

1 Phil. 727

[ G.R. No. 571. February 14, 1903 ]

**THE UNITED STATES, COMPLAINANT AND APPELLANT, VS. THOMAS E. KEPNER,  
DEFENDANT AND APPELLEE.**

**D E C I S I O N**

**ARELLANO, C.J.:**

Under General Orders, No. 58, series 1900, which is the law of criminal procedure in force, the Government has the right of appeal from all judgments of acquittal rendered in criminal cases. The letter and spirit of the order itself are the most conclusive argument in support of this right on the part of the Government.

Its letter, because this right is thus expressly declared in section 43. "From all final judgments," it says, "of the Courts of First Instance or courts of similar jurisdiction, and in all cases in which the law now provides for appeals \* \* \* an appeal may be taken to the Supreme Court \* \* \*." If an appeal can be taken against all final judgments, the judgment of acquittal being also final judgment, it is evident that an appeal lies against a judgment of acquittal. This law grants the right of appeal in all cases in which it was formerly allowed by the local "existing laws," declared in force by section 1 of said General Orders, No. 58. If prior to this law the right of appeal in cases of acquittal was allowed, as will be more explicitly shown hereafter, now as then, and after the publication of said order, the right of appeal from judgments of acquittal will continue to be granted.

Moreover, section 64 is quite plain and reads as follows: "In case of appeal after judgment, the defendant may be admitted to bail pending action on the appeal: (1) As a matter of right if *the appeal is from an acquittal* \* \* \*." Under the letter of the order, then, the Government has the right of appeal from an acquittal.

In its spirit, General Orders, No. 58, undoubtedly contemplates the allowance of the right of appeal from judgment of acquittal. Such phrases as that contained in section 43, to wit: "\* \*

\* in all cases in which the law now provides for appeals \* \* \*,” and the provision contained in section 50 to the effect that cases in the Supreme Court “shall thereafter take the same course as is now provided by law,” or as that contained in section 107, “the privileges now secured by law to the person claiming to be injured by the commission of the crime \* \* \*,” show that the purpose of the legislator in this respect was to bring into the new law some of the provisions previously in force on the subject, and to establish a criminal procedure not entirely new, as are the majority of the provisions of General Orders, No. 58, based on principles of American law, but mixed, preserving part of the local legislation which is the principle upon which sections 50 and 107 are based.

Therefore the right of the Government to appeal from a judgment of acquittal being well founded, the motion is overruled without costs.

*Torres, Cooper, Willard, Mapa, and Ladd, JJ., concur.*

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