

JUANITO S. AMANDY, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, AND THE HONORABLE REGIONAL TRIAL COURT, FOURTH JUDICIAL REGION. BRANCH LVI, LUCENA CITY, RESPONDENTS.

G.R. No. 76258. May 23, 1988

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-76258/>

GUTIERREZ, JR., J.:

This is a petition for review of the order dated September 24, 1986 and the resolution dated October 9, 1986 of the Regional Trial Court of Lucena City, Branch LVI. The petitioner is the accused in Crim. Case No. 86-126, filed before the respondent trial court. The information filed by the Provincial Fiscal reads as follows:

"The undersigned accuses Juanito Amandy alias Dianak (on bail) of the violation of Section 8 of Republic Act No. 6425, otherwise known as 'The Dangerous Drugs Act of 1972,' committed as follows:

"That on or about the 3rd day of April 1983, at Barangay Burgos, Municipality of Padre Burgos, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously have in his possession one point six grams (1.6) dried leaves of Indian Hemp or marijuana, a prohibited drug, and sixty (60) pieces of cigarette wrappers.

"CONTRARY TO LAW." (p. 17, Rollo)

Petitioner Amandy initially entered a plea of not guilty but subsequently withdrew his former plea and substituted it with a plea of guilty, subject, however, to the reservation of proving the mitigating circumstance of drunkenness which was not habitual, in addition to the attenuating circumstance of his voluntary plea of guilty.

Respondent lower court found him guilty of the crime charged and issued a decision on June 17, 1986 with the following dispositive portion:

"WHEREFORE, on his voluntary plea of guilty, the Court finds accused Juanito Amandy alias 'Dianak' guilty of the crime of 'Violation of Section 8 of Republic Act No. 6425 otherwise known as 'The Dangerous Drug Act of 1972' and, appreciating in his favor the mitigating circumstances of his voluntary plea of guilty, too (sic), drunkenness which was not habitual, hereby sentences him to a penal servitude of SIX (6) YEARS and ONE (1) DAY and to pay a fine of SIX THOUSAND PESOS (P6,000.00), with the accessories of the law and to pay the costs. With credit on his preventive imprisonment, if and when proper under the provisions of Republic Act No. 6127.

"SO ORDERED." (pp. 19-20, Rollo)

The petitioner filed an application for probation with a petition for release on recognizance, alleging that he is entitled to the suspended sentence under P.D. 968. The petition, was however, denied by the respondent lower court for the reason that P.D. 1990 removed from the purview of the exceptions to the probation law those

'sentenced to serve a maximum of imprisonment of more than 6 years.'

On October 8, 1986, the petitioner filed a motion for reconsideration but the lower court denied the motion in a resolution dated October 9, 1986 on the ground that it is the intention of the law to extend the beneficial effects of the Probation Law only to correctional penalties which have six (6) years as their ceiling and that penalties afflictive in scope and nature have to be excluded. Hence, this petition for review.

The petitioner, through his counsel, now assigns the following errors:

"RESPONDENT LOWER COURT ERRED IN DENYING THE APPLICATION FOR PROBATION DATED 26 JUNE 1986 AND THE MOTION FOR RECONSIDERATION DATED 8 OCTOBER 1986 FILED BY THE PETITIONER. BY RELYING SOLELY ON THE PROVISION OF SECTION 2, PARAGRAPH (a) OF PRESIDENTIAL DECREE NO. 1990;

"RESPONDENT LOWER COURT ERRED IN NOT EXTENDING THE BENEFITS OF THE PROBATION LAW TO HEREIN PETITIONER, WHO ADMITTEDLY, IS A GOOD SUBJECT FOR PROBATION AND CAN STILL BE REFORMED AND REHABILITATED. BY TOTALLY DISREGARDING THE FACT THAT BATAS PAMBANSA BLG. 76 IS NOT EXPRESSLY REPEALED BY PRESIDENTIAL DECREE NO. 1990;" (pp. 6-7. Rollo)

The only issue to be determined in this case is whether or not the respondent lower court committed reversible error in disallowing the petitioner's application for probation notwithstanding the favorable recommendation of the Probation Officer.

The petitioner's counsel claims that his client is a good subject for probation and can still be reformed and rehabilitated as shown by the recommendation of the Probation Officer. Despite this, however, petitioner was denied the benefits of the Probation Law.

To base the grant of probation on this contention alone would be erroneous because the law clearly declares who are entitled to probation and who are not. Moreover, the grant or denial of the application for probation does not rest solely on the offender's potentiality to reform but also on the observance of demands of justice and public interest {*Tolentino v. Alconcel*, 121 SCRA 92). These are expressed in statutes enacted by the lawmaker. The arguments of the petitioner are more properly directed to a trial court's exercise of discretion in granting or denying probation to applicants who fall within the coverage of the law. and not to a court which refuses to apply the benefits of a law to persons excluded by that same law.

The trial court has merely complied with the express provision of an amendatory law.

The original Probation Law of 1976, Presidential Decree No. 968 provided in its Section 9 that "(t)he benefits of this Decree shall not be extended to those: (a) sentenced to serve a maximum term of imprisonment of more than six years, xxx"

In 1980, Batas Pambansa Big. 76 amended Section 9 of P.D. 968 by stating that the benefits of the Decree shall not be extended to those "sentenced to serve a maximum term of imprisonment of more than six years and one day."

