

TIMOTEO GONZALEZ, PETITIONER, VS. GEORGE N. WOLFE, DIRECTOR OF PRISONS, RESPONDENT.

G.R. No. 5120. January 08, 1909

Ponente: WILLARD, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-5120/>

WILLARD, J.:

This is a petition for habeas corpus presented to this court.

It appears that the petitioner was convicted in the municipal court of the city of Manila of a violation of section 649 of the Revised Ordinances of the city relating to the destruction of or interference with electrical apparatus. He appealed to the Court of First Instance, where he was again convicted, and on the 3d day of December, 1908, sentenced to imprisonment for four months and to a fine of P75. On December 11 he attempted to appeal from this judgment, on the ground that the ordinance was unconstitutional. The court, by an order made on December 15, refused to allow the appeal. He was committed to the Prison of Bilibid, and on December 26 presented this petition for a writ of habeas corpus.

In the case of *Trinidad vs. Sweeney* (4 Phil. Rep., 531) this court said:

"As a general rule, the judgments of the Courts of First Instance are final in criminal cases appealed from courts of justices of the peace. (*United States vs. Sy Tay*, 1 Phil. Rep., 35.)

"The same rule applies to the judgments of the municipal court of the city of Manila in such cases. (*United States vs. Bian Jeng*, 1 Off. Gaz., 433.[1])

"But in cases involving the validity or constitutionality of any law, there is such an appeal by virtue of the provisions of section 43 of General Orders, No. 58."

The petitioner's appeal should have been allowed.

The case of *Miranda vs. Smith*, [2] No. 4987, decided October 22, 1908, and relied upon by the court below in making its order denying an appeal, was not a suit of mandamus but of certiorari. Moreover, in that case the only ground upon which the right to appeal was based was that the city ordinance had been repealed by a law of the Commission. We had already held in *United States vs. Sy-Tay* (1 Phil. Rep., 35), that this presented no constitutional question. Having a right to an appeal, the petitioner can compel its allowance by mandamus. (*Trinidad vs. Sweeney*, 4 Phil. Rep., 531.)

Under the circumstances thus appearing in this case, a writ of habeas corpus will not be granted.

In *re Lincoln* (202 U. S., 178), it appeared that the petitioner had been convicted in the United States District Court for the District of Nebraska of a violation of the law relating to the introduction of liquor into the Indian country. He had a right to sue out a writ of error for the review of this judgment. Instead of doing this, he allowed himself to be committed and then applied to the Supreme Court of the United States for a writ of habeas corpus, claiming that the District Court had no jurisdiction of the case. The application was denied, the court saying—

"A writ of habeas corpus is not to be made use of as a writ of error (Crossley vs. California, 168 U. S., 640; Whitney vs. Dick, 202 U. S., 132), the ordinary procedure for the correction of errors in criminal cases is by writ of error, and that method should be pursued unless there be special circumstances calling for a departure therefrom."

In *ex parte Simon* (208 U. S., 144), the Supreme Court said:

"The usual rule is that the prisoner can not anticipate the regular course of proceedings having for their end to determine whether he shall be held or released by alleging want of jurisdiction and petitioning for a habeas corpus."

In the case at bar there are no special circumstances which take it out of the rule above laid down.

Whether in any event he would be entitled to the writ upon the showing made in the petition, we do not decide. It is enough to say that he is not entitled to it until he has exhausted his remedy by appeal.

He has presented two other petitions asking for two other writs alleging two other judgments for two other violations of the same ordinance. We do not see the necessity for these petitions; one setting-forth the facts relating to all the judgments would seem to be sufficient. The petition is denied without costs. So ordered.

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

[1] 2 Phil. Rep., 179

[2] Resolution of the Supreme Court of October 21, 1908.

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.