

(S. B. 209)

**(No. 68-2014)**

(Approved June 24, 2014)

## **AN ACT**

To amend Rule 172 of the Rules of Criminal Procedure of 1963, as amended; Article 55 of Act No. 146-2012, as amended, known as the “Penal Code of Puerto Rico”; and Article[sic] 8.15 of Act No. 33 of June 19, 1987, as amended, better known as the “Rules of Procedure for Minors’ Affairs,” in order to establish a time limit for the payment of fines, and the grounds for appeal when a fine has been paid.

### **STATEMENT OF MOTIVES**

According to the case law in our jurisdiction, when a fine is fully paid, the defendant waives his right to appeal. As a result of such payment, the Court of Appeals loses jurisdiction over the matter for it becomes moot. *See*, Malavet-Vega, Pedro (1998) *El Procedimiento Penal en el Derecho de Puerto Rico*, Ponce, Puerto Rico: Ediciones Lorena, p. 382; *See also*, *Pueblo v. Tribunal Superior*, 92 D.P.R. 582 (1965).

However, this case law did not remain unaltered because the Supreme Court of Puerto Rico established several exceptions that would grant jurisdiction to the Court of Appeals even when the fine had been fully paid. In *Pueblo en Interés del Menor M.A.G.O.*, 138 D.P.R. 20 (1995), our Highest Court held that a criminal case where the challenged sentence is so brief that it has generally expired before it can be reviewed is not necessarily moot. Likewise, a criminal case is moot only if it is shown that there is no possibility that any collateral legal consequences will be imposed on the basis of the challenged conviction. *See also*, *Sibrón v. New York*, 392 U.S. 40 (1968).

In *St. Pierre v. U.S.*, 319 U.S. 41 (1943), the Supreme Court of the United States clarified that “collateral legal consequences” may be similar future legal proceedings to which the petitioner may be subject, under either state or federal law, or further penalties or disabilities that can be imposed as a result of the judgment which has now been satisfied. However, if the appeal is directed only to attack the fine imposed, and since that fine was satisfied during the course of the proceedings in trial court, the appeal is moot. See, *Lane v. Williams*, 455 U.S. 624 (1982).

In other words, a criminal case in which the challenged sentence has been fully served by the convict is moot, if it is shown that there is no possibility that collateral legal consequences will be imposed on the basis of the sentence. Secondly, challenging a sentence would be moot, if it were obvious that the petitioner could have been able to file his case for review before the expiration of his sentence. Thirdly, a case is moot when the convict only appeals the imposed sentence and such sentence has been fully served at the time the certiorari is granted. *Pueblo en Interés del Menor M.A.G.O.*, *supra*.

In the practice, there is a popular notion that the right to appeal is automatically waived once the fine has been fully paid. However, as we have seen, case law has proven otherwise. Democratic institutions must protect the right to appeal from excesses of the State, in this case the Court of First Instance.

This Act seeks to conform the statute to the case law. Let us remember that juridical tradition relies on the rule of law and not solely on precedent (i.e. *stare decisis*). We deem it necessary to set forth in the law the above described case law considerations, so that the Courts of First Instance may interpret said Rule uniformly.

***BE IT ENACTED BY THE LEGISLATIVE SENTENCE OF ASSEMBLY OF PUERTO RICO:***

Section 1.- Rule 172 of the Rules of Criminal Procedures of 1963, as amended, is hereby amended to read as follows:

“Rule 172.- SENTENCE; ALTERNATIVE SENTENCE OF IMPRISONMENT.

Whenever a defendant is sentenced by the court to pay a fine, and such fine is not paid in accordance with this Section, the defendant shall be imprisoned for such nonpayment, and remain imprisoned one (1) day for each dollar not paid and this alternative imprisonment shall not exceed ninety (90) days.

The fine shall be paid within thirty (30) days from the time it becomes due. Once the fine has been paid in full, the judgement shall be deemed satisfied and non-appealable, except under the following circumstances:

- a) If there is a possibility that any collateral legal consequences shall be imposed on the basis of the judgment.
- b) If it is proven that the defendant would not have been able to bring his case for review before the expiration of his sentence.
- c) If the appeal includes additional allegations of errors of law and does not appeal only the sentence imposed.”

Section 2.- Article 55 of Act No. 146-2012, as amended, known as the “Penal Code of Puerto Rico,” is hereby amended to read as follows:

“Article 55.- METHOD OF PAYMENT OF FINES.

Fines shall be paid within thirty (30) days from the imposition thereof. However, at the offender’s request and at the court’s discretion, fines may be paid in full or in installments over a reasonable period of time from the date on which the sentence becomes final and becomes binding.

The court may maintain the benefit of the payment plan if it deems that the offender’s noncompliance was for good cause.”

Section 3.- Article[sic] 8.15 of Act No. 33 of June 19, 1987, as amended, known as the “Rules of Procedure for Minors’ Affairs,” is hereby amended to read as follows:

“Article[sic] 8.15.- PAYMENT OF FINES.

The minor shall be required to pay any fines and costs within the period established by the Court, which shall not be less than thirty (30) days from the imposition thereof.”

Section 4.- This Act shall take effect upon its approval.