

FIRST DIVISION

[G.R. No. 135638, January 20, 2003]

**OSCAR A. BAGO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,
RESPONDENT.**

DECISION

YNARES-SANTIAGO, J.:

On March 4, 1997, petitioner Oscar A. Bago was found guilty in Criminal Case No. 93-12562 of Falsification of Public Document, defined and penalized under Article 171 of the Revised Penal Code, by the Regional Trial Court of Manila, Branch 7, and was sentenced to an indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.^[1]

Petitioner interposed an appeal before the Court of Appeals docketed as CA-G.R. CR No. 21018. In due course, he was directed to submit his Appellant's Brief on or before December 22, 1997.^[2]

However, based on the report of the Judicial Records Division of the Court of Appeals, no appellant's brief was filed by petitioner within the period given. Petitioner was required to show cause why his appeal should not be considered abandoned.^[3]

On March 9, 1998, petitioner's counsel filed a manifestation stating the Appellant's Brief was filed seasonably by his secretary with the Court of Appeals. However, the original of the same was inadvertently filed with the copies intended for the Brief Section because there were Christmas parties going on. Petitioner's counsel likewise admitted that the Office of the Solicitor General had just been furnished with a copy of the Appellant's Brief due to the failure of her secretary to send it on December 22, 1997.^[4]

Not satisfied with petitioner's explanation, the appeal was dismissed in a Resolution dated May 15, 1998.

Petitioner's motion for reconsideration was denied; hence, the instant petition filed under Rule 45 of the Revised Rules of Court, where petitioner argues that, contrary to the findings of the Court of Appeals, he was able to file his appeal brief on December 22, 1997, within the reglementary period, as evidenced by the rubber stamp mark on the upper right hand corner of his copy thereof. Granting *arguendo* that the brief was filed beyond the period set by the appellate court, nevertheless, it must be admitted and given due course for justice and equity must prevail over technicality of the law.

Respondent, through the Office of the Solicitor General, counters that petitioner