

**METROPOLITAN TRAFFIC COMMAND WEST TRAFFIC DISTRICT,
PETITIONER, VS. HON. ARSENIO M. GONONG, IN HIS CAPACITY AS
PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 8 AT
MANILA, A...**

G.R. No. 91023. July 13, 1990

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-91023/>

CRUZ, J.:

We deal here with a practice known to many motorists in Metro Manila: the removal of the license plates of illegally parked vehicles. This was challenged by the private respondent in the regional trial court of Manila, which held the practice unlawful. The petitioner is now before us, urging reversal of the decision for grave abuse of discretion.

The original complaint was filed with the said court on August 10, 1989, by Dante S. David, a lawyer, who claimed that the rear license plate of his car was removed by the Metropolitan Traffic Command while the vehicle was parked on Escolta. He questioned the petitioner's act on the ground not only that the car was not illegally parked but, more importantly, that there was no ordinance or law authorizing such removal. He asked that the practice be permanently enjoined and that in the meantime a temporary restraining order or a writ of preliminary injunction be issued.

Judge Arsenio M. Gonong issued a temporary restraining order on August 14, 1989, and hearings on the writ of preliminary injunction were held on August 18, 23, and 25, 1989. The writ was granted on this last date. The parties also agreed to submit the case for resolution on the sole issue of whether there was a law or ordinance authorizing the removal of the license plates of illegally parked vehicles. The parties then submitted simultaneous memoranda in support of their respective positions, following which the respondent judge rendered the assailed decision.

In ruling for the complainant, Judge Gonong held that LOI 43, which the defendant had invoked, did not empower it "to detach, remove and confiscate vehicle plates of motor vehicles illegally parked and unattended as in the case at bar. It merely authorizes the removal of said vehicles when they are obstacles to free passage or continued flow of traffic on streets and highways." At any rate, he said, the LOI had been repealed by PD 1605. Moreover, the defendant had not been able to point to any MMC rule or regulation or to any city ordinance to justify the questioned act. On the allegation that the practice was "the root cause of graft and corruption or at the very least the equivalent of street racket among defendant's deployed agents," His Honor made the following pointed observations:

At this juncture, it may not be amiss to say, that if the arbitrary and capricious detachment and confiscation of vehicles plates illegally parked and unattended as in the act complained of in the instant case, the image of the man clothed in a traffic or police uniform will be greatly impaired if not cursed with disrespect on the part of those who have suffered at his hands. Worse, he will cease (if he had not already ceased) to be the law-abiding,

courageous and valiant protector of a citizen of the Republic that he is meant to be, and instead his real oppressor and enemy, thereby fortifying the contemporaneous public perception that he is a dyed-in-the-wool extortionist if not an unmitigated chiseler.[1]

It bears noting that this petition should have been filed first with the Court of Appeals, which has concurrent jurisdiction with this Court on decisions of the regional trial courts involving questions of law. However, in view of the importance of the issue raised, we have decided to take cognizance thereof under Rule 65 of the Rules of Court so we can address and resolve the question directly.

Upon the filing of this petition, we issued a temporary restraining order dated February 6, 1990, to prevent enforcement of the said decision until further orders from this Court. Thereafter, we required a comment from the private respondent, to which the petitioner filed a reply as also directed.

The petitioner reiterates and reinforces its argument in the court below and insists that LOI 43 remains in force despite the issuance of PD 1605. It contends that there is no inconsistency between the two measures because the former deals with illegally parked vehicles anywhere in the Philippines whereas the latter deals with the regulation of the flow of traffic in the Metro Manila area only. The two measures may be enforced together because implied repeals are not favored and, furthermore, to look at them another way, LOI 43 is the special law dealing only with illegal parking while PD 1605 is the general law dealing with all other kinds of traffic violations. The special law must of course prevail over the general law. The petitioner also deplores the above-quoted remarks of the trial judge, pointing out that the parties had agreed to limit the issue to whether there was a statutory basis for the act complained of. And even assuming that abuses have been committed in the enforcement of LOI 43, the remedy is not to disregard it or consider it revoked but to prosecute the guilty parties.

