

**IN THE MATTER OF THE PETITION FOR HABEAS CORPUS OF
CONRADO MARTIN, CONRADO MARTIN, PETITIONER, VS. GEN.
VICENTE M. EDUARDO, RESPONDENT.**

G.R. No. 62627. March 18, 1983

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

In this petition for habeas corpus, Conrado Martin prays that he be discharged from confinement.

The facts are not in dispute: Conrado Martin is incarcerated at the New Bilibid Prison (NBP) in Muntinlupa, Metro Manila, as prisoner No. 51512-P. He was first received at the NBP on April 22, 1959, to serve a definite sentence of 40 years for various crimes. (His sentences were "three-folded.") On October 14, 1963, he escaped but was recommitted on November 28, 1963. He escaped again on May 1, 1965, and recommitted on June 22, 1968. On October 3, 1969, he escaped for the third time but he was recommitted a few days later, on October 10, 1969.

On June 12, 1976, the petitioner's original sentence was commuted or reduced to thirty (30) years by the President of the Philippines. Notwithstanding the clemency that had been shown to him, the petitioner escaped for the fourth time on July 28, 1979. But the passing years must have blunted his skill in evading service of sentence for he was again recommitted on August 8, 1979. The fourth escape must have exhausted the forbearance of the prison authorities. They charged the petitioner with evasion of service of sentence which added two (2) years, four (4) months and one (1) day to his thirty-year commuted sentence.

During his four escapes the petitioner was at large for three (3) years, three (3) months and eleven (11) days.

The commuted sentence plus the sentence for evasion expired on April 29, 1982 and should have entitled the petitioner to be released if the time he had spent at large was counted as service of his sentences. But alas, the Acting Director of Prisons who is the respondent thinks otherwise. So the petitioner remained inside the big house.

The question to be resolved is whether or not the time enjoyed by the petitioner when he was at large during his four escapes should be included in the service of his two sentences in fixing the date of his release.

No reflection is necessary to show that the period during which the petitioner was not inside prison walls cannot be regarded as service of sentence. The sentences imposed on the petitioner consist of deprivation of his liberty. He cannot be said to have been deprived of his liberty during the periods he was at large. Moreover, Art. 89 of the Revised Penal Code stipulates that penalties like those meted to the petitioner "shall be executed and served in the places and penal establishments provided by the Administrative Code in force or which may be provided by law in the future." The Code thus requires that service of sentence be in a penal institution.

WHEREFORE, the petition is dismissed for lack of merit. No costs.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Guerrero, De Castro and Escolin, JJ., concur.
Aquino, J., on leave.

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