

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. EXEQUIEL S. VILLALON, DEFENDANT AND APPELLANT.

G.R. No. 13085. December 17, 1917

Ponente: MALCOLM, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-13085/>

MALCOLM, J.:

The accused appeals from a decision of the Honorable Simplicio del Rosario, judge of first instance, city of Manila, finding that the condition of a pardon granted by the Honorable Francis Burton Harrison, Governor-General of the Philippine Islands, has been violated, and ordering the recommitment of the accused in Bilibid Prison for the unexpired portion of his original sentence.

The application of the assistant fiscal of the city of Manila to the Court of First Instance for the arrest of Exequiel S. Villalon, the accused, and an investigation of the facts and action thereon, containing as it does the undisputed facts, is here quoted in full:

"Comes now the undersigned and to this Honorable Court respectfully states:

"1. That Exequiel S. Villalon about the 5th day of May, 1910, was convicted and sentenced by the Court of First Instance of Nueva Ecija for the crime of illegal marriage to imprisonment for eight years and one day of prison mayor, with the accessory penalties provided by law, and to pay the costs;

"2. That on the 17th of November, 1913, the Hon. Francis Burton Harrison, Governor-General of the Philippine Islands, pardoned the said Exequiel S. Villalon as to the unexpired portion of the said sentence on condition that the accused would not again be guilty of any infraction of the law punishable by imprisonment for one year or more, a copy of which conditional pardon is as follows:

" 'Office of the Governor-General of the Philippine Islands.—Manila, November 17, 1913. By authority of the President of the United States, the unexecuted portion of the sentence of imprisonment in the case of Exequiel Villalon, convicted by the Court of First Instance of Nueva Ecija of illegal marriage and sentenced on June 5, 1910, to imprisonment for eight years and one day, is hereby remitted, on condition that he shall not again be guilty of any infraction of the law punishable by imprisonment for one year or more. Should the condition stated be violated, Exequiel Villalon will be proceeded against in the manner prescribed by sections 3 and 4 of Act No. 1524.

" 'Upon acceptance of this pardon, Exequiel Villalon will be released from confinement. Francis Burton Harrison, Governor-General.'

"3. That in violation of the conditional pardon above set out, the said accused Exequiel S. Villalon, on or about the 17th of November, 1915, in the city of Manila, committed and was charged with the crime of estafa, and after trial in the Court of First Instance of Manila the said accused was sentenced on the 25th day of March, 1916, in accordance with article 535, paragraph 1, in connection with article 534, paragraph 2, of the Penal Code, to imprisonment for six months of arresto mayor, with the accessory penalties provided by law, to indemnify the

offended party in the sum of P269.25 with subsidiary imprisonment in case of insolvency, and to pay one-half of the costs; and

"4. That the accused Exequiel S. Villalon appealed from said sentence to the Supreme Court, which court after due hearing affirmed the sentence appealed from on November 24, 1916.

"Wherefore, the undersigned, assistant prosecuting attorney of the city of Manila, respectfully asks this honorable court to order the appearance of the accused, Exequiel S. Villalon, before this court; that due investigation be made of the facts set forth in this petition; that it be declared that the accused, Exequiel S. Villalon, has violated the conditions of the pardon of November 17, 1913, and that the said accused be reincarcerated to serve the unexpired portion of his sentence, and further asks whatever else may be deemed proper by this court in the premises. Angel Roco, assistant prosecuting attorney.

"Subscribed and sworn to before me on June 7, 1917, in the city of Manila, Philippine Islands, by Angel Roco, assistant prosecuting attorney of the city of Manila. Ramon Avancena, judge, Court of First Instance."

The assignments of error concern the question of whether or not there has been a violation of the pardon granted by the Governor-General. The condition of the pardon is "that he (Villalon) shall not again be guilty of any infraction of the law punishable by imprisonment for one year or more." Recall here that Villalon was prosecuted for the crime of estafa, that he was convicted and sentenced to six months of *arresto mayor*, etc., and that the limits of the penalty prescribed by the articles of the Penal Code under which convicted are two months and one day of *arresto mayor* to two years and four months of *presidio correccional*.

