

**AURELIA CONDE, PETITIONER, VS. PABLO RIVERA, ACTING
PROVINCIAL FISCAL OF TAYABAS, AND FEDERICO M. UNSON,
JUSTICE OF THE PEACE OF LUCENA, TAYABAS, RESPONDENTS.**

G.R. No. 21741. January 25, 1924

Ponente: MALCOLM, J.

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MALCOLM, J.:

Aurelia Conde, formerly a municipal midwife in Lucena, Tayabas, has been forced to respond to no less than five informations for various crimes and misdemeanors, has appeared with her witnesses and counsel at hearings no less than on eight different occasions only to see the cause postponed, has twice been required to come to the Supreme Court for protection, and now, after the passage of more than one year from the time when the first information was filed, seems as far away from a definite resolution of her troubles as she was when originally charged.

Philippine organic and statutory law expressly guarantee that in all criminal prosecutions the accused shall enjoy the right to have a speedy trial. Aurelia Conde, like all other accused persons, has a right to a speedy trial in order that if innocent she may go free, and she has been deprived of that right in defiance of law. Dismissed from her humble position, and compelled to dance attendance on courts while investigations and trials are arbitrarily postponed without her consent, is palpably and openly unjust to her and a detriment to the public. By the use of reasonable diligence, the prosecution could have settled upon the appropriate information, could have attended to the formal preliminary examination, and could have prepared the case for a trial free from vexatious, capricious, and oppressive delays.

Once before, as intimated, the petitioner had to come to us for redress of her grievances. We thought then we had pointed out the way for the parties. But it seems not. Once again therefore and finally, we hope, we propose to do all in our power to assist this poor woman to obtain justice. On the one hand has been the petitioner, of humble station, without resources, but fortunately assisted by a persistent lawyer, while on the other hand has been the Government of the Philippine Islands which should be the last to set an example of delay and oppression in the administration of justice. The Court is thus under a moral and legal obligation to see that these proceedings come to an end and that the accused is discharged from the custody of the law.

We lay down the legal proposition that, where a prosecuting officer, without good cause, secures postponements of the trial of a defendant against his protest beyond a reasonable period of time, as in this instance for more than a year, the accused is entitled to relief by a proceeding in mandamus to compel a dismissal of the information, or if he be restrained of his liberty, by habeas corpus to obtain his freedom. (16 C. J., 439 et seq.; In the matter of Ford [1911], 160 Cal., 334; U. S. vs. Fox [1880], 3 Montana, 512. See further our previous decision in Conde vs. Judge of First Instance, Fourteenth Judicial District, and the Provincial Fiscal of Tayabas, No. 21236.1

The writ prayed for shall issue and the Provincial Fiscal of Tayabas shall abstain from further attempts to prosecute the accused pursuant to informations growing out of the facts set forth in previous informations, and the

charges now pending before the justice of the peace of Lucena, Tayabas, are ordered dismissed, with costs against the respondent fiscal. We append to our order the observation that, without doubt, the Attorney-General, being fully cognizant of the facts of record, will take such administrative action as to him seems proper to the end that incidents of this character may not recur. So ordered.

Araullo, C. J., Johnson, Street, 'Avancena, Ostrand, Johns, and Romualdez, JJ., concur.

Writ granted.

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