

DAVID FRANK, PETITIONER AND APPELLEE, VS. GEO. N. WOLFE, DIRECTOR OF PRISONS, RESPONDENT AND APPELLANT.

G.R. No. 4772. October 21, 1908

Ponente: CARSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-4772/>

CARSON, J.:

This is an appeal from an order of a single justice of this court in habeas corpus proceedings, discharging from custody the petitioner, David Frank, on the ground that he was illegally detained and restrained of his liberty, in Bilibid Prison, by the respondent, Geo. N. Wolfe, Director of Prisons.

The petitioner alleges that at the time when he made application for the writ he had served the full term of the commuted sentence of imprisonment, by virtue of which the respondent claims the right to detain him, less one hundred and twenty days "good conduct time" earned under the provisions of Act No. 1533, amended by Act No. 1559; and the only question discussed upon this appeal is whether; in estimating the time during which the petitioner should be detained by virtue of a sentence of imprisonment, the legality of which is not questioned, and which was commuted to two years imprisonment, he is entitled to the benefits of the provisions of Act No. 1533, an Act providing for the diminution of sentences imposed upon prisoners convicted of any offense and sentenced for a definite term of more than thirty days and less than life in consideration of good conduct and diligence.

The following is a copy, of the warrant commuting the sentence of imprisonment imposed upon the petitioner:

"THE GOVERNMENT OF THE PHILIPPINE ISLANDS,

"EXECUTIVE BUREAU,

"Manila, October 20, 1906.

"The petitioner, David Frank, an East Indian and a British subject, was employed as detective in the division of information, Bureau of Constabulary, from January 6, 1904, to June 30, 1905. He was convicted on four charges of *maltrato de obra* by the Court of First Instance of Cavite, and sentenced on September 11, 1905, to imprisonment for five years, and to pay a fine of 500 and the costs of the proceedings, which sentence was reduced by the Supreme Court on September 8, 1906, to imprisonment for four years and to pay a fine of 500 and costs of the proceedings.

"The evidence shows that in September, 1904, in endeavoring to secure confessions from five prisoners, charged with furnishing food to bandits, he pounded and kicked the men and belabored them with a full cartridge belt. On June 29, 1905, he struck prisoners with his fist and a club, by which means he succeeded in learning the hiding place of a revolver and some personal property which had been stolen from him. The Government is and for a long time has been endeavoring to suppress such acts as these, and in view of the offense it is doubtful if the sentence imposed upon the prisoner is excessive. However, on account of his previous good record, his faithful services to the Government, and the recommendations of Col. H. H. Bandholtz, District Director of Constabulary; Capt. Louis J. Van Schaick, U. S. A., provincial governor of Cavite; Commander G. H. Peters, U. S. N., commandant, U. S. naval station, Cavite; Commander Fred W. Coffin, U. S. N., captain of the yard, U. S. naval station, Cavite; Lieutenant-Commander J. F. Luby, U. S. N.,

equipment officer, U. S. naval station, Cavite, and numerous other officers of the United States Navy, stationed at Cavite, and by authority of the President of the United States, the fine of 500 and costs of the proceedings are hereby remitted, and the sentence of imprisonment is hereby commuted to two years, at the expiration of which period David Frank will be released from confinement.

"JAMES F. SMITH, Governor-General."

The Hon. Florentino Torres, associate justice of this court, who issued the order discharging the petitioner from custody, was of opinion that the accused was entitled to reduce the period of two years to which his sentence of imprisonment was thus commuted, in accordance with the provisions of section 1 of Act No. 1533, which is as follows:

"Each convict who is sentenced for a definite term of more than thirty days and less than life shall be entitled to diminish the period of his sentence under the following rules and regulations:

"(a) For each full month, commencing with the first day of his arrival at a provincial or Insular jail or prison, during which he has not been guilty of a violation of discipline or any of the rules of the prison, and has labored with diligence and fidelity upon all such tasks as have been assigned to him, he shall be allowed a deduction of five days from the period of his sentence.

"(b) After he has served two full years of a sentence, the deduction shall be eight days for each month thereafter.

"(c) After he has served five full years of a sentence, the deduction shall be ten days for each month thereafter.

"(d) After he has served ten full years of his sentence, the deduction from his term shall be fifteen days for each month thereafter."

