

THIRD DIVISION

[CA-G.R. CR NO. 36399, November 28, 2014]

**EDUARDO C. LAPENA^[1], PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

DE GUIA-SALVADOR, R., J.:

Filed pursuant to Rule 42 of the Rules of Court, the Petition for Review at bench seeks to reverse and set aside the 23 October 2013 Decision of the Regional Trial Court of Taguig City, Branch 153 (or "**RTC**"), in Criminal Case No. 151308-TG, which affirmed the 25 February 2013 Judgment of the Metropolitan Trial Court of Taguig City, Branch 74 (or "**MeTC**"), in Criminal Case No. 22641, finding SPO1 Eduardo C. Lapeña ("**petitioner**") guilty of the crime of Evasion Through Negligence.

The Indictment

An Information dated 19 February 2007 was filed by Assistant City Prosecutor Jaime A. Cubillo with the MeTC, charging petitioner with the crime of Evasion Through Negligence as defined and penalized under Article 224 of the Revised Penal Code (RPC) as follows:

"That on or about the 14th day of February 2007 in the City of Taguig, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with the ordinary aggravating circumstance of nighttime, and being then a policeman, assigned as jail guard, hence, a public officer and in custody of several detainees, did then and there willfully, unlawfully, and feloniously, and without taking due care to fully exercise his duty as jail guard, failed to prevent the escape from his custody, one ALFREDO^[2] REYES y VIRAY, a detention prisoner.

Contrary to law."

Upon arraignment, petitioner, duly assisted by Atty. Jose Poliwos, Jr., entered a plea of not guilty.

During the trial, the prosecution presented as witnesses PO3 Ehron Balauat ("**PO3 BALAUAT**") and PO2 Christopher Flores ("**PO2 FLORES**"), the police officers who investigated petitioner as to the escape of a detainee. For the defense, only petitioner testified.

The Facts

Version of the Prosecution

The Solicitor General summarized the evidence for the prosecution based on the testimonies of PO3 BALAUAT and PO2 FLORES, and the incident Report dated 15 February 2007,^[3] thus:

"On 14 February 2007, petitioner ... was the jail officer at the Tuktukan Jail, Taguig Police Station, on duty for twenty-four (24) hours from 8:00 in the morning of February 14, 2007 to 8:00 in the morning of February 15, 2007. He was responsible for the custody of approximately thirty (30) to forty (40) detainees, including Alfred Reyes, a detention prisoner for the crime of Robbery pending before Branch 266, Regional Trial Court, Taguig City.

On said date, petitioner was busy attending to the other detainees who were cleaning the premises of the detention cell, when Alfred Reyes was tasked to throw the trash at the garbage dump outside said detention cell. Thereafter, Alfred Reyes failed to return. Petitioner upon making a headcount of the detainees and realizing that Alfred Reyes was missing, executed an Incident Report of the escape.

Upon orders by Police Chief Inspector Edgardo B. Mendoza, [PO3 BALAUAT] and [PO2 FLORES] conducted an investigation on the matter, and on the basis of petitioner's own statement in his Incident Report, arrested petitioner for the commission of the crime as charged."

Version of the Defense

Petitioner points to PC/Insp. Edgardo B. Mendoza ("**PC/Insp. MENDOZA**"), his commanding officer, as the one directly responsible for the escape of detainee Alfred Reyes (or "**detainee**").

In the Appellant's Brief filed before the RTC, petitioner summed up his account of the incident leading to the escape of the detainee, thus:

"On 14 February 2007, a Wednesday, [Alfred] Reyes, a detainee was summoned by [PC/Insp. MENDOZA] to his office to do some errands for him. An occasion which takes place almost every day due to the orders of [PC/Insp. MENDOZA] to have [Alfred] Reyes do errands for him.

Being a subordinate of [PC/Insp. MENDOZA], [petitioner] had no recourse but to comply with the orders of his commanding officer.

On the said date, after [Alfred] Reyes failed to return to his detention cell, [petitioner] went to the office of [PC/Insp. MENDOZA] to look for him but to no avail. Despite this [petitioner] still went out of the Taguig City Police Station to look for [Alfred] Reyes. His effort to find the

whereabouts of [Alfred] Reyes continued until 15 February 2007, a day after [Alfred] Reyes failed to return to his detention cell.

However, on the 16[th] of February 2007, [petitioner] was brought for inquest proceedings before the City Prosecutor's Office of Taguig."

RULING of the METC

After trial, the MeTC rendered a judgment finding petitioner guilty of the crime charged. It rejected petitioner's bare allegation that he had turned over custody of the detainee to PC/Insp. MENDOZA, and that the detainee made good his escape after PC/Insp. MENDOZA had ordered him to throw garbage outside the prison facility. The decretal portion of the Decision reads:

"WHEREFORE, there being proof beyond reasonable doubt that the [petitioner] is guilty of the crime of Evasion Through Negligence defined and punished under Art[icle] 244 of the Revised Penal Code, the Court hereby sentences him to suffer a penalty of imprisonment of Two (2) Months and one (1) day of Arresto Mayor as minimum to One (1) Year and one (1) day of Prision Correccional, as maximum, without temporary disqualification considering that the [petitioner] has retired from service.

