The undersigned most respectfully pray for the kind indulgence and understanding of this Honorable Court on the matter.

On 18 September 1996, the Court required Hon. Nilo C. Mariano and Hon. Nestor J. Ballacillo to submit to this Court a list of the members of the Secretariat who participated in the deliberations on the accused-appellants' application for pardon and recommended the grant thereof, together with a certified true copy of the agreement between the Secretariat and the counsel for the applicants for pardon regarding the filing with the appropriate

courts of motions for the withdrawal of appeals pending therein. Their Compliance, dated 23 October 1996, stated as follows:

2. A review of the records of the Secretariat indicates that initially or as of January, 1993, the members of the Secretariat were:

Undersecretary Ramon S. Esquerra - DOJ

Assistant Chief State Nilo C. Mariano - DOJ

Executive Director Artemio C. Aspiras - DOJ

State Counsel Teresita L. de Castro - DOJ

Director Eriberto Misa, Jr. -Bureau of Pardon Corrections

Edgardo Dayao - JAGO

Pedro Abella - PNP

Samuel M. Soriano, Jr. - CHR

Imelda B. Devila - National Unification Commission

Nestor J. Ballacillo - OSG

3. On February 9-11, 1995, a Working Group was constituted “to conduct and expeditious review of the cases of prisoners in the New Bilibid Prison who are alleged to have committed crime in pursuit of political objectives” (Resolution No. 1, of the Secretariat Working Group).

4. For this purpose, the Working Group consisting of State Prosecutor Alberto Vizcocho of the Department of Justice (DOJ), Commissioner Mercedes V. Contreras of the Commission on Human Rights (CHR) and Andrei Bon C. Tagum of the Office of the Presidential Adviser on the Peace Process (OPAPP) convened for three days or February 9-11, 1995 to review the cases of the political prisoners.

5. Among the cases reviewed by the Working Group were those of appellants Franklin Alcorin y Alparo and William Casido y Balcasay.

6. After the review of the cases, the Working Group issued Resolution No. 1, which states among others that the “prisoners [including Alcorin and Casido] be recommended to the Secretariat of the Presidential Committee for the Grant of Conditional Pardon in view of a determination that they were charged or convicted of crimes that may have been committed in pursuit of political objectives.” (A copy of Resolution No. 1 is attached hereto as Annex “1”).

7. The recommendations on the political prisoners listed in Resolution No. 1 by the Working Group as well as the recommendations made by the Secretariat were based on the undertaking of those representing the political prisoners, particularly the Non-Government Organizations (NGOs) such as, among others, the Task Force Detainees of the Philippines (TFDP), the Free Legal Assistance Group (FLAG), KAPATID and PAHRA who promised that the corresponding withdrawals of appeal would be filed with this Honorable Court and other Courts concerned. This undertaking of the NGOs was however verbal and not made in writing.

8. In recommending the grant of conditional pardon to Alcorin and Casido, the members of the Secretariat Working Group acted in good faith and did not disregard the Resolutions of this Honorable Court in *People vs. Hino, Jr.*, G.R. No. 110035, January 31, 1995 and *People vs. Salle*, (250 SCRA 582, December 4, 1995). At the

time they made the recommendations or the Working Group issued Resolution No. 1, the members of the Secretariat and the Working Group were not aware of the Hino and Salle rulings. Moreover, at the time the cases were being reviewed, the members of the Secretariat, were pressed on by members of the NGOs to act on certain applications for pardon or provisional release with dispatch. In turn, they made it clear to those following up the applications that the appropriate withdrawal of appeals should be filed so that the applications could be acted upon.

9. Believing in good faith that the promise or undertaking of those who followed up the applications for pardon of Alcorin and Casido would be complied with as promised, the members of the Secretariat Working Group did not secure the written commitment for the withdrawal of the appeal by accused Alcorin and Casido before their applications for pardon were reviewed.

Earlier, or on 1 October 1996, the Court received from Hon. Manuel C. Herrera, Chairman of the National Amnesty Commission, a letter, dated 26 September 1996 addressed to Mr. Justice Hilario G. Davide, Jr., wherein the former informed the Court that the applications for amnesty of accused-appellants Franklin A. Alcorin and William O. Casido were “favorably acted” upon by the National Amnesty Commission on 22 February 1996. The body of the letter reads:

We refer to a newspaper article found in the Philippine Daily Inquirer’s August 1, 1996 issue. Please be informed that on February 22, 1996, the National Amnesty Commission (hereinafter the “NAC”) favorably acted on the applications for amnesty of Franklin A. Alcorin and William O. Casido.

The NAC was created under Proclamation No. 347 by President Fidel V. Ramos on March 25, 1994, to receive, process, and decide on applications for amnesty. Under Proclamation No. 347 a grant of amnesty shall carry with it the extinguishment of any criminal liability for acts committed by the grantee in pursuit of his or her political beliefs. It also carries with it the restoration of civil or political rights that may have been suspended or lost by virtue of a criminal conviction.

In the course of our deliberations, the NAC found that the applicants are indeed confirmed members of the CPP/NPA/NDF whose killing of Victoriano Mapa was committed in pursuit of their political beliefs.

