

NARCISO ALVAREZ Y CORTES, PETITIONER, VS. THE DIRECTOR OF PRISONS, RESPONDENT.

G.R. No. 1809. March 19, 1948

Ponente: FERIA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-1809/>

FERIA, J.:

This is a motion for reconsideration of our decision denying the petitioner's petition for habeas corpus on the ground that, although the petitioner had been granted pardon by the Chief Executive which remitted the penalty imposed upon the petitioner in a sentence rendered by the court for the crime of murder of which he was convicted, such pardon did not affect or carry with it the remission of the penalty imposed upon him for the offense of evasion of service of said sentence committed prior to said pardon.

The argument in support of the motion for reconsideration is predicated upon the proposition that the offense of evasion of service of sentence committed by the petitioner, is not independent from but dependent upon the sentence or penalty imposed upon him for the crime of murder for the evasion of which sentence the petitioner was also convicted. In support of his contention, petitioner quotes our decision in *People v. Jose*, G.R. No. L-22, in which we held that the offense or violation of conditional pardon is not a substantive offense or independent from the crime for the commission of which the punishment imposed upon him was remitted by the pardon.

This proposition or contention is untenable, for there is no parity not even analogy between evasion of service of sentence and violation of conditional pardon.

Evasion of service of sentence or "jail breaking" is an offense defined and penalized as a crime in this jurisdiction by Art. 157 of the Revised Penal Code, and is also punished as such in practically all jurisdictions even those under the common law; because it is an attempt at least to evade the penalty inflicted by the courts upon criminals and thus defeat the purpose of the law of either reforming or punishing them for having disturbed the public order. While violation of a conditional pardon is a mere infringement of the terms stipulated in a contract between the sovereign power or the Chief Executive and the criminal, to the effect that the former will release the latter subject to the condition that if he does not comply with them, he will be recommitted to prison and serve the unexpired portion of his original sentence if higher than six years, or prison correccional in its minimum period if less than six years.

In the case of *U.S. v. Ignacio* (33 Phil. 202, 204), it was held that "the defendant accepted the conditional pardon and thereby secured his release from imprisonment. Having accepted the conditional pardon, he is bound by its terms. The record shows that he has been guilty of misconduct after his conditional pardon. By such misconduct, he forfeited his pardon and his right to liberty thereunder. When a pardoned person violates the conditions of his pardon, he is left in the exact situation in which he was when the pardon was granted, and the original sentence may be enforced against him. (Ex parte Wells, 18 Howard (U.S.), 307; Ex parte Hawkins, 61 Ark., 321; 30 L.R.A. 736; 54 Am. St. Rep., 209; Kennedy's Case, 135 Mass., 48; Ex parte Marks, 64 Cal., 29.)

Violation of conditional pardon is not a public offense in the strict sense of the word, for it does not cause harm or

injury to the right of other person nor does it disturb the public order; and if it does cause any harm is to the violator himself who, for not complying with the conditions of the pardon, has to serve again the unexpired portion of the penalty imposed upon him for the commission of the offense which was conditionally remitted or pardoned. While the evasion of service of sentence is a public offense or a wrongful act separate and independent from any other, and it is not righted or effaced by the pardon or remission of the penalty imposed in the sentence against the accused for the crime, the service of which the culprit tried to evade before the pardon.

The penalty for the crime of murder is different and independent from that for evasion of service of sentence, and therefore the evade of service of sentence must continue serving the punitive sentence rendered against him for the offense of evasion, irrespective of the pardon or remission of the penalty for murder. While the punishment for violation of conditional pardon is the unexpired portion of the penalty for the original offense of which the conditional pardon has been granted. So where the punitive sentence for the offense for which a prisoner has been pardoned is no longer good or valid and cannot be enforced, as in the case of *People v. Jose*, supra, the defendant should be released for he can not be criminally prosecuted and convicted for violation of the conditional pardon, because no punishment can be imposed upon him therefor, since there is no unexpired portion of the penalty to be served in more or less modified term.

Motion for reconsideration is therefor denied.

Moran, C.J., Paras, Pablo, Hilado, Bengzon, Briones, Padilla, and Tuason, JJ., concur.

DISSENTING OPINION

PERFECTO, J.:

We vote to grant the motion for reconsideration in order that the two illegal judgments for evasion of service of sentence be declared null and void.

The reasons for this stand were already expressed in our opinion when the decision of this case was promulgated.

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.