

**PEOPLE OF THE PHILIPPINES, PLAINTIFF, VS. FREDERICK G. WEBER,  
ACCUSED, FIELDMEN'S INSURANCE CO., INC., BONDSMAN  
AND APPELLANT.**

*G. R. No. 18746. January 31, 1963*

Ponente: REYES, J.B.L., J.

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**REYES, J.B.L., J.:**

This appeal (concerning confiscation of a bond filed in a criminal case) was certified to Us by the Court of Appeals in its Resolution of 21 July 1961 , in CA-G. R. No. 01323-GR, as it involves purely questions of law.

Fieldmen's Insurance Co., Inc., posted a bond of P3,500.00 for the provisional liberty of Frederick G. Weber, a German alien accused of "Falsification of Public or Official Document", docketed as Criminal Case No. 49099 in the Court of First Instance of Manila, in an information dated 17 July 1959. Hon. Judge Jesus Y. Perez, presiding over Branch III, set the arraignment of the accused on 3 February 1960 . Since the accused did not appear on that day, the court on the same day issued an order as follows:

"On motion of counsel for the accused Frederick G. Weber on the ground that said accused is still weak and cannot come to court as attested to by the verified Medical certificate issued by Dr. Pedro R. Arenas, let the arraignment of the accused sot for today be postponed to February 27, 1960, at 8:00 o'clock in the morning.

The Chief Medical Officer of the National Bureau of Investigation is hereby ordered to conduct a medical examination of the accused Frederick G. Weber, who resides at 1075 Santiago Street, Paco, Manila, to determine whether said accused is in a physical condition to appear before this court for arraignment and to submit his report of said examination as soon as possible.

Let a copy of this order he furnished the Chief Medical Officer of the NBI."

In compliance with this order, Dr. Rosalino V. Reyes, Chief Medico-Legal Officer of the National Bureau of Investigation, examined the accused personally on 4 February 1960 , and filed a 3 page report to the court, dated 15 February 1960 . In his report, Dr. Reyes said, in part that the accused "is one who is prone to the extent of feigning or pretending to be physically weak by all means to justify his failure to appear in court in a previously set date", and recommended that the accused be placed in a suitable institution under a competent government neurologist for observation and examination.

On 27 February 1960 , accused again failed to appear for arraignment, and his counsel asked for a postponement of the arraignment, claiming<sup>1</sup> that the accused had a nervous breakdown. In view thereof, the court a quo forthwith issued an order—

"\* \* \* that herein accused Frederick G. Weber be confined in the National Mental Hospital for examination and observation as to his mental state to determine whether or not he is in a condition to appear for arraignment in this case. Should said accused fail to submit himself for confinement in the National Mental Hospital within one (1) week after receipt of copy of this order, let the corresponding warrant for the arrest of said accused

issued forthwith in order that he may be arraigned."

In the meantime, on 10 March 1960, accused, through counsel, filed a motion praying<sup>1</sup> for a one-year postponement of the trial of his case, which motion was accompanied by sworn affidavits of four doctors certifying as to the alleged weak physical state or, condition of the accused. The lower court denied the one-year motion for postponement, in its order dated 26 March 1960 :

"\* \* \* Considering that the defendant has not yet been arraigned so that the issue in this case is not yet joined, the defendant's motion is premature.

It appearing that the defendant had not complied with the order of this Court dated February 27, 1960 ordering said defendant to be confined for examination and observation as to his mental state in the National Mental Hospital, the Court hereby orders that the corresponding warrant for the arrest of the defendant for failure to appear for arraignment issue forthwith. The bond filed for the provisional release of the defendant is hereby declared forfeited in favor of the government. The bondsmen of the defendant are hereby given a, period of thirty (30) days within which to produce the person of said defendant and show cause why judgment in the amount of their bond should not be finally entered against them." (Italic supplied)

The bondsmen, Fieldmen's Insurance Company, Inc., filed a "Motion for Extension of Time to Produce the Accused", dated 2 May 1960, and the trial court, on 6 May 1960 , granted the bondsmen up to 28 May 1960 to produce the body of the accused, with the warning, however, that it would be the last extension. Since appellant corporation failed to produce the body of the accused for arraignment on 28 May 1960 , the court a quo, on 23 June 1960 , ordered the issuance of the corresponding writ for the execution of the total amount of the bond. On 14 July 1960, appellant-bondsmen, in a "Motion for Partial Execution of Bond", pleaded that its liability be reduced to 10 % of the amount on the ground that the accused was seriously ill. The said motion was not, however, accompanied by a sworn medical certificate. The lower court held in abeyance the consideration of this last motion for partial execution, and at the same time ordered again the Chief Medico-Legal Officer of the National Bureau of Investigation to submit another report, in its order dated 26 July 1960 . On the following day, however, the court a quo set aside its order of 26 July 1960 , thereby denying the motion for partial execution of the bond. In view of the importance of this last order of the lower court of 27 July 1960 , the same is hereby quoted in toto:

