RE: REQUEST OF POLICE DIRECTOR GENERAL AVELINO I. RAZON FOR AUTHORITY TO DELEGATE THE ENDORSEMENT OF APPLICATION FOR SEARCH WARRANT.

A.M. No. 08-4-4-SC. July 07, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us are two communications; the first letter,[1] dated 19 March 2008, was sent by then Police Director General Avelino I. Razon, Jr. (P/Dir. Gen. Razon), Chief, Philippine National Police (PNP); and the second one,[2] dated 25 November 2008, from Police Director General Jesus A. Verzosa (P/Dir. Gen. Verzosa), the succeeding Chief of the PNP. Both letters were addressed to then Court Administrator Zenaida N. Elepaño, and involved the procedural requirement that applications for search warrant filed before Regional Trial Courts (RTCs) of Manila and Quezon City should be personally endorsed by heads of the PNP, National Bureau of Investigation (NBI), and the Anti-Crime Task Force (ACTAF) of the Armed Forces of the Philippines (AFP).

The 19 March 2008 letter of then P/Dir. Gen. Razon manifested his apprehension that -

> [R]ecently that the concerned Executive Regional Trial Court Judges have required that the applications for search warrants in accordance with the [Section 12, Chapter V of the Guidelines on the Selection and Appointment of Executive Judges] need to be endorsed personally by the undersigned otherwise the application would not be acted upon.
>
> The undersigned (P/Dir. Gen. Razon), due to the numerous demands of his office, may not be able to act expeditiously on the required endorsements of application for search warrant. Any unnecessary delay in the application, especially on cases which require immediate search and seizure of any contraband, would not serve the purpose for which the search warrant was applied for and render the ends of justice nugatory.[3]

In connection thereto, P/Dir. Gen. Razon requested that -

> [He] be allowed to delegate the endorsement of the application for search warrant to the Director of the Directorate for Investigation and Detective Management (PDIR JEFFERSON P. SORIANO), in view of his inherent investigative functions and as Commander of the Task Force USIG and Anti-Illegal Drugs Special Operations Task Force.[4]

Acting upon the foregoing letter, Court Administrator Elepano recommended to Chief Justice Reynato S. Puno, through a Memorandum dated 28 March 2008, that leave be granted allowing P/Dir. Gen. Razon to delegate the authority to endorse the applications for search warrant, based on the following considerations -

> Being the chief of the PNP, General Razon oversees the operations of the entire police force all over the Philippines, and in the discharge of his duties and responsibilities, he is expected to be very mobile. His constant official and ceremonial functions compel him to be out of his office most of the time. Such situation poses a problem in terms of expediting the filing of application for search warrant by the PNP in the Regional Trial Courts of Manila and Quezon City because of the requirement under Section 12 of A.M. No. 03-8-02, the

> compliance of which is dependent upon the presence of General Razon in his office. Delegating the authority to endorse is a legal and viable option to address this problem and to ensure the speedy filing of applications for search warrant by the PNP.[5]

Court Administrator Elepano's above-quoted recommendation, however, carried a qualification, i.e., that "the matter of whether this requirement may be relaxed such that the endorsement of applications for search warrant may be delegated to a subordinate officer should be resolved insofar as it applies only to General Razon;" preceding from the assumption that "the concern of General Razon [was] peculiar to him alone since the heads of the other agencies have no problem in complying with the requirement in question."

In a Resolution dated 15 April 2008, the Court granted the request of P/Dir. Gen. Razon, to wit:

> The Court Resolved, upon the recommendation of Court Administrator Zenaida N. Elepaño, to GRANT the request of Police Director General Avelino I. Razon, Chief, Philippine National Police (PNP), to delegate the authority to endorse the applications for search warrant to be filed in the Regional trial Courts of Manila and Quezon City to the Director of the Directorate for Investigation and Detective Management of the PNP in connection with Section 12 of the Guidelines on the Selection and Appointment of Executive Judges (A.M. No. 03-8-02-SC).[6]

Thereafter, on 25 November 2008, the PNP, this time under the headship P/Dir. Gen. Verzosa, asked the Court for "clarification x x x regarding the construction on the duration or effectivity"[7] of the 15 April 2008 Resolution of the Court. The necessity for clarification resulted from an incident that occurred on 11 November 2008, wherein the application for search warrant filed by the Anti-Illegal Drugs Special Operations Task Force (AIDSOTF), as endorsed by the Director for Investigation and Detective Management (DIDM), Police Chief Superintendent Raul M. Bacalzo,[8] was denied by Executive Judge Reynaldo Ros of the Manila RTC, on the ground that the authority to delegate was "already inoperative for it only applies to the incumbency of PDG AVELINO I. RAZON, JR. being the requesting party."[9] P/Dir. Gen. Verzosa, thus, asked of the Court that -

> Should the [15 April 2008 Resolution of the Court] be rendered moot by mere change of PNP leadership, the undersigned formally requests for the issuance of a Resolution granting continuing authority delegating to the Director, DIDM the endorsement of SW application in behalf of the Chief, PNP before the said courts to withstand future changes of officers.[10]

The Court directed the Court Administrator and the Chief Attorney to comment on P/Dir. Gen. Verzosa's request.

