

IN THE MATTER OF THE APPLICATION FOR A WRIT OF HABEAS CORPUS IN FAVOR OF JUAN TOLEDO.

G.R. No. 5085. February 20, 1909

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MAJORITY OPINION.

The majority of the court being of opinion that the language of the instrument commuting the sentence of the applicant from twenty to six years imprisonment clearly expresses the intention of the commuting authority, in granting the commutation, to so limit the grant, that the petitioner is not entitled to the benefit thereof unless he actually serves six years' imprisonment, this period of imprisonment to terminate on February 26, 1910, thus denying to the petitioner the right to diminish his commuted sentence of imprisonment in accordance with the provisions of Act No. 1533, the application should be and is hereby denied.

Arellano, C. J., Torres, Mapa, Carson, and Willard, JJ.

MINORITY OPINION.

JOHNSON, J., concurring in the result:

From the record it appears that the petitioner herein, Juan Toledo, was sentenced by the Court of First Instance of the city of Manila on the 6th day of June, 1903, to be imprisoned for a period of twenty years. He was charged with the crime of bandolerismo. From this decision he appealed to the Supreme Court.

On the 27th day of February, 1904, the Supreme Court affirmed the decision of the lower court.[1] Later, on the 20th day of August, 1908, His Excellency, James F. Smith, Governor-General, commuted said sentence, by reducing the same to a term of imprisonment of six years "conditioned upon his good behavior for five years subsequent to his release, and further conditioned that during said period he report in person or by sworn statement, setting forth his place of residence and occupation to the Director of Constabulary and chief of police, city of Manila, and also to the provincial governor, and the senior inspector of Constabulary of the province in which he is residing; such reports to be made on the first days of January, May, and September of each year, or oftener, if required by the Governor-General. Should the conditions of this commutation be violated, the unexpired portion of his sentence will remain in full force and effect. Juan Toledo will be released from confinement upon the conditions above stated, when he shall have actually served six years' imprisonment, to wit, on February 26, 1910."

On the 5th day of December, 1908, the said Juan Toledo presented a petition in the Supreme Court praying that a writ of habeas corpus be granted him. The principal ground of said petition is that the defendant is not being given the benefit of Act No. 1533 of the Philippine Commission, which is "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." Said Act (No. 1533) provides for the diminution of sentences of prisoners for good conduct as follows:

- (a) During the first two years of imprisonment, providing that his conduct justifies it, a deduction of five days for each month, from the period of his sentence.
- (b) After he has served two full years of his sentence, the deduction shall be eight days for each month.
- (c) After he has served five full years of his sentence, the deduction shall be ten days for each month.
- (d) After he has served ten full years of his sentence, the deduction from his term shall be fifteen days for each month. The term month, as used in this Act is defined in Act No. 1559 to mean thirty days.

The pretension of the petitioner is that the Governor-General having commuted his sentence to a period of six years and he having served, allowing for good time, a period of six years, he is entitled to his liberty. The petitioner overlooks the fact that the Governor reduced the period of imprisonment to six years, but expressly fixed the date upon which period of imprisonment should expire, to wit, February 26, 1910.

There is no question raised with reference to the power of the Governor to pardon. See letter of January 3, 1903, of Elihu Root, then Secretary of War, to Hon. William H. Taft, Civil Governor of the Philippine Islands, which letter contains the following paragraph:

"The Civil Governor of the Philippine Islands is authorized to exercise the power to grant pardons, reprieves, and commutations of sentences in cases involving offenses against the laws of the Civil Government of the Philippine Islands."

Said letter also contains the following paragraphs:

"The Civil Governor in exercising said authority shall act 'by authority of the President of the United States.'

"All pardons granted by the Civil Governor shall be reported to the Secretary of War for presentation to the President."

The Governor-General having the power to pardon, reprieve, or to commute the sentence, had the power to make such pardon, reprieve, or commutation absolute or conditional.

It is contended that the Governor had no authority to fix the day upon which the term of imprisonment should expire, for the reason that he thereby prevented the applicant from securing the benefits of said Act No. 1533, or, in other words, that the Governor-General, by fixing the day for the termination of the sentence violated or set aside the provisions of said Act (No. 1533.)

In my opinion this contention is not tenable. The Governor-General; in granting a pardon such as was granted in the present case, no more violates the provisions of the law nor prevents the operation of the provisions of the law, in the present case, than he does in any case when he pardons a man, for instance, who was sentenced for life, because the law, the Spanish Penal Code, in each case fixes the penalty which must be imposed under certain facts. For example, under certain facts, criminals must be sentenced to death, and the courts have no discretion in the imposition of such penalty. No one questions the right of the Governor-General to commute the death sentence imposed, to a sentence for life or to an absolute pardon. No one hitherto has even suggested that the Governor-General, in exercising the pardoning power in this way, had attempted to set aside the law. He simply exercised a power of sovereignty confided in him.

The application for the writ of habeas corpus should be denied.

[1]Not reported.

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