"Punishable" is defined in the dictionaries as "deserving of or liable to punishment." The term refers to the possible not to the actual sentence. It is concerned with the penalty which may be, and not which is, imposed. Villalon, in committing the crime of estafa and in receiving sentence for six months, broke the condition of his pardon just as effectively as if he had been convicted of the same crime and sentenced to two years and four months imprisonment. The only difference is that the court did not, in its discretion, find and apply some aggravating circumstance. Undoubtedly what the Governor-General intended to except as favorable to the person pardoned were mere convictions for misdemeanors in contrast to what we may term, broadly speaking, felonies. Since, therefore, Villalon, in committing the crime of estafa, was liable thereby to imprisonment for more than a year, he violated both the letter and the spirit of his pardon. The American authorities are a unit in corroborating" the views here enunciated. (See *U. S. vs. Watkinds* [1881], 6 Fed., 152; *People vs. Hughes* [1893], 137 N. Y., 29; *Benton vs. Commonwealth* [1893], 89 Va., 570; 7 Words and Phrases, PP. 48, 49.)

The decision of the trial court is affirmed. The accused shall be reincarcerated in Bilibid Prison to serve the unexpired portion of the sentence imposed upon him for the crime, of illegal marriage by the judge of first instance of Nueva Ecija on June 5, 1910; the costs of both instance against the appellant. So ordered.

Arellano, C. J., Torres, Araullo, and Avancena, JJ., concur.

STREET, J., dissenting:

It is admitted that the offense of estafa, committed by Exequiel S. Villalon upon December 17, 1915, and which is alleged to have constituted a breach of the pardon dated November 17, 1913, was an offense punishable under subsection 2 of article 534 of the Penal Code. That article permits the application of penalties in three degrees, consisting of *arresto mayor* in its medium degree, *arresto mayor* in its maximum degree, and *prision correccional* in its minimum degree. These penalties, in their complete range, cover a period from four months and one day to two years and four months. But as the court found that there were neither aggravating nor extenuating

circumstances present, it became necessary to apply the medium penalty, in accordance with subsection 1 of article 81, in connection with paragraph 1 of article 97 of the Penal Code. Under these provisions it was not possible for the Court of First Instance lawfully to impose a penalty of imprisonment of greater duration than six months, or *arresto mayor* in its maximum degree. The finding that there was no aggravating circumstance was absolutely determinative on this point; and the court had no discretion to go beyond that limit. The intimation contained in the principal opinion that, a court may in its discretion find and apply an aggravating circumstance is doubtless attributable to oversight.

The word "infraction," to our mind, is used in the pardon with special reference to the particular violation of law of which the accused might be guilty and not in a general sense as referring to the type or class of offense to which such infraction may belong. The word "infraction" is here apparently as little liable to be understood in a general sense as any word which could have been inserted in the pardon; and the fact that such word was used instead of the more general term "offense" or "crime" strongly argues that the draftsman of the pardon intended to use the word with special reference to the particular violation of law of which the accused might be guilty. The opinion of the court has the effect of construing the language of the pardon as if it read, "shall not again be guilty of any infraction of law falling within some class of crime punishable by imprisonment for one year or more." We think that this is an illegitimate interpretation of that language.

The question whether the pardon has been violated depends upon the character of the infraction of which the accused has been convicted. The mere fact that the defendant was convicted under a complaint which charges *estafa*—an offense punishable with penalties ranging over many different degrees—is not sufficient to establish the breach of the pardon. Nor is the duration of the penalty which the court actually imposed conclusive as to the fact of the infringement of the pardon. To determine whether the infraction was punishable by imprisonment for one year or more it is necessary to look to the finding of facts upon which the judgment was entered, in this case, that the accused was guilty of *estafa* and punishable under a certain provision of the code, without mitigating or aggravating circumstances. If the court had found the accused guilty, with aggravating circumstances, the offense would have been punishable by the imposition of the penalty of *prision correccional* in its minimum degree; and this would have brought it within the power of the court in its discretion to impose a penalty of a year or more. That circumstance would have established the infringement of the pardon though the court might in fact have imposed imprisonment for only six months and one day.

The American authorities, it is submitted, in no wise support the conclusion reached by the court in the principal opinion. In the American penal system the courts have complete liberty, to consider, in the imposition of penalties, all the circumstances, whether aggravating or attenuating; and they have entire discretion in fixing the penalty at any point between the minimum and maximum permitted by law, just as our courts may use a more limited discretion in adjusting their penalties within the degrees determined by the presence or absence of aggravating circumstances. The American precedents cited in the principal opinion are therefore not in point.

CARSON, J., dissenting:

I concur in this dissent.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.