

PERFECTO CORTIGUERA, PETITIONER AND APPELLEE, VS. THE DIRECTOR OF PRISONS, RESPONDENT AND APPELLANT.*G. R. No. 40849. February 14, 1934*

Ponente: DIAZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-40849/>**DIAZ, J.:**

This is an appeal taken by the Director of Prisons, through the Solicitor-General, from an order of the Court of First Instance of Manila, dated November 14, 1933, ordering the immediate release of the herein petitioner, who some days prior thereto had filed a petition for a writ of habeas corpus, alleging that, notwithstanding the fact that he had already overserved the penalty of reclusion temporal imposed upon him by the competent court for the crime of homicide, the said respondent still continued to deprive him of his liberty.

The record shows that the petitioner-appellee was convicted of the crime of homicide in the Court of First Instance of Batangas, the judgment against him was affirmed by this court on appeal. Inasmuch as the mitigating circumstance of lack of instruction was taken into consideration in his favor, he was sentenced only to twelve years one day of reclusion temporal, which is the minimum of the minimum degree of the penalty prescribed by the law for the crime of homicide, with the corresponding accessory penalties, to pay an indemnity of P1,000 to the heirs of his victim. He began serving his sentence on January 4, 1925. On November 14, 1933, the date on which the order appealed from was issued, it appeared that he had scarcely served eleven years, three months sixteen days of his aforesaid sentence of twelve years one day of reclusion temporal, after having been credited with all the allowances for good conduct to which he was entitled under the provisions of Acts Nos. 1533 2557 of article 97 of the Revised Penal Code.

The petitioner, in order to induce the lower court to order his release, alleged in his petition for a writ of habeas corpus that inasmuch as the mitigating circumstance of "voluntary surrender to the authorities" newly established by the Revised Penal Code, which only took effect after his prosecution was present in the commission of the crime, for the reason that he, in fact, surrendered himself to the lieutenant of his barrio immediately after he had committed his aforesaid crime, under the law said new mitigating circumstance should also be taken into consideration in his favor on the ground that articles 22 366 of said Code prescribe that the provisions thereof shall have a retroactive effect in so far as they favor the person guilty of a felony, for that reason the next lower penalty should now be imposed upon him, that is, prision mayor, in accordance with rule 5 of article 64 of said Revised Penal Code, which corresponds to rule 5 of article 81 of the old Code. The trial court, admitting the existence of the alleged new mitigating circumstance, finding that the petitioner had overserved his sentence, issued the order now under consideration.

While the respondent was perfecting his appeal against the order in question, the Chief Executive of the Philippine Islands granted the petitioner a conditional pardon which the latter accepted, in consequence thereof he was immediately released by the respondent on November 20, 1933.

At first glance, inasmuch as the petitioner is already at liberty, it certainly seems unnecessary to pass upon the

respondent's appeal for the reason that the question raised by him has now become more or less academic. However, the Solicitor-General contends that it is not so if the petitioner's release ordered by the trial court proves to be unfounded.

Upon an examination of the record a careful study of the question involved, this court is convinced that the same is not purely an academic question if we bear in mind the consequences which would result from the appealed order, should the condition of the pardon granted to the petitioner be ever violated. There is no question that the petitioner owes his liberty to his conditional pardon. The condition which he bound himself to comply with was that he shall not again commit any violation of the penal laws of the Philippine Isls. This condition would prove illusory there would be no means of exacting compliance therewith, in spite of the sanction provided by article 159 of the Revised Penal Code, if the appealed order were enforced sustained, notwithstanding the falsity of the petitioner's contention that he voluntarily surrendered himself to the lieutenant of his barrio after the commission of the crime. Therefore it is but proper to consider whether or not the order in question is supported by the evidence in accordance with law.

The only evidence presented by the petitioner to show that he really surrendered himself to the lieutenant of his barrio is his own sworn statement to that effect in his application, based on an alleged plain copy of a judgment rendered by this court in case G. R. No. 22384,[1] entitled "The People of the Philippine Islands vs. Perfecto Cortiguera" promulgated on October 23, 1924, which copy was attached to his aforesaid application. The pertinent part of said judgment, according to the alleged plain copy thereof, reads as follows:

"* * * the accused, finding himself in such danger, drew a knife from his pocket (saco de su bolsillo un cortaplumas) clinched with the deceased, with the result that the latter was wounded; whereupon said accused presented himself to the barrio lieutenant Gavino Austria in order to report the incident."

Attention is invited to the fact that the word "bolsillo" is misspelled, which shows that the alleged copy is not a true correct copy. It should be noted furthermore that, judging from the seal appearing thereon, the said copy did not come from the court of Batangas but from the Bureau of Prisons.

However, Exhibit 1, which is a certified copy of the original decision rendered in the aforesaid case (G. R. No. 22384, promulgated on October 23, 1924), shows that, of the above cited part of said decision, only the following portion appears therein, that the rest is a fraudulent or false addition:

"* * * that the accused, finding himself in such danger, drew a knife from his pocket (saco de su bolsillo un cortaplumas) clinched with the deceased, with the result that the latter was wounded."

There is no question that the lower court erred in giving credit to the petitioner's allegation that, according to the decision of this court, he had surrendered himself to the barrio lieutenant Gavino Austria, because it lost sight of the fact that the allegation in question was based on an unauthentic apocryphal copy of said decision that said copy was completely discredited by Exhibit 1, which is a certified copy of the original decision. A statement under oath, relative to a fact the knowledge of which is based merely on a document, does not have the effect of proving that such fact has ever taken place, if it subsequently appears that said document is false. This is particularly true in matters relating to habeas corpus, as the one now under consideration, inasmuch as in cases of like nature, this court has constantly held that only those circumstances stated in the decisions of the courts or which may logically be inferred therefrom may be taken into consideration. (Iguara vs. Director of Prisons, G. R. No. 38472, decided by resolution of November 12, 1932; Avestro vs. Director of Prisons, G. R. No. 40376, decided by resolution of September 21, 1933; Lacson vs. Director of Prisons, G. R. No. 37947, decided by resolution of October 19, 1932.)

Wherefore, the appealed order is hereby declared null void set aside on the ground that it is based on a false fact,

it is ordered that the record of the case be remanded to the court a quo, through the Solicitor-General, in order that after the corresponding investigation, he may order the proper official to take the necessary action against the person responsible for the falsification use during the trial of the apocryphal copy of the aforesaid decision of this court, without special pronouncement as to costs. So ordered.

Street, Abad Santos, Imperial, Butte, JJ., concur.

[1] Not reported.

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.