

SECOND DIVISION

[G.R. No. 169958, March 05, 2010]

**DEPARTMENT OF JUSTICE SECRETARY RAUL M. GONZALEZ,
BUREAU OF IMMIGRATION COMMISSIONER AND BOARD OF
COMMISSIONERS CHAIRMAN ALPIO F. FERNANDEZ, JR., AND
IMMIGRATION ASSOCIATE COMMISSIONERS AND BOARD OF
COMMISSIONERS MEMBERS ARTHUR B. CARONONGAN, TEODORO
B. DELARMENTE, JOSE D.L. CABOCHAN, AND FRANKLIN Z.
LITTUA, PETITIONERS, VS. MICHAEL ALFIO PENNISI,
RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

Before the Court is a petition for review^[1] assailing the 30 September 2005 Decision^[2] of the Court of Appeals in CA-G.R. SP No. 87271.

The Antecedent Facts

The facts, gathered from the Court of Appeals' decision, are as follows:

Michael Alfio Pennisi (respondent) was born on 13 March 1975 in Queensland, Australia to Alfio Pennisi, an Australian national, and Anita T. Quintos (Quintos), allegedly a Filipino citizen. In March 1999, respondent filed a petition for recognition as Filipino citizen before the Bureau of Immigration (BI). Respondent submitted the following documents before the BI:

1. Certified photocopy of the certificate of birth of Quintos, and a certification issued by the Local Civil Registrar of San Antonio, Nueva Ecija stating that Quintos was born on 14 August 1949 of Filipino parents, Felipe M. Quintos and Celina G. Tomeda, in Panabingan, San Antonio, Nueva Ecija;
2. Certified true copy of the certificate of marriage of respondent's parents dated 9 January 1971, indicating the Philippines as Quintos' birthplace;
3. Certified true copy of Quintos' Australian certificate of registration of alien, indicating her nationality as Filipino;
4. Certified true copy of respondent's birth certificate stating that he was born on 13 March 1975 and indicating the Philippines as his

mother's birthplace; and

5. Certified true copy of the letter dated 14 July 1999 of the Australian Department of Immigration and Multicultural Affairs, stating that as of 14 July 1999, Quintos has not been granted Australian citizenship.

On 17 February 2000, BI Associate Commissioner Alan Roullo Yap issued an order granting respondent's petition for recognition as Filipino citizen. In a 2nd Indorsement dated 28 February 2000, the Secretary of the Department of Justice (DOJ) disapproved the order. However, upon respondent's submission of additional documents, BI Commissioner Rufus B. Rodriguez granted the order as per Recognition Order No. 206679 dated 3 March 2000 which states:

Finding the grounds cited in the instant petition for recognition as a citizen of the Philippines filed on behalf of the applicant to be well-founded and meritorious, we hereby authorize the recognition of MICHAEL ALFIO PENNISI as a citizen of the Philippines pursuant to Article III[,] Section 1, para. 2 of the 1973 Constitution.

Henceforth, applicant shall be entitled to all the rights and privileges appurtenant thereto. Once this Order is affirmed by the Secretary of Justice and upon payment of the corresponding fees, he/she shall be issued an identification Certificate which shall indicate prominently thereon the date of affirmation.

An Exit Clearance Certificate (ECC) fee shall also be assessed against the applicant whenever he/she departs for abroad using a foreign passport or travel documents.

Give the applicant a copy of this Order.

SO ORDERED.^[3]

In a 2nd Indorsement dated 8 March 2000, the DOJ affirmed Recognition Order No. 206679, as follows:

Respectfully returned to the Commissioner of Immigration, Manila, the within records relating to the request for reconsideration of this Department's 2nd Indorsement dated February 28, 2000, which disapproved the Order of that Office dated February 17, 2000 granting the petition for recognition as a Filipino citizen of MICHAEL ALFIO PENNISI.

The additional documents submitted (duly authenticated Certificate of Birth of the petitioner and Certificate of Marriage of his parents), together with the original records, satisfactorily establish that petitioner was born in Queensland, Australia, on March 13, 1975, the legitimate issue of the spouses Anita T. Quintos, a natural-born Filipino citizen, and Alfio Pennisi,

an Australian national, and may, therefore, be deemed a citizen of the Philippines pursuant to Section 1(2), Article III of the 1973 Constitution, in relation to Section 1(2), Article IV of the present Constitution.

Wherefore, the instant request for reconsideration is hereby granted and the above-mentioned Order of that Office dated February 17, 2000 granting the petition for recognition as a Filipino citizen of Michael Alfio Pennisi is now AFFIRMED.

This supersedes our aforesaid 2nd Indorsement dated February 28, 2000 on the same subject matter.^[4]

Thereafter, respondent was drafted and played for the Red Bull, a professional basketball team in the Philippine Basketball Association (PBA).

On 7 August 2003, the Senate Committees on Games, Amusement and Sports and on Constitutional Amendments (Senate Committees) jointly submitted Committee Report No. 256^[5] (Committee Report) recommending, among other things, that (1) the BI conduct summary deportation proceedings against several Filipino-foreign PBA players, including respondent; and (2) the DOJ Secretary conduct an immediate review of all orders of recognition. Respondent was included in the list on the basis of the following findings of the Senate Committees:

F. Michael Alfio Pennisi was able to present before the BI and the committees, the documents required in granting recognition of Philippine citizenship, particularly the birth certificate of his Filipino mother, Anita Tomeda Quintos;

However, a verification on the authenticity of the above documents reveals highly suspicious circumstances.

