

4 Phil. 134

[ G.R. No. 2362. January 14, 1905 ]

**FRANK DE L. CARRINGTON, PETITIONER, VS. J. J. PETERSON, AS SHERIFF OF THE CITY OF MANILA, RESPONDENT.**

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

**JOHNSON, J.:**

This was a petition for the writ of habeas corpus by the petitioner herein against the respondent, upon the ground that he was being illegally detained by the respondent as sheriff of the city of Manila.

The facts in the case may be briefly stated as follows:

1. The respondent has in his custody the petitioner by virtue of a warrant issued by the Court of First Instance of the city of Manila on the 14th day of October, 1904, in criminal cases Nos. 1835, 1836, 1837, 1838, and 1839, in all of which the said Frank de L. Garrington is the respondent. In each of the said causes a complaint was filed in the words following:

“That on or about the 15th day of January, 1904, in the city of Manila, Philippine Islands, the said Frank de L. Carrington, being then and there a public official of the United States Civil Government of the Philippine Islands, to wit, a duly appointed and commissioned major of the First Infantry, United States Army, and the duly designated, qualified, and acting commander of the Provisional Battalion of the Philippine Scouts, and a duly appointed, qualified, and acting disbursing officer for public funds of the said United States Civil Government of the Philippine Islands, appropriated on account of the said Provisional Battalion and on account of the

Louisiana Purchase Exposition at St. Louis, did, willfully, unlawfully, feloniously, corruptly, and with the intent then and there to deceive and defraud the United States Civil Government of the Philippine Islands and its officials, falsify a public or official document, namely a voucher for the expenditure of public funds, which voucher is in words and figures following, to wit.”

2. A copy of the voucher to which reference is made in this complaint is found as Exhibit A in the petition filed for the writ of habeas corpus in this case, an examination of which discloses the fact that the petitioner herein signed said voucher in the following form: “F. de L. Carrington, maj., 1st Infantry, D. O.” Similar vouchers were made part of each of the complaints filed against said respondent and each were signed in the same form.
3. After the filing of the foregoing complaint, the petitioner herein was arrested and was taken before the judge of the Court of First Instance of the city of Manila, where he was informed of the nature of the charges against him.
4. That after the petitioner herein was informed of the nature of the charges preferred against him, he requested that he be admitted to bail, which request was granted.
5. That on or about the 27th day of October, 1904, the petitioner herein again appeared in the Court of First Instance of the city of Manila and was requested to plead whether he was guilty or not guilty of the crime charged in said complaint, whereupon he requested additional time in which to enter a plea, which extra time was granted.
6. On the 2d day of November, 1904, the petitioner herein again appeared in the Court of First Instance of the city of Manila and filed simultaneously with said court the following documents:

“(a) Now comes the defendant and hereby demurs to the complaint herein filed against him, for the following reasons:

"1. That the facts alleged in the complaint are not sufficient to constitute a public offense.

"HARTIGAN, MARPLE, SOLIGNAC &  
GUTIERREZ,  
*"Attorneys for Defendant.*

"(b)

Now conies the defendant by his attorneys and moves the court that the complaint filed against him in this cause be made more definite and certain in this:

"1. That there be stricken out of said complaint all that there is set forth in said complaint relative to the defendant being a major in the United States Army.

"2. That there be set forth in the said complaint specifically what office the defendant held under the United States Civil Government in the Philippine Islands, when he was appointed thereto, by whom he was appointed thereto, and when he qualified.

"HARTIGAN, MARPLE, SOLIGNAC &  
GUTIERREZ,  
*"Attorneys for Defendant.*

and that no other motion, demurrer, or objection has been entered or filed in said causes.

7. The court, after a consideration of said

demurrer and motion and hearing the arguments of counsel for the respective parties, did, on the 12th day of December, 1904, overrule each of said defenses interposed by the said petitioner herein.

8. On the 13th day of December, 1904, the petitioner herein appeared again in said court with his counsel and entered a plea of not guilty to said complaints, the said judge having theretofore assigned said causes for trial on the 19th day of December, 1904.

9. That

on the said 13th day of December, 1904, the petitioner herein by his counsel asked the court for additional time in which to prepare for trial, which prayer or request the court granted, and assigned the 9th day of January, 1905, for the trial of said causes.

Section 528 of Act No. 190 provides :

“If it appears that the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or magistrate or by virtue of a judgment or order of a court of record and the court or magistrate had jurisdiction to issue the process, render the judgment, or make the order, the writ (of habeas corpus) shall not be allowed; or if the jurisdiction appear after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgment, or order.” An examination of the record in the cause discloses the following facts :

(a) That the petitioner herein is in the custody of Mr. Peterson as sheriff of the city of Manila.

(b)

That the petitioner herein is in the custody of said sheriff under a warrant of arrest issued by the Court of First Instance of the city of Manila.

(c) That the crime described in the foregoing complaint is a crime of which the Courts of First Instance of

the city of Manila have jurisdiction to try. (See par. 6 of sec. 55 of Act No. 136, and the provision of the Penal Code now in force in the Philippine Islands relating to the falsification of public documents by public officials.)

(d) That the Court of First Instance of the city of Manila has jurisdiction of the person of the petitioner herein by virtue of:

First, his arrest upon a complaint;

Second, his appearance in said court asking for bail, demurring, and pleading to the said complaint without first having raised the question of jurisdiction of the court over his person.

When a defendant in a criminal cause is brought before a competent court by virtue of a warrant of arrest or otherwise, in order to avoid the submission of his body to the jurisdiction of the court he must raise the question of the court's jurisdiction over his person at the very earliest opportunity. If he gives bail, demurs to the complaint, or files any dilatory plea or pleads to the merits, he thereby gives the court jurisdiction over his person. (State ex rel. John Brown vs. Fitzgerald, 51 Minn., 534.)

The petitioner herein having been arrested and placed in the custody of the respondent under the lawful order of the Court of First Instance of the city of Manila, issued upon a complaint charging the respondent with a crime of which the court has jurisdiction, and thereafter having appeared in said court, asked to be admitted to bail, and demurred to the said complaint, as well as to plead to the merits of said cause, he has thereby given the court jurisdiction over his person.

From all of the foregoing facts "it appears that the petitioner herein is in the custody of the respondent on the process issued by a court of record, and that the said court had jurisdiction to issue the said process," and therefore, by virtue of section 528 of Act No. 190, the application for the writ of habeas corpus is denied and petitioner is hereby ordered remanded to the custody of the respondent, James J.

Peterson, sheriff of the city of Manila, to await the orders of the Court of First Instance of the city of Manila. So ordered.

*Arellano, C. J., Torres, Mapa and Carson, JJ., concur.*

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