

THIRD DIVISION

[G.R. No. 95523, March 26, 1998]

**REYNALDO GONZALES Y RIVERA, PETITIONER VS. HONORABLE
COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

R E S O L U T I O N

ROMERO, J.:

On October 28, 1988, petitioner Reynaldo Gonzales y Rivera was convicted for illegal possession of firearm, viz.:

“WHEREFORE, premises considered, for failure of the prosecution to prove the guilt of Reynaldo Gonzales beyond reasonable doubt of the charge for Attempted Homicide, he is hereby acquitted of the crime charged.

With respect to the charged of illegal Possession of Firearms, the Court finds the accused guilty beyond reasonable doubt and hereby sentences him to a penalty ranging from 17 years, 4 months, 1 day to 18 years, 8 months of *Reclusion Temporal*, without pronouncement as to costs.”

The conviction was affirmed by the Court of Appeals in a decision dated July 12, 1990. On November 13, 1990 petitioner filed a petition for review on *certiorari* seeking the reversal of the Court of Appeals’ decision.

While the case was still pending, Republic Act 8294 was enacted lowering the penalty for illegal possession of firearm. Thus, in our decision dated August 18, 1997 while affirming petitioner’s conviction, we modified the imposable penalty pursuant to the new law, the dispositive portion of the decision reads:

“WHEREFORE, the decision of the Court of Appeals sustaining petitioner’s conviction by the lower court of the crime of simple illegal possession of firearm is AFFIRMED, with the MODIFICATION that the penalty is reduced to ‘four (4) years and two (2) months, as minimum, to six (6) years, as maximum.’”

Since the petitioner has already served nine (9) years, nine (9) months and twenty-three (23) days, which is well beyond the maximum principal penalty imposed for his offense, as well as the subsidiary penalty for the unpaid fine, he is hereby ordered RELEASED immediately, unless he is being held for some other lawful cause.

SO ORDERED.”

It must be noted that in determining the preventive detention of the petitioner, we computed the total period from the time the trial court convicted the petitioner which was on October 28, 1988 to the date of promulgation of our decision on August 18, 1997.