In his comment, the private respondent argues that LOI 43 has been repealed by PD 1605, which specifies all the sanctions available against the various traffic violations, including illegal parking. He stresses that removal and confiscation of the license plates of illegally parked vehicles is not one of them, the penalties being limited in the decree to imposition of fine and suspension or revocation of driver's licenses or certificates of public convenience, etc. Expressio unius est exclusio alterius. He agrees that the special law prevails over the general law but maintains it is PD 1605 that is the special law because it is applicable only in Metro Manila and LOI 43 that is the general law because it was intended to operate throughout the country. As for his allegation that the challenged practice is a source of graft, he maintains that it was not improper to discuss it in his memorandum because it was pertinent to the central issue under consideration. Finally, he claims that removal and confiscation of the license plate without notice and hearing violates due process because such license plate is a form of property protected by the Bill of Rights against unlawful deprivation.

In its reply, the petitioner faults the private respondent for belatedly raising the constitutionality of LOI 43, suggesting faintly that this should not be permitted. In any case, it maintains, the license plate is not property in the constitutional sense, being merely the identification of the vehicle, and its "temporary confiscation" does not deprive the owner of the use of the vehicle itself. Hence, there is no unlawful taking under the due process clause. The petitioner also takes issue with the contention that it is PD 1605 that should be considered the special law because of its limited territorial application. Repeal of LOI 43 on that ground would run counter to the legislative intention as it is in fact in Metro Manila that the problem of illegal parking is most acute.

LOI 43, entitled Measures to Effect a Continuing Flow of Transportation on Streets and Highways, was issued on November 28, 1972, with the following pertinent provisions:

Motor vehicles that stall on the streets and highways, streets and sidewalks, shall immediately be removed by their owners/users; otherwise said vehicles shall be dealt with and disposed in the manner stated hereunder;

1. For the first offense the stalled or illegally parked vehicle shall be removed, towed and impounded at the expense of the owner, user or claimant;
2. For the second and subsequent offenses, the registry plates of the vehicles shall be confiscated and the owner's certificate of registration cancelled. (Emphasis supplied).

PD 1605 (Granting the Metropolitan Manila Commission Central Powers Related to Traffic Management, Providing Penalties, and for Other Purposes) was issued, also by President Marcos, on November 21, 1978, and pertinently provides:

Section 1. The Metropolitan Manila Commission shall have the power to impose fines and otherwise discipline drivers and operators of motor vehicles for violations of traffic laws, ordinances, rules and regulations in Metropolitan Manila in such amounts and under such penalties as are herein prescribed. For this purpose, the powers of the Land Transportation Commission and the Board of Transportation under existing laws over such violations and punishment thereof are hereby transferred to the Metropolitan Manila Commission. When the proper penalty to be imposed is suspension or revocation of driver's license or certificate of public convenience, the Metropolitan Manila Commission or its representatives shall suspend or revoke such license or certificate. The suspended or revoked driver's license or the report of suspension or revocation of the certificate of public convenience shall be sent to the Land Transportation Commission or the Board of Transportation, as the case may be, for their records update.

x x x

Section 3. Violations of traffic laws, ordinances, rules and regulations, committed within a twelve-month period, reckoned from the date of birth of the licensee, shall subject the violator to graduated fines as follows: P10.00 for the first offense, P20.00 for the second offense, P50.00 for the third offense, a one-year suspension of driver's license for the fourth offense, and a revocation of the driver's license for the fifth offense: Provided, That the Metropolitan Manila Commission may impose higher penalties as it may deem proper for violations of its ordinances prohibiting or regulating the use of certain public roads, streets or thoroughfares in Metropolitan Manila.

x x x

Section 5. In case of traffic violations, the driver's license shall not be confiscated but the erring driver shall be immediately issued a traffic citation ticket prescribed by the Metropolitan Manila Commission which shall state the violation committed, the amount of fine imposed for the violation and an advice that he can make payment to the city or municipal treasurer where the violation was committed or to the Philippine National Bank or Philippine Veterans Bank or their branches within seven days from the date of issuance of the citation ticket.

If the offender fails to pay the fine imposed within the period herein prescribed, the Metropolitan Manila Commission or the law-enforcement agency concerned shall endorse the case to the proper fiscal for appropriate proceedings preparatory to the filing of the case with the competent traffic court, city or municipal court.

If at the time a driver renews his driver's license and records show that he has an unpaid fine, his driver's license shall not be renewed until he has paid the fine and corresponding surcharges.

x x x

Section 8. Insofar as the Metropolitan Manila area is concerned, all laws, decrees, orders, ordinances, rules and regulations, or parts thereof inconsistent herewith are hereby repealed or modified accordingly. (Emphasis supplied).

