

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
DEOGRACIAS CARIAGA, DEFENDANT AND APPELLANT.***G. R. No. 45354. June 29, 1937*

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-45354/>**CONCEPCION, J.:**

This is an appeal taken by the accused from the judgment of the Court of First Instance of Manila, sentencing him for the crime of theft to one month and one day of arresto mayor, to indemnify the offended party in the sum of P1.20, with the corresponding subsidiary imprisonment in case of insolvency, and to the additional penalty of two years, four months and one day of prison correctional, the accused being a habitual delinquent, -with costs.

The appellant assigns the following alleged errors as committed by the trial court, to wit: (1) having found him guilty of the crime with which he had been charged; (2) having sentenced him to the above-stated penalty, and (3) not having dismissed the case.

The first assignment of alleged error is based upon the fact that the appealed judgment states: "Upon arraignment, he entered a plea of guilty." The appellant, without denying the fact in itself, contends that the record does not show when, where or how he was arraigned. According to him, neither does it appear of record that he has waived the right to be arraigned. However, this court is of the opinion that the statement in the judgment that the accused had been arraigned and that he pleaded guilty is sufficient compliance with the provisions of sections 16 and 25 of General Orders, No. 58, inasmuch as it may be presumed from said statement that the law has been obeyed by causing the accused to appear before the court, and it is shown thereby that he has really been arraigned, his plea entered personally being that of guilty. All this is not a mere conclusion as the appellant gratuitously contends, because this court is of the opinion that generally a conclusion is the averment or denial of a fact deduced from some evidence, or the averment or denial of a point of law derived from a law or principle of law. In this case, however, the court's averment in the judgment that the accused was arraigned and that he pleaded guilty, is not a deduction or consequence of an evidence, legal provision or principle of law, but a positive statement of facts.

What difference would it make if the court, after hearing the accused plead guilty upon arraignment, stated such facts in the judgment rendered immediately, in open court and in the presence of said accused, or caused said arraignment and plea of the accused to be stated in the minutes? Absolutely none. What is important and essential is that the accused be arraigned and that he enter his plea. It is immaterial how or in what manner such facts are stated. For legal purposes, it makes no difference whether they appear in the minutes or in the judgment itself.

The other error assigned by the appellant refers to alleged lack of compliance with the provisions of section 15 of General Orders, No. 58, inasmuch as, according to him, the record fails to show that he was given the opportunity to appear and defend himself by counsel. The presumption, however, is that the law has been obeyed. Furthermore, the fact that the record fails to disclose affirmatively that the judge advised the accused of his right to have counsel does not constitute a reversible error (*People vs. Lim Tiam*, G. R. No. 44936, October 31, 1936; *People vs. Del Rosario*, G. R. No. 44239, 62 Phil., 975).

Although the appellant has not raised any question relative to his habitual delinquency, which has been taken into consideration by the court in imposing upon him an additional penalty, this court is of the opinion, in justice to him that said circumstance should not be taken into consideration in this case on the ground that the allegations of the complaint that the accused had already been previously convicted twice of the same crime of theft, to wit: on October 6, 1933, one month and one day, and on November 3, 1933, one month and one day, are insufficient, in accordance with the doctrine laid down in the case of *People vs. Venus* ([1936], 63 Phil., 435), and in other subsequent cases decided by this court. However, as the aggravating circumstance of recidivism, compensated by the mitigating circumstance of plea of guilty, should be taken into consideration, and taking into account the fact that the value of the thing stolen was P1.20, modifying the appealed judgment, and pursuant to the provisions of article 309, subsection 6, of the Revised Penal Code, the accused is sentenced to the medium period of arresto mayor in its minimum and medium periods, that is, two months and one day of arresto mayor, to indemnify the offended party in the sum of P1.20, with the corresponding subsidiary imprisonment in case of insolvency, and to pay the costs. So ordered.

Avancena, C. J., Villa-Real, Abad Santos, Imperial, Diaz, and Laurel, JJ., concur.

Judgment modified.

RESOLUTION ON MOTION FOR RECONSIDERATION

July 20, 1937

CONCEPCION, J.:

There is before this court a motion filed by the accused praying for the reconsideration of the judgment rendered in this appeal.

The appealed judgment begins as follows: "The defendant is charged with the crime of theft. Upon arraignment he entered a plea of guilty." In the brief filed by him, the accused contended that "the record tells nothing when, where or how the arraignment was made." Now the appellant, in his motion, goes farther and avers that the above-quoted statement of the judge "not only is not proven, but is false." The motion is not supported by any oath and to verify the sufficiently serious averment made by the appellant, this court has re-examined the record of this case and found:

- 1. That at the foot of the information filed in the municipal court, which is the same used in the Court of First Instance, there appears the printed word "Plea" followed by the words "not guilty" written in ink, that is, the plea entered by the accused upon arraignment in the municipal court. The word "guilty" in red pencil appears written over the words "not guilty." This note or memorandum must have been made by Judge Sabino Padilla's clerk immediately after the appellant had been arraigned in the Court of First Instance of Manila. This court's opinion is corroborated by the fact that on the cover of the record of this case, the word "Oct." appears written after the printed words "Date of pleading" and is followed by numerals "20/36" in red pencil, representing the date of the appealed judgment. Furthermore:

- On page 18 of the record, there is a copy of the letter addressed to the clerk of this court by J. Recueneo, deputy clerk of the branch presided over by Judge Padilla, stating: "* * * Said defendant (the herein appellant) is now confined in jail and pleaded guilty upon being arraigned of the complaint." (Underscoring ours.) Therefore, the averment to the effect that the above-cited statement made by the judge in the judgment is false, is entirely uncalled for.

- The appellant absolutely discredits said statement of the judge and is searching the record for evidence in support thereof, without taking into consideration the fact that under section 18 of General Orders, No. 58, "The arraignment must be made by the court or clerk * * *." If the judge may arraign the accused, it necessarily follows that when said judge states in the judgment that "upon arraignment he entered the plea of guilty", he had arraigned the appellant. The judge may state such facts in the judgment and his statement on said matter requires no evidence in order to be taken into account as a true fact.

- The statement of the judge relative to arraignment has so much weight that in case of discrepancy with the minutes of the clerk of court, the word of the judge prevails (U. S. vs. Dineros, 18 Phil., 566).

This court considers it very plausible for an attorney for the defense to show much zeal and spare no effort to save the accused, whom he represents, from conviction, but everything has its limits. The attorney cannot disregard the record of the case and ignore the law in order to make so imprudent an averment as he has done in the present case. Such behavior provokes in the court a reaction adverse to praise and applause, deserving at least an admonition.

The motion is denied. So ordered.

Avancena, C. J., Villa-Real, Abad Santos, Imperial, and Diaz, JJ., concur.

CONCURRING

LAUREL, J.,

I concur in the rejection of the motion for reconsideration and no more. On reading the motion I do not think that a situation has arisen calling for admonition to counsel de oficio in this case.

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.