Counsel for appellant contends that the language used in the warrant granting the commutation expressly denies to the petitioner the right to have the benefit of the provisions of Act No. 1533, and conditions the grant upon his serving the full term of two years to which his sentence was commuted. Counsel bases this contention on the terms of the warrant itself wherein, the commuting authority, after commuting the term of petitioner's imprisonment to two years, adds the words, "at the expiration of which period he shall be released from confinement."

The contention of counsel for appellant is not well founded. We do not question the power of the Chief Executive of these Islands, by authority of the President of the United States, to grant commutative or partial pardons and to impose upon a grant of a commutative or partial pardon such conditions as he may see fit; or that, when a commutative or partial pardon is granted, coupled with a condition, the grantee, in order to avail himself of the commutation, is bound to accept and to fulfill the terms of the condition, provided it is not impossible of performance, and does not involve the doing of an immoral or illegal act. But to sustain the contention of counsel for the appellant, the language of the grant of commutation to the petitioner must be construed so as to read into it, either a condition that the grantee would not claim the benefits of the provisions of Act No. 1533, or a provision that in serving the term to which his sentence was commuted the grantee would not be entitled to benefit by the provisions of that Act. Examining the language used in the grant, it seems to fall far short of importing such a condition or provision. It contains nothing more than is found either expressly or impliedly in every order remitting a convict for confinement by virtue of a final judgment and sentence of a court. Expressly or impliedly, such orders invariably direct that the convict be detained for the period to which he was sentenced, and that, at the expiration of that period, he is to be released from confinement.

There can be no doubt that Act No. 1533, when the conditions set out therein have been complied with, modifies

and diminishes the period prescribed in all such orders, in accordance with the provisions and terms of the Act; and in like manner, the commuted sentence of imprisonment prescribed by the commuting authority, is, in our opinion, subject to like modifications by virtue of the provisions of the Act, which by its terms are applicable to all convicts who are "sentenced for a definite term of more than thirty days and less than life."

We are told that, as a matter of fact, it was the intention of the Chief Executive in commuting the sentence of the petitioner to fix a definite term of imprisonment all of which the petitioner would be required to serve, without the right to diminish such term by good conduct or diligence; and that, when called upon to construe the grant, this is the construction which has been placed upon it by the executive officials of the Government with his express approval. It is to be observed, however, that the terms of a grant of a pardon or commutation, absolute or unconditional, are irrevocable once the grant has become operative, and that thereafter it is not within the power of the pardoning or commuting authority to withdraw or to modify the grant adversely to the grantee (*U. S. vs. Cullerton*, 8 Biss. U. S., 166; *Lee vs. Murphy*, 22 Grat Va., 789); and that the meaning of the terms of the instrument is to be ascertained from an examination of the instrument itself, and not from the construction placed thereon by one or other of the parties thereto.

It is a principle universally recognized that all such grants are to be construed favorably to the grantee, and strictly as to the grantor, not only because they partake of the nature of a deed, and the general rule of interpretation that the terms of a written instrument evidencing a deed are to be construed adversely to the maker applies with especial force to grants of pardon and commutations, wherein the grantor executes the instrument with little or no right on the part of the grantee to intervene in its execution or dictate its terms> but because of the very nature of the grant itself as an act of grace and clemency. (Bishop *Crim. Law*, sec. 757, and cases cited: *Osborn vs. U. S.*, 91 U. S., 474; *Lee vs. Murphy*, 22 Grat. Va., 789.) Applying this rule we think that, if it had been the intention of the commuting authority to deprive the prisoner of the beneficent provisions of Act No. 1533, language should have been used and would have been used which would leave no room for doubt as to its meaning, and would make clearly manifest the object intended.

The provisions of the Act are in accord with approved principles of penology, adopted by most modern states, and it is evident from the terms of the Act itself that it was the intention of the lawmaker that all convicts serving sentences for more than thirty days and less than life should be entitled to the benefits conferred thereby. We would be loath, therefore, to construe doubtful language in a grant of commutation so as to defeat the object of the statute and thwart the wise purpose of the lawmaker; and unless the language of a grant of a pardon or commutation were so clear and explicit as to leave no room for doubt, we would not feel justified in construing it so as to impute to the Chief Executive the purpose so to do, unless some sound reason were suggested as a basis for his action in a particular case.