His alleged mother and other relatives, specifically the parents of the former, namely: Felipe M. Quintos and Celina G. Tomeda, who were mentioned in his application for recognition of Philippine citizenship in the BI, are not known and have never existed in Panabingan, San Antonio, Nueva Ecija.

According to the affidavits executed by Barangay Captain Ramon Soliman and Barangay Treasurer Condrado P. Peralta of the abovementioned place, there are no Quintoses or Tomedas that have lived or have resided in the said barangay.

Both barangay officials further claimed that even in their census or master list of voters, the family names of Quintos or Tomedas do not exist.

His mother's certificate of birth in the civil registrar of San Antonio, Nueva Ecija was issued on the basis of an application for late registration, which is ten (10) years after the date of birth.

Thereafter, the DOJ issued Department Order No. 412 dated 21 September 2004 creating a special committee, with Chief State Counsel Ricardo V. Paras as Chairperson, to investigate the citizenship of Filipino-foreign players in the PBA. The special committee required respondent to submit a position paper in connection with the investigation. On 18 October 2004, the DOJ issued a resolution revoking respondent's certificate of recognition and directing the BI to begin summary deportation proceedings against respondent and other Filipino-foreign PBA players.

On 20 October 2004, respondent and Davonn Harp (Harp), another Filipino-foreign PBA player, filed a petition for prohibition with an application for temporary restraining order and preliminary injunction before the Regional Trial Court of Pasig City, Branch 268 (trial court), to enjoin the DOJ and BI from instituting summary deportation proceedings against them. On even date, respondent received a letter from the BI directing him to submit, within five days from notice, a memorandum in connection with the deportation proceedings being conducted against him. Respondent submitted his memorandum on 25 October 2004.

In a hearing before the trial court on the same date, the Office of the Solicitor General, representing the DOJ and BI, manifested that respondent would not be subjected to summary deportation and that he would be given an opportunity to present evidence of his Filipino citizenship in a full-blown trial on the merits. However, in a Summary Deportation^[6] Order dated 26 October 2004, the BI directed the deportation of several Filipino-foreign PBA players, including respondent. Respondent and Harp withdrew their petition before the trial court without prejudice, which the trial court granted in its order of 4 November 2004. Respondent filed a petition for review, with an application for temporary restraining order and preliminary injunction, before the Court of Appeals.

The Decision of the Court of Appeals

In its 30 September 2005 Decision, the Court of Appeals granted the petition.

The Court of Appeals noted that respondent's citizenship was previously recognized by the BI and DOJ and it was only after four years that the BI and DOJ reversed themselves in view of the finding in the Committee Report. The Court of Appeals ruled that the "highly suspicious circumstances" stated in the Committee Report referred to the affidavits of Barangay Captain Ramon Soliman (Soliman) and Barangay Treasurer Condrado P. Peralta (Peralta) that there were no Quintoses or Tomedas in the birthplace of respondent's mother and that no such surnames appeared in the census or master list of voters. The Court of Appeals ruled that apart from the affidavits, no other evidence was presented to prove that Quintos was not a Filipino citizen or that her birth certificate was false or fraudulently obtained. The Court of Appeals ruled that respondent's documentary evidence before the BI and DOJ have more probative value and must prevail over the allegations of Soliman and Peralta. The Court of Appeals further noted that among the documents presented by respondent were authenticated documents issued by the Commonwealth of Australia attesting that Quintos consistently presented herself to be a Filipino citizen. The Court of Appeals ruled that the authenticity of the documents issued by the Australian government was never questioned nor put in issue. The Court of Appeals further ruled that the fact that the Quintoses and Tomedas were not included in the census or master list of voters did not

automatically render Quintos' birth certificate invalid. The Court of Appeals ruled that unless a public document is declared invalid by competent authority, it should be presumed valid and binding for all intents and purposes.

The dispositive portion of the Court of Appeals' Decision reads:

WHEREFORE, the instant petition is GRANTED. The assailed resolution of the Department of Justice dated October 18, 2004 and summary deportation order of the Bureau of Immigration dated October 26, 2004 are hereby ANNULLED and SET ASIDE.

SO ORDERED.^[7]

Hence, the petition before this Court.

The Issue

Petitioners raise this sole issue in their Memorandum:^[8]

Whether the Court of Appeals committed a reversible error in finding that respondent is a Filipino citizen.

Petitioners allege that respondent's petition was filed out of time. Petitioners further allege that respondent's voluntary departure from the Philippines had rendered the petition moot. Finally, petitioners allege that the cancellation of respondent's certificate of recognition as a Filipino citizen and the issuance of the deportation order against him are valid.

The Ruling of this Court

The petition has no merit.

Late Filing of Petition

Petitioners allege that the petition filed before the Court of Appeals should have been dismissed for late filing. Petitioners allege that respondent only had 15 days from 19 October 2004, the date of receipt of the 18 October 2004 DOJ Resolution, within which to file a petition for review before the Court of Appeals. However, respondent filed his petition only on 4 November 2004, or one day beyond the reglementary period for filing the petition for review. Petitioners allege that when the petition was filed, the 18 October 2004 DOJ Resolution had already lapsed into finality.

We do not agree.

A one-day delay does not justify the appeal's dismissal where no element of intent to delay the administration of justice could be attributed to the petitioner.^[9] The Court has ruled: