

PIO VALENZUELA, PETITIONER, VS. BARTOLOME REVILLA, JUDGE OF FIRST INSTANCE OF BULACAN, AND JUAN B. CARLOS, RESPONDENTS.

G.R. No. 16327. July 29, 1920

Ponente: CARSON, J.

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CARSON, J.:

On March 31, 1920, this court issued its mandate directing the respondent judge to order the opening of certain ballot boxes, for inspection of the contents in the course of an election protest at such time and place as he may deem opportune or convenient ("en la hora y fecha que estime oportunas").

The parties interested in the inspection of the ballot boxes now move this court to amend the terms of the mandate, so as to require the respondent judge to issue the necessary orders "forthwith" or "immediately" and thus leave him no election as to the time of issuance of his order.

They allege that under the terms of the original mandate, the trial judge had permitted more than three months to elapse without issuing the order for the inspection of the ballot boxes. The opposing parties insist that there has been no unnecessary delay on the part of the trial judge, and allege that his failure to issue the order for the opening of the ballot boxes has been due, solely, to the fact that he has not yet found it convenient so to do, because of the pressure of other work, and because of his absence from the province during a part of the period which has elapsed since our mandate became final.

We think that the motion, in the form in which it is submitted, must be denied, although on the face of the record, there would seem to be strong reason to believe that the petitioner is entitled to the ultimate relief which he manifestly seeks to secure by its submission. We take it that he is more interested in securing prompt compliance with our order than the mere modification of its terms for which he prays in his motion.

In denying the motion, it might perhaps be sufficient to say that the order of this court has long since become final, and is not therefore subject to amendment at this time, except only in so far as such amendment is made to appear necessary for the correction of clerical errors or to make the written order conform to the original order directed to be entered.

We think it well, however, to indicate that even if the order were not final, we would not deem it necessary to amend its terms in the manner and form suggested in the motion.

The omission of adverbs of time, such as "forthwith" or "immediately" from our mandate did not leave it within the discretion of the respondent judge to postpone the entry of the required order for the opening of the ballot boxes indefinitely. Our mandate, by its terms, leaves to the discretion of the respondent judge the determination of the time and place of the opening of the ballot boxes, but it leaves him no discretion as to the time when he must issue the order directing that they be opened for inspection. It does not in express terms direct that the order will be entered forthwith or immediately. But that is unnecessary. It contemplates compliance, and it contemplates that

prompt compliance which this court may rightfully require of all persons and inferior tribunals whose duty it is to respect and obey its lawful mandates.

Of course a reasonable time for the preparation of the order and for the ascertainment of a suitable time and place for the reopening of the ballot boxes must be allowed. What is a reasonable time for such purpose cannot be arbitrarily determined in advance. It would seem, however, that a very few days should be sufficient for that purpose. Certainly the terms of the order imposed the duty upon the respondent judge to enter the prescribed order without unnecessary delay, and as soon after he was advised of the issuance of our order as it was practically possible.

It may be well to add that the discretion conferred upon the respondent judge as to the time and place to be designated by him for the opening of the ballot boxes is not an arbitrary discretion, but rather a sound judicial discretion, to be exercised with due regard to the right of the interested parties to the prompt adjudication of the pending election case, and with special regard for the statutory provisions looking to the speedy disposition of election contests.

We are at a loss to understand how and why compliance with our mandate has been so long postponed. But if the delay is to be attributed to any misapprehension of the meaning and effect of our order, we assume that what has been said will forestall the possibility of further delay, and the necessity of contempt proceedings, if such delay should be attributed to wilful or negligent failure to comply with the letter and the spirit of the mandate under consideration. Nevertheless, in the unanticipated event that we are mistaken in this regard, we reserve to the interested parties the right to institute further or supplementary proceedings, at any time after the lapse of ten days from the filing of this order, so as to secure the real purpose for which the pending motion appears to have been submitted and to insure the prompt and speedy compliance with our mandate and the final disposition of the inspection of the ballot boxes which was the occasion for its issuance. So ordered.

Mapa, C. J., Johnson, Aravillo, Malcolm, Avanceña, Moir, and Villamor, JJ., concur.

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