

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ANTONIO MARTINEZ, ACCUSED. ATTY. MAGNO T. BUESER,
DEFENDANT AND APPELLANT.**

G. R. No. 14262. February 26, 1959

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-14262/>

BAUTISTA ANGELO, J.:

On July 16, 1958, appellant entered his appearance as counsel for the accused in Criminal Case No. 44304 pending in the Court of First Instance of Manila. On July 23, 1958, appellant received copy of a notice setting the hearing of the case on August 5, 1958. On the same date he received copy of said notice, he filed a motion for transfer for the reason that on August 5 and 6, 1958 he will appear as counsel for the accused in a criminal case for robbery in band pending before the Court of First Instance of Quezon attesting to the fact that appellant did upon agreement made between the prosecution and the defense on June 6, 1958, at the same time praying that the hearing be set on August 4 or 11, 1958 if the calendar of the court would so permit. This motion was denied on July 24, 1958 of which appellant was notified on July 29, 1958.

Upon being notified of this denial, appellant filed a motion to withdraw his appearance as counsel for the accused for the reason that he could not attend to the hearing of the case set for August 5, 1958 on account of his previous commitment with the Court of First Instance of Quezon, furnishing a copy of his motion to the accused. On August 1, 1958, the accused filed a motion for postponement giving as ground the withdrawal of his attorney, but the court denied both the motion of appellant to withdraw and the motion of the accused to postpone the hearing, and on August 5, 1958, it issued an order citing appellant to appear to show cause why he should not be punished for contempt for his failure to appear at the hearing of the case set on said date. Appellant appeared before the court as ordered, and by way of explanation he reiterated what he had already advanced before to the effect that his failure was due to his appearance as counsel for the accused at the hearing of the criminal case pending before the Court of First Instance of Quezon which was set long prior to the hearing of the present case. This explanation not having been found satisfactory, the court declared appellant guilty of contempt and imposed upon him a fine of P25. Hence this appeal.

It appears that when appellant received on July 23, 1958 the notice setting the hearing of the instant case on August 5, 1958, he filed on the same date a motion for postponement giving as reason the fact that on that same date of August 5, 1958 he will appear as counsel for the accused in the case of robbery in band pending before the Court of First Instance of Quezon, the hearing of which was set upon agreement made between the prosecution and the defense in open court on June 6, 1958. It likewise appears that this agreement took place much prior to the institution of the instant case and even before appellant entered his appearance as counsel for the accused, and these facts appear undisputed for at the hearing of the motion citing appellant for contempt he submitted a certification of the clerk of court of the Court of First Instance of Quezon attesting to the fact that appellant did in fact appear as counsel for the accused on August 5 and 6, 1958 in the case pending before that court. And to show that appellant moved to postpone the hearing not for purposes of delay but for a justifiable reason, he asked" that

the hearing be postponed to August 4 or 11, 1958, which is one day before or several days after the date set for that purpose by the trial court. But notwithstanding this explanation, appellant was found guilty and was convicted. He now comes to this Court alleging that the trial court committed a grave abuse of discretion. While it is a settled doctrine that a motion to postpone is not a matter of right (*Linis vs. Rovira*, 61 Phil., 137; *Parina vs. Cabangbang*, G. R. No. L-8398, March 21, 1956), but a matter that is addressed to the sound discretion of the court (*Dimayuga vs. Dimayuga*, 51 Off. Gaz., No. 5, 2397; *Bautista vs. The Municipal Council of Mandaluyong, Rizal, et al.*, 98 Phil., 409), there are however cases where the granting of the motion becomes imperative to afford substantial justice. As this Court has aptly said: "While the granting or refusal of motions for continuance is discretionary, that discretion must be exercised wisely with a view to substantial justice" (*Capitol Subdivision vs. Province of Negros Occidental*, 99 Phil., 633). The discretion should be exercised in the light of the peculiar circumstances obtaining in each case.

In the instant case, appellant appears to have the law on his side; and to show this suffice it to quote what the Solicitor General says on the matter: "He deserved a more sympathetic understanding of his plight than he was able to secure from the lower court, zealous as it was undoubtedly for a speedy trial of the principal case. When appellant committed himself to a trial for August 5 and 6, 1958 at Lucena, Quezon in *People of the Philippines vs. Juan Masaes for Robbery in Band*, the agreement was made in open court on June 6, 1958 between the prosecution and the defense * * * at a time when the case against the herein accused Antonio Martinez had not even been filed in court. The instant case for grave threats was only filed on June 12, 1958 and the appellant filed his appearance herein on July 16, 1958 when the hearing at the Court of First Instance of Quezon had already been calendared. Under the circumstances, he immediately filed on July 23, 1958 a motion to transfer the date of the hearing for grave threats to August 4 or 11, 1958. The fact alone that appellant was willing to go to trial on August 4, one day before the actual date selected by the lower court in the grave threats case is convincing proof that appellant's motion for postponement was not dilatory, but a solution to his predicament, considering his commitment at the Quezon court." We fully agree to this comment.

The Elks Club vs. The United Laborers and Employees of the Elks Club

The order appealed from declaring appellant guilty of contempt is set aside, with costs de oficio.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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.