"This Court has issued an order dated July 26, 1960 ordering the Chief Medical-Legal Officer of the NBI to examine the herein accused for the purpose of determining whether or not said accused is really seriously ill as he claims and holding<sup>1</sup> in abeyance the resolution of the motion dated July 14, 1960 filed by the accused's bondsmen, Fieldman's Insurance Co., Inc., for the partial execution of the accused's bailbond until the report of the Chief Medico-Legal Officer of the NBI is submitted to this Court. However, on examining the records of this case, the Court has found out that the Chief Medico-Legal Officer of the NBI, upon order of this Court dated February 8, 1960, had already physically examined the accused and had submitted his report, dated February 15, 1960, wherein the said Chief Medico-Legal Officer had found out that the accused "is one who is prone to the extent of feigning or pretending to be physically weak by all means to justify his failure to appear in court". The report recommended that the accused be placed in a suitable institution and under a government competent neurologist for a sufficient time for a more thorough examination and observation of his mental state. In view of this recommendation and, in view of the accused's persistent claim that he is ill and his continued failure to appear for arraignment, the court issued an order on February 27, 1960 directing that the accused submit himself, within one week from receipt of copy of said order, to the National Mental Hospital for observation and examination as to his mental state to determine whether or not he is in a condition to appear for arraignment but the accused ignored the aforesaid order and never submitted himself for examination at the National Mental Hospital even up to the present time. He not only defied the court's order but consistently failed to appear for arraignment thereby resulting in the issuance of the order of March 26,

1960 directing for the arrest of the accused and the confiscation of his bailbond. The accused's bondsmen was unable to produce the person of the accused despite an extension of time expiring on May 28, 1960 within which to produce the accused, for which reason, the Court on June 23, 1960 issued an order executing the accused's bailbond. The bondsmen now asks for the reduction of its liability on its bond to 10% of the amount thereof but the Court finds no justification for such reduction.

Wherefore, the Court hereby sets aside its order of July 26, 1960 , and denies, as it hereby denies, the motion for partial execution filed by the accused's bondsmen.

Let a copy of this order be furnished the Chief, Medical Legal Officer of the NBI who is hereby ordered not to proceed anymore with the examination of the accused."

It is from this last order that the bondsmen appealed.

In view of the damaging report of Dr. Rosalino V. Reyes of the NBI, it was incumbent upon the bondsmen to show to the complete satisfaction of the court that the accused was seriously ill. No expert testimony whatsoever was offered to convince the court that Frederick G. Weber was not pretending to be sick. The bondsmen could have presented easily any of the four doctors to testify as to his alleged malady, or it could have requested the court to see for itself his real condition. Appellant could likewise have surrendered Weber any time. In short, the bonding company did not take any steps to protect its interest. It did not exert any effort to show its good faith in endeavoring to comply with the orders of the court. Mere allegation that the accused is seriously ill is not sufficient. In fact, there are strong grounds to suspect that the accused was purposely delaying the trial of his case of which appellant may be chargeable, at least, with constructive knowledge.

However, no permanent injury to public interest appear to have been caused by the appellant's default, for our examination of the records of the Court of First Instance of Manila shows that the accused Weber has been subsequently arraigned and tried. We are, therefore, of the opinion that the bondsman is entitled to a mitigation of liability (*Peo. vs. Bustamante*, G. R. No. L-13665, 24 Sept. 1959 ), although not to the ten per centum prayed for, which would be irrisory and will stimulate, rather than deter, bondsmen to hinder speedy trials and prompt dispatch of cases. A reduction of the forfeiture to P1,000.00 would serve the interests of justice in this regard.

Wherefore, the order appealed from is modified, and the forfeiture reduced to P1,000.00, to be paid by the appellant-bondsmen within five (5) days from finality of this decision. Without costs in this instance.

Parenthetically, the Court notes the conspicuous failure of the Office of the Solicitor General to file the government's brief notwithstanding six extensions totalling 85 days granted by the Court of Appeals, aside from the reglementary 30 days provided for in the Rules of Court. In the interest of public service, let a copy of this decision be furnished the Secretary of Justice for whatever remedial measure he may deem proper to take. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador , Concepcion , Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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