

**ARTHUR F. YAMBERT, PETITIONER AND APPELLEE, VS. J. MCMICKING, SHERIFF OF THE CITY OF MANILA, RESPONDENT AND APPELLANT.**

*G.R. No. 4552. February 05, 1908*

Ponente: WILLARD, J.

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**WILLARD, J.:**

The appellee, Yambert, a public official, was, with one Manion, tried by Judge Araullo in the Court of First Instance of the city of Manila for the falsification of a public document, and was convicted of a violation of article 568 of the Penal Code, relating to reckless negligence. The judgment of conviction was rendered on the 15th day of January, 1908. On the 27th of January the appellee applied to Judge Crossfield, another judge of the same Court of First Instance of the city of Manila, for a writ of habeas corpus. The writ was issued and a hearing had thereon.

No question was or is made but that the offense charged against Yambert and Manion was within the jurisdiction of the Court of First Instance of Manila, and that Judge Araullo was authorized to try it.

In the opinion of Judge Crossfield the facts stated in the judgment of Judge Araullo did not justify the sentence imposed upon the appellee. He accordingly held that that judgment was void and released the petitioner from custody. This order was made on the 29th day of January. From that order the sheriff of Manila has appealed.

According to repeated decisions of this court, based upon the provisions of section 528 of the Code of Civil Procedure, Judge Crossfield, by means of the special proceeding in habeas corpus, had no authority to revise any errors, either of fact or of law, which he supposed had been committed by Judge Araullo in the criminal prosecution against Yambert and Manion. (In re Prautch, 1 Phil. Rep., 132; Banayo vs. President of San Pablo, 2 Phil. Rep., 413; Gutierrez vs. Peterson, 3 Phil. Rep., 276; Carrington vs. Peterson, 4 Phil. Rep., 134; Andres vs. Wolfe, 5 Phil. Rep., 60.)

Moreover, the judge "who made the order appealed from disregarded the law in force in these Islands, according to which no judge should, by a writ of habeas corpus, interfere with a prisoner who is being tried by another judge. (Collins vs. Wolfe, 4 Phil. Rep., 534.) In this case the writ of habeas corpus was issued and decided before the time to appeal from the judgment of Judge Araullo had expired.

The order appealed from is reversed, with costs, and it is ordered that the appellee be remanded to the custody of the appellant, the sheriff of the city of Manila. Let judgment be entered at once, and the record then returned to the Court of First Instance of Manila for the execution of the judgment of this court. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, Carson, and Tracey, JJ., concur.

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