

TAN CONG, PETITIONER AND APPELLANT, VS. M. L. STEWART, ACTING DIRECTOR OF PRISONS, RESPONDENT AND APPELLEE.

G.R. No. 4073. September 12, 1908

Ponente: CARSON, J.

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CARSON, J.:

This is an appeal from the decision of a single justice of this court in habeas corpus proceedings, discharging the petitioner who was detained "by reason of civil proceedings, the proceedings upon appeal in such cases are prescribed in Act No. 654, in section 1 whereof it is provided that—

"* * *If the order of the court or judge be that the prisoner should be released, the appeal shall be taken in the name of the officer or person detaining him. But if the detention is by reason of civil proceedings, the party in interest or the person who caused the imprisonment or detention shall be entitled to: control the appeal in the case last referred to. * * *"

The appeal in this case was not taken in the name of the officer or person detaining the petitioner, but appears rather to have been taken in the name of the person who caused the imprisonment or detention, and the appeal should therefore be dismissed, with the costs de oficio. So ordered.

Arellano, C. J., Torres, Mapa, Willard, and Tracey JJ., concur.

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