We enclose, for ready reference, copies of the following documents:

1. Notice of Resolution for Franklin A. Alcorin and William O. Casido
2. Proclamation No. 347
3. Primer on Amnesty under Proclamation Nos. 347 and 348.

In its Comment to the aforesaid letter (submitted in compliance with our Resolution of 7 October 1996), the Office of the Solicitor General alleged that the accused-appellants in this case, “in an effort to seek their release at the soonest possible time, applied for pardon before the Presidential Committee on the Grant of Bail, Release or Pardon (PCGBRP), as well as for amnesty before the National Amnesty Commission (NAC)”; then contended that since amnesty, unlike pardon, may be granted before or after the institution of the criminal prosecution and sometimes even after conviction, as held in *Barrioquinto v. Fernandez*,^[1] the amnesty then granted accused-appellants William Casido and Franklin Alcorin “rendered moot and academic the question of the premature pardon granted to them.”

We agree with the Office of the Solicitor General. In *Barrioquinto*,^[2] we stated as follows:

The theory of the respondents, supported by the dissenting opinion, is predicated on a wrong contention of the nature or character of an amnesty. Amnesty must be distinguished from pardon.

Pardon is granted by the Chief Executive and as such it is a private act which must be pleaded and proved by the person pardoned, because the courts take no notice thereof; while amnesty by Proclamation of the Chief Executive with the concurrence of Congress, and it is a public act of which the courts should take judicial notice. Pardon is granted to one after conviction; while amnesty is granted to classes of persons or communities who may be guilty of political offenses, generally before or after the institution of the criminal prosecution and sometimes after conviction. Pardon looks forward and relieves the offender from the consequences of an offense of which he has been convicted, that is, it abolishes or forgives the punishment, and for that reason it does “nor work the restoration of the rights to hold public office, or the right of suffrage, unless such rights be expressly restored by the terms of the pardon,” and it “in no case exempts the culprit from the payment of the civil indemnity imposed upon him by the sentence” (article 36, Revised Penal Code). While amnesty looks backward and abolishes and puts into oblivion the offense itself, it so overlooks and obliterates the offense with which he is charged that the person released by amnesty stands before the law precisely as though he had committed no offense. (underscoring supplied)

Accordingly, while the pardon in this case was void for having been extended during the pendency of the appeal or before conviction by final judgment and, therefore, in violation of the first paragraph of Section 19, Article VII of the Constitution, the grant of the amnesty, for which accused-appellants William Casido and Franklin Alcorin voluntarily applied under Proclamation No. 347,[3] was valid. This Proclamation was concurred in by both Houses of Congress in Concurrent Resolution No. 12 adopted on 2 June 1994.

The release then of accused-appellants William Casido and Franklin Alcorin can only be justified by the amnesty, but not by the “pardon.”

As to the “pardon,” we find unsatisfactory the Explanation of the Secretariat of the Committee. It borders on the absurd that its members were unaware of the resolutions of this Court in *People v. Hinlo*[4] and *People v. Salle*.^[5] As early as 1991, this Court, in *People v. Sepada*,^[6] cited in our Resolution of 30 July 1996 in this case, already stressed in no uncertain terms the necessity of a final judgment before parole or pardon could be extended. Even in their Comment of 28 August 1996, the Members of the Secretariat implied that they were all the time aware that a pardon could only be granted after conviction by final judgment; hence, they required from the lawyers of the applicants the filing with this Court of “motions for the withdrawal of the applicants’ appeals.” Thus, they cannot plead ignorance of this condition sine qua non to the grant of pardon. They should have demanded from the applicants the submission of proof of their compliance of the requirement before submitting to the President a favorable recommendation. That alone, at the very least, could have been the basis of a finding of good faith. In failing to observe due care in the performance of their duties, the Members of the Committee caused the President serious embarrassment and thus deserve an admonition.

IN VIEW OF THE FOREGOING, the Court hereby resolved that the release of accused-appellants William O. Casido and Franklin A. Alcorin was valid solely on the ground of the amnesty granted them and this case is dismissed with costs de officio.

The Members of the Presidential Committee for the Grant of Bail, Release or Pardon and of its Secretariat are admonished to exercise utmost care and diligence in the performance of their duty to save the President from any embarrassment in the exercise of his power to grant pardon or parole.

SO ORDERED.

Narvasa, C.J., (Chairman), Melo, Francisco, and Panganiban, JJ., concur.

[1] 82 Phil. 642 [1949].

[2] *Supra* note 1, at 646-647 (citations omitted).

[3]Entitled “Granting Amnesty to Rebels, Insurgents, and All Other Persons Who Have or May Have Committed Crimes Against Public Order, Other Crimes Committed in Furtherance of Political Ends, and Violations of the Articles of War, and Creating a National Amnesty Commission,” issued by the President on 25 March 1994.

[4] G.R. No. 110035, 31 January 1995.

[5] G.R. No. 103567, 4 December 1995.

[6] G.R. No. L-47514, 21 March 1991.

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