

DY SY, PETITIONER AND APPELLANT, VS. THE COLLECTOR OF CUSTOMS OF DAVAO, RESPONDENT AND APPELLEE.

G. R. No. 35320. July 24, 1931

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

This is an appeal taken by the petitioner for a writ of habeas corpus, denied by the Court of First Instance of Davao.

The appeal is based on the ground that the denial of the petition is contrary to the law and the evidence.

The appellant contends that he is entitled to remain in the Philippines by virtue of the registry certificate which he has adduced as Exhibit D. But this registry certificate is only equivalent to the present cedula certificate, and was issued to every resident in the country, not to Chinese alone (Vide circular No. 12 issued on December 12, 1899, by the Office of the Military Governor of the United States in the Philippines). The Military Governor also issued circular No. 6 of May 30, 1899, which contained circular No. 13 of the Bureau of Customs and Insular Affairs, dated in Washington, April 14, 1899, reading as follows:

"The following is published for the information and guidance of all concerned:

"The laws and regulations governing immigration to the United States are hereby declared to be in effect in the territory under government by the military force of the United States, and collector of customs are directed to enforce said laws and regulations until the establishment of immigration stations in said territory. All money collected under this order must be deposited and accounted for as prescribed for customs collections.

"G. D. MEIKLEJOHN

"Acting Secretary of War"

The registry certificate mentioned above, Exhibit D, was issued not by the Collector of Customs, but by the Collector of Internal Revenue of Manila, and at that time there was already a Collector of Customs appointed by the Military Government in and for this city.

Moreover, the matter now in question has already been finally decided by a tribunal, and is therefore *res judicata*, inasmuch as the appellant has already been denied the right to remain in the country on the ground that the registry certificate Exhibit D was not sufficient to grant him that right, and, before filing this action, he had already petitioned for a writ of habeas corpus, which was denied by a competent court on October 6, 1928, and which decision became final upon the dismissal of the appeal taken therefrom by the appellant herein.

The judgment appealed from is hereby affirmed, with costs against the appellant. So ordered.

Avanceña, C. J., Street, Malcolm, Villamor, Villa-Real, and Imperial, JJ., concur.

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