Furnish the Public Prosecutor, the complaining witnesses, the [petitioner], his counsel and the Clerk of Court copies of this Decision.

SO ORDERED."

RULING of the RTC

On appeal, the RTC affirmed the MeTC's Decision, underscoring the fact that the MeTC relied not just on the testimonies of the prosecution witnesses but also on the Incident Report that petitioner himself submitted which established his own guilt of the crime charged. Thus:

"...from the Incident Report alone, it has already been established that detainee [Alfred] Reyes escaped and that [petitioner] was the jail officer on duty on the date of the escape of the said detainee. As such jail officer, he is deemed to be the custodian of the detainees at the police station and as such, he was highly responsible in ensuring that every detainee is duly accounted for therein. The fact that [petitioner] was aware of his responsibility as custodian of the detainees was shown by the fact that he was the one who reported the escape of detainee [Alfred] Reyes.

x x x

x x x

x x x

With respect to the first and second elements [of the crime charged], it is undisputed that [petitioner] is a public officer for he was a Senior Police Officer of the Philippine National Police assigned at Taguig City Police

Station at Detention and Investigation Unit as Jailer and that he was in charge with the custody of Alfred Reyes who escaped from his detention cell.

The only question then to be determined is whether or not the [petitioner] was negligent in his duty.

x x x

x x x

x x x

In the present case, the [petitioner] did not even offer any explanation as to the measure he has taken in order to ensure that the detainees under his custody will not escape while he was giving them some tasks to do. His statement in the Incident Report that he was busy with other detainees is already an indication and an admission that amidst his concentration to the other detainees, and he willingly allowed [Alfred Reyes] to stray from his concentration and vision. The [petitioner's] belated and, at best, uncorroborated excuse that he left [Alfred Reyes] under the care of [PC/Insp. MENDOZA] remains just that, an uncorroborated excuse especially considering the fact that he did not indicate that in his Incident Report.

x x x

x x x

x x x"

The Issue

In support of the grant of the present Petition for Review, petitioner raises a lone issue:

WHETHER THE [RTC] GRAVELY ERRED IN AFFIRMING THE CONVICTION OF THE PETITIONER DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[4]

Petitioner principally assails the factual finding of the MeTC and the RTC that he was negligent in the performance of his official duties, resulting in the escape of the detainee. He contends that he recorded in the prison logbook the instances when PC/Insp. MENDOZA had summoned the detainee to clean and throw garbage, including the date the latter escaped.^[5] He thus argues that PC/Insp. MENDOZA should be the only one held accountable for the escape of the detainee.

The Solicitor General counters that petitioner admitted the presence of the first and second elements of the crime charged, *i.e.*, he is a public officer and he was charged with the custody of the detainee. With his admission of the second element, petitioner's argument that custody of the detainee at the time of the latter's escape was transferred to PC/Insp. MENDOZA is unavailing. Besides, petitioner failed to present the logbook where he had allegedly recorded that PC/Insp. MENDOZA summoned the detainee to throw garbage on the date the latter escaped. Finally, the element of negligence was established by the Incident Report dated 15 February 2007.

The Court's Ruling

The petition lacks merit.

Evasion through Negligence is defined and penalized under Article 224 of the RPC, thus:

"ART. 224. Evasion through negligence. If the evasion of the prisoner shall have taken place through the negligence of the officer charged with the conveyance or custody of the escaping prisoner, said officer shall suffer the penalties of arresto mayor in its maximum period to prision correccional in its minimum period and temporary special disqualification."

The elements of the crime under the above-quoted article are:

- a) that the offender is a public officer;
- b) that he is charged with the conveyance or custody of a prisoner, either detention prisoner or prisoner by final judgment; and
- c) that such prisoner escapes through his negligence.^[6]

All these elements were established by the prosecution beyond reasonable doubt.

First and second elements were established by the judicial admission of petitioner, and the credible testimonies of PO2 FLORES and PO3 BALAUAT

Petitioner acknowledged that he is a public officer^[7] and that he was charged with the custody of the detainee, a detention prisoner.^[8] These statements of petitioner constitute judicial admissions within the ambit of Section 4 of Rule 129 of the Rules of Court, viz.:

"Sec. 4. *Judicial admissions.* – An admission, verbal or written, made by the party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made."

Without any attempt on the part of the petitioner to contradict his admissions in the Petition for Review, the first and second elements of the crime charged are deemed established, thus doing away with the need for the prosecution to present evidence to prove the same.