A careful reading of the above decree will show that removal and confiscation of the license plate of any illegally parked vehicle is not among the specified penalties. Moreover, although the Metropolitan Manila Commission is authorized by the decree to "otherwise discipline" and "impose higher penalties" on traffic violators, whatever sanctions it may impose must be "in such amounts and under such penalties as are herein prescribed." The petitioner has not pointed to any such additional sanctions, relying instead on its argument that the applicable authority for the questioned act is LOI 43.

The petitioner stresses that under the decree, "the powers of the Land Transportation Commission and the Board of Transportation over such violations and punishment thereof are (hereby) transferred to the Metropolitan Manila Commission," and one of such laws is LOI 43. The penalties prescribed by the LOI are therefore deemed incorporated in PD 1605 as additional to the other penalties therein specified.

It would appear that what the LOI punishes is not a traffic violation but a traffic obstruction, which is an altogether different offense. A violation imports an intentional breach or disregard of a rule, as where a driver leaves his vehicle in a no-parking area against a known and usually visible prohibition. Contrary to the common impression, LOI 43 does not punish illegal parking per se but parking of stalled vehicles, i.e., those that involuntarily stop on the road due to some unexpected trouble such as engine defect, lack of gasoline, punctured tires, or other similar cause. The vehicle is deemed illegally parked because it obstructs the flow of traffic, but only because it has stalled. The obstruction is not deliberate. In fact, even the petitioner recognizes that "there is a world of difference between a stalled vehicle and an illegally parked and unattended one" and suggests a different treatment for either. "The first means one which stopped unnecessarily or broke down while the second means one which stopped to accomplish something, including temporary rest." [2]

LOI 43 deals with motor vehicles "that stall on the streets and highways" and not those that are intentionally parked in a public place in violation of a traffic law or regulation. The purpose of the LOI evidently is to discipline the motorist into keeping his vehicle in good condition before going out into the streets so as not to cause inconvenience to the public when the car breaks down and blocks other vehicles. That is why, for the first offense, the stalled vehicle is immediately towed at the owner's expense to clear the street of the traffic obstruction. Where it appears that the owner has not learned from his first experience because the vehicle has stalled again, presumably due to his failure to repair it, the penalty shall be confiscation of the license plate and cancellation of the certificate of registration.

It is worth noting that it is not the driver's license that is confiscated and canceled when the vehicle stalls on a public street. The LOI goes against the vehicle itself. The object of the measure is to ensure that only motor vehicles in good condition may use the public streets, and this is effected by confiscating the license plates and canceling the certificates of registration of those vehicles that are not roadworthy.

In the case of the private respondent, it is not alleged or shown that his vehicle stalled on a public thoroughfare and obstructed the flow of traffic. The charge against him is that he purposely parked his vehicle in a no-parking area (although this is disputed by him). The act, if true, is a traffic violation that may not be punished under LOI 43. The applicable law is PD 1605, which does not include removal and confiscation of the license plate of the vehicle among the imposable penalties.

Indeed, even if LOI 43 were applicable, the penalty of confiscation would still not be justified as it has not been alleged, much less shown, that the illegal parking was a second or subsequent offense. That circumstance must be established at a trial before a court of justice where the vehicle owner shall have a right to be heard in his defense. The second or subsequent offense cannot be simply pronounced by the traffic authorities without hearing and without proof. Confiscation of the registry plate without a judicial finding that the offense charged is a second or

subsequent one would, unless the owner concedes this point, be invalid.

While it is true that the license plate is strictly speaking not a property right, it does not follow that it may be removed or confiscated without lawful cause. Due process is a guaranty against all forms of official arbitrariness. Under the principle that ours is a government of laws and not of men, every official must act by and within the authority of a valid law and cannot justify the lack of it on the pretext alone of good intentions. It is recalled that more than seventy years ago, the mayor of Manila deported one hundred seventy prostitutes to Davao for the protection of the morals and health of the city. This Court acknowledged his praiseworthy purpose but just the same annulled his unauthorized act, holding that no one could take the law into his own hands.[3] We can rule no less in the case before us.