Subsequently, in 1985 then President Marcos promulgated Presidential Decree No. 1990 which amended BP 76 and returned to the earlier formulation in P.D. No. 968. The latest decree on the matter excludes from the benefits of the Probation Law any applicant who has been "sentenced to serve a maximum term of imprisonment of more than six years."

It is apparent from the history of the provision in question that a disagreement on policy matters existed between

the then President and the then legislature. In the two Presidential Decrees, the President was for denying probation to any one sentenced to imprisonment of more than six years. The Batasan, on the other hand, was for amending the applicable term of imprisonment to more than six years and one day. Since under the unusual situation then existing, both the Batasang Pambansa and the President could legislate on the same subject at the same time, the later issuance has to prevail. This is P.D. 1990.

The petitioner does not attack the validity of P.D. 1990. He limits himself to stating that P.D. 1990 did not intend to nullify B.P. 76. He states that the intent and purpose of P.D. 1990 is to deny applications for probation filed by those who still appeal the judgment of conviction, only to pursue the same when their appeal is eventually dismissed. It is, according to him, not intended to deny probation benefits to those sentenced to 6 years and 1 day by a trial court.

To sustain the petitioner's construction of P.D. 1990, Sec. 2 is to deny the very purpose of the amendatory decree. The removal of one day from the original six years and one day, is to benefit only those offenders convicted of less grave felonies as defined in Art. 9 of the Revised Penal Code. The questioned section on P.D. 1990 would not have struck out one day in unequivocal terms if the intention was not to exclude those convicted of the next higher felonies from its coverage. The contention, therefore, of the petitioner that B.P. 76 and P.D. 1990 operate on different subjects, the latter allegedly referring to persons who appeal the judgment of conviction being disqualified from availing of the benefits of probation while B.P. 76 specifically dealing with the extension of benefits of probation to those sentenced to a maximum penalty of 6 years and 1 day, is devoid of merit.

According to the petitioner, B.P. 76 and P.D. 1990 must be harmonized to ascertain the legislative intent. There can be no harmonization where one law specifically amends another. Where the provision of law is clear and unambiguous, so that there is no occasion for the court's seeking legislative intent, the law must be taken as it is, devoid of judicial addition or subtraction (*Insular Lumber Co. v. Court of Tax Appeals, et al.*, 192 Phil. 223).

As stated by the Solicitor General, P.D. 1990 realizes the need to correct B.P. 76 which extended to offenders penalized to suffer the penalty of 6 years and 1 day, the benefits of the Probation Law. Thus, it amended B.P. 76 by reverting to P.D. 968 such that only those sentenced to suffer correctional penalties shall be entitled to suspended sentences through probation. To sustain the petitioner's construction of Sec. 2, P.D. 1990 would defeat the very purpose of the amendment.

The policy consideration in disqualifying offenders penalized with more than 6 years imprisonment is the seriousness of the crime committed as would bring it outside the beneficent objective of the law.

Denial of the probation application in this particular case is further justified by the gravity of the drug menace and by the increase of the penalty for violation of the Dangerous Drugs Act which bring it outside the range of probationable offenses. Again, the punishment of drug pushers and drug users is a matter of legislative policy. Judicial deference to this legislative policy is expressed in *Tolentino v. Alconcel* (121 SCRA 92) where we stated:

"Proliferation of prohibited drugs in the country has remained a serious threat to the well-being of the people. It has necessitated an all-out intensified campaign on the part of the law-enforcers against users as well as pushers thereof. If only to emphasize the gravity of the drug menace, the Batasang Pambansa has seen fit to increase the penalty for violation of Section 8, Article II of Rep. Act 6425. Thus, while under Rep. Act 6425, as amended by P.D. 44, possession or use of marijuana was punishable by imprisonment of 6 months and 1 day to 2 years and 4 months and a fine ranging from P600.00 to p-6,000.00 — the penalty imposed upon petitioner herein — possession and use thereof is now punishable by imprisonment ranging from 6 years and 1 day to 12 years and fine ranging from P6,000.00 to P12,000.00 under B.P. Big. 179."

The other argument that the omission of "one day" from P.D. 1990 is the result of a misprint or inadvertence in

the careless preparation of Presidential Decrees cannot be given serious consideration. P.D. 1990 merely went back to the P.D. 968 wording. The supposed misprint is at the exact dividing line between correctional penalties and afflictive penalties. It cannot be anything but deliberate.

It may also be stated that even if a convicted person falls within the classes of those qualified for probation, the grant of probation is not automatic of ministerial. Probation is a privilege and its grant rests upon the discretion of the court (*Baclayon v. Mutia*, 129 SCRA 149). The discretion is exercised primarily for the benefit of society as a whole and only secondarily for the personal advantage of the accused.

The Probation Law has been with us for more than a decade now and, perhaps, it is time for Congress to evaluate the advantages and disadvantages of this innovative and far-reaching program. Until Congress changes the law, however, we can only apply it as enacted.

WHEREFORE, the petition is hereby DISMISSED for lack of merit. The questioned orders of the respondent court are AFFIRMED.

SO ORDERED.

Fernan (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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.