The Act has a double purpose: it is intended to encourage the convict in an effort to reform, and to induce him to acquire habits of industry and good conduct which will not be forgotten after he has served his sentence; and it is intended as an aid to discipline within the various jails and penitentiaries; thus the dictates of humanity and the interests of the public service would seem to negative a doubtful construction of a grant of a commutation which would tend to impair the usefulness of the Act as a means to the end which it was sought to secure by its enactment, unless, as we have stated before, some sound reason can be suggested for an exception in a particular case. No reason has been suggested which would appear to be sufficient to induce the Chief Executive to exclude from the beneficial provisions of the Act prisoners who are able to satisfy him that, because of the special circumstances of their individual cases, they are entitled to the exercise of executive favor, especially as such exceptions must inevitably tend to create two classes of prisoners in the various jails and penitentiaries throughout the Islands—one inspired to good behavior and diligence by the salutary provisions of Act No. 1533, and the other

to whom no such inducements are held out, and whose conduct, provided they commit no offense defined and penalized in the code, can have no effect on the term of their detention.

One of the reasons suggested by counsel for respondent is that, in granting the commutation, the good conduct of the prisoner, as shown by the prison record, is usually taken into consideration as one of the elements on which the commutation is predicated. It is sufficient answer to this suggestion to point out that the commutation in the particular case under consideration was granted in less than two months after the prisoner entered upon his term of sentence, and that he had by far the greater part of his commuted term to serve after the date of the grant of commutation; and it may be added that the public records of the Executive Bureau disclose that many, if not most of the commutations heretofore granted, have been granted long prior to the termination of the sentences as commuted.

The only other reason suggested, which might move the Chief Executive to grant commutations whereby the grantees are deprived of the benefits of Act No. 1533, is based on the unfounded presumption that, where the penalty is reduced from a long term of years to a comparatively short one, the good conduct time to which the accused would be entitled under the Act would be wholly disproportionate to the short term to which the sentence is commuted. This unfounded presumption is based on an incorrect construction of the provisions of the Act which appears to have been adopted by the officials of Bilibid Prison prior to the decision of this court on the application of Joseph J. Capurro, for a writ of habeas corpus (decided September 7, 1908[1]). Prior to that decision, convicts appear to have been given credit, upon their entrance in Bilibid, for a number of days equal to the number of days to which they would have been entitled had they served the full term of their imprisonment with good conduct, and this credit appears to have been regarded as irrevocable, except for violation of prison discipline or failure to labor diligently upon the tasks assigned. Thus a convict sentenced to a period of ten years was credited at the time of his entry in Bilibid with more than two years and a half good conduct time; so that, if the sentence were commuted to two years and a half imprisonment or less, at any time after the entry of the convict upon his term of service, he would be entitled under the improper interpretation placed upon the law to be set at liberty forthwith. As pointed out, however, in the decision cited, the convict is only entitled to good conduct time for each month actually served by him during which he has not been guilty of a violation of discipline or any of the rules of the prison, and has labored with diligence and fidelity upon all such tasks as have been assigned to him, and is not entitled to a credit of good conduct time until and unless he has actually earned it.

Examining the record in this case there would appear to be some doubt whether the good conduct time, to which the accused was entitled under the rule just laid down, was not lacking a few days of the number of days necessary to entitle him to be set at liberty at the date of the petition and order of discharge. Act No. 1533, however, gives the prisoner a right to good conduct time on account of labor performed during the period of his detention pending trial. It does not fully and affirmatively appear that the accused was in fact entitled to such good conduct time, but, as the appellant Director of Prisons makes no point in this regard upon his appeal, and as it appears that the petitioner was in detention for some time prior to his conviction, and as he alleges that he was in fact entitled to good conduct time sufficient to entitle him to discharge at the date of his petition, we think we may fairly presume that he was in fact entitled to a sufficient number of days good conduct time on account of labor performed during his detention period to cover the few days which appear to be lacking to entitle him to his discharge by virtue of good conduct time earned during the period of his detention after actually entering upon the term of his imprisonment.

The order discharging the petitioner is affirmed with the costs of the proceeding de oficio. So ordered,

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

Torres, J., did not sit in this case.

[1] Page, 241, supra.

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.