We find that there is no inconsistency between LOI 43 and PD 1605, whichever is considered the special law either because of its subject or its territorial application. The former deals with motor vehicles that have stalled on a public road while the latter deals with motor vehicles that have been deliberately parked in a no-parking area; and while both cover illegal parking of motor vehicles, the offense is accidental under the first measure and intentional under the second. This explains why the sanctions are different. The purpose of the LOI is to discourage the use of the public streets by motor vehicles that are likely to break down while that of the decree is to penalize the driver for his defiance of the traffic laws.

As it has not been shown that the private respondent's motor vehicle had stalled because of an engine defect or some other accidental cause and, no less importantly, that it had stalled on the road for a second or subsequent time, confiscation of the license plate cannot be justified under LOI 43. And neither can that sanction be sustained under PD 1605, which clearly provides that "in case of traffic violations, (even) the driver's license shall not be confiscated," let alone the license plate of the motor vehicle. If at all, the private respondent may be held liable for illegal parking only and subjected to any of the specific penalties mentioned in Section 3 of the decree.

We recognize the problem of the traffic policeman who comes upon an illegally parked and unattended vehicle and is unable to serve a citation on the offending driver who is nowhere in sight. But that problem is not addressed to the courts; it is for the legislative and administrative authorities to solve. What is clear to the Court is that the difficulty cannot be avoided by the removal of the license plate of the offending vehicle because the petitioner has not shown that this penalty is authorized by a valid law or ordinance.

The petitioner complains that the respondent judge did not confine himself to the issue agreed upon by the parties and made gratuitous accusations that were not only irrelevant but virtually condemned the whole traffic force as corrupt. Assuming that this issue was indeed not properly raised at the trial, the Court is nevertheless not inhibited from considering it in this proceeding, on the basis of its own impressions on the matter.

This Court is not isolated from the mainstream of society and secluded in a world of its own, unconcerned with the daily lives of the rest of the nation. On the contrary, the members of this Court mix with the people and know their problems and complaints. And among these are the alleged abuses of the police in connection with the issue now before us.

It is claimed that the removal of the license plates of illegally parked motor vehicles in Metro Manila has become a veritable gold mine for some police officers. To be sure, we do not have hard, provable facts at hand but only vague and unsubstantiated rumors that could be no more than malicious and invented charges. Nevertheless, these accusations have become too prevalent and apparently too persuasive that they cannot be simply swept under the rug.

The widespread report is that civilian "agents," mostly street urchins under the control and direction of certain

policemen, remove these license plates from illegally parked vehicles and later discreetly suggest to the owners that these may be retrieved for an unofficial fee. This ranges from P50.00 to P200.00, depending on the type of vehicle. If the owner agrees, payment is usually made and the license plate returned at a private rendezvous. No official receipt is issued. Everything is done quietly. The owners, it is said, prefer this kind of fast settlement to the inconvenience of an official proceeding that may entail not only the payment of a higher fine but also other administrative impositions, like attendance at a traffic seminar.

The Court is not saying that these reports are true nor is it stigmatizing the entire police force on the basis of these unsubstantiated charges. But it does believe and stress that the proper authorities should take official notice of these reports instead of blandly dismissing them as mere canards that do not deserve their attention and concern. An inquiry is in our view indicated. The old adage that where there's smoke there's fire is not necessarily true and can hardly be the rationale of a judicial conclusion; but the Court feels just the same that serious steps should be taken, especially because of the persistence of these charges, to determine the source of the smoke.

We realize the seriousness of our traffic problems, particularly in Metro Manila, and commend the earnest efforts of the police to effect a smoother flow of vehicles in the public thoroughfares for the comfort and convenience of the people. But we must add, as a reminder that must be made, that such efforts must be authorized by a valid law, which must clearly define the offenses proscribed and as clearly specify the penalties prescribed.

WHEREFORE, the petition is DISMISSED. The Court holds that LOI 43 is valid but may be applied only against motor vehicles that have stalled in the public streets due to some involuntary cause and not those that have been intentionally parked in violation of the traffic laws. The challenged decision of the trial court is AFFIRMED in so far as it enjoins confiscation of the private respondent's license plate for alleged deliberate illegal parking, which is subject to a different penalty. The temporary restraining order dated February 6, 1990, is LIFTED.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

[1] Rollo, p. 56.

[2] Ibid., p. 104.

[3] Villavicencio v. Lukban, 39 Phil. 778.

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.