In a Memorandum dated 19 December 2008, the Office of the Court Administrator (OCA), through incumbent Court Administrator, Jose P. Perez, recommended that the current Chief of the PNP, as well as all his successors thereafter, should be allowed to delegate to the Director of the DIDM, PNP, the authority to endorse applications for search warrant which are to be filed before the RTCs of Manila and Quezon City.

The Office of the Chief Attorney (OCAT), on the other hand, observed in its Comment, submitted on 13 March 2009, that -

> Since Section 12, Chapter V of the Guidelines for Executive Judges appear to be the hindrance to immediate action on applications for search warrant in the cases mentioned therein, and to make the delegation applicable to all heads of law enforcement agencies regardless of the holder of those positions, it may be best for the Court to amend that guideline. Thereby, a change in leadership in the PNP would not require the incumbent PNP Chief to seek the authority of the Court to delegate his function to endorse an application for search warrant. The amendment may also achieve the reason for and purpose of the requested `continuing authority,' especially because the authority of the PNP Chief to delegate functions is expressly recognized by Section 26 of Republic Act No. 6975.

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The Court finds the observations and recommendations of the OCA and OCAT to be well taken.

At present, Sec. 12, Chapter V of A.M. No. 03-8-02-SC, entitled "Guidelines on the Selection and Appointment of Executive Judges and Defining their Powers, Prerogatives and Duties," dictates that -

> SEC. 12. Issuance of search warrants in special criminal cases by the Regional Trial Courts of Manila and Quezon City. - The Executive Judges and, whenever they are on official leave of absence or are not physically present in the station, the Vice-Executive Judges of the RTCs of Manila and Quezon City shall have authority to act on applications filed by the National Bureau of Investigation (NBI), the Philippine National Police (PNP) and the Anti-Crime Task Force (ACTAF), for search warrants involving heinous crimes, illegal gambling, illegal possession of firearms and ammunitions as well as violations of the Comprehensive Dangerous Drugs Act of 2002, he Intellectual Property Code, the Anti-Money Laundering Act of 2001, the Tariff and Customs Code, as amended, and other relevant laws that may hereafter be enacted by Congress, and included herein by the Supreme Court.
>
> The applications shall be personally endorsed by the heads of such agencies and shall particularly describe therein the places to be searched and/or the property or things to be seized as prescribed in the Rules of Court. The Executive Judges and Vice-Executive Judges concerned shall issue the warrants, if justified, which may be served in places outside the territorial jurisdiction of the said courts.
>
> The Executive Judges and the authorized Judges shall keep a special docket book listing names of Judges to whom the applications are assigned, the details of the applications and the results of the searches and seizures made pursuant to the warrants issued.
>
> This Section shall be an exception to Section 2 of Rule 126 of the Rules of Court.[11] (Emphasis supplied.)

From a cursory reading of the aforementioned provision of A.M. No. 03-8-02-SC, it is crystal that applications for search warrant to be filed before the RTCs of Manila and Quezon City must be essentially approved in person by the heads of the following agencies: the PNP, NBI, and ACTAF of the AFP. Accordingly, in the incident recounted in the 25 November 2008 letter of P/Dir. Gen. Verzosa, Judge Ros correctly denied the application for search warrant of the PNP for being defective. The authority granted by the Court to P/Dir. Gen. Razon to delegate to the Director of DIDM, PNP, the endorsement of applications for search warrant to be filed before the RTCs of Manila and Quezon City, was personal to P/Dir. Gen. Razon. It cannot be invoked by P/Dir. Gen. Razon's successor.

Nevertheless, the Court acknowledges that, to be efficient in the campaign to fight crime, the PNP Chief must not be tied to his desk. Recent developments and trends in criminality require the PNP Chief to be mobile, so that he will be effective in the performance of several functions and responsibilities attendant to his position. That being the case, there will be instances when documents demanding the PNP Chief's immediate attention and signature will not be acted upon right away. One such document may be an application for a search warrant, the immediate endorsement of which is a must in order for the PNP to be effective and responsive in the conduct of its criminal investigation. It is, therefore, evident that for the PNP to function more effectively and efficiently in its campaign against criminality, the safeguard in Sec. 12, Chapter V of A.M. No. 03-8-02-SC, i.e., requiring the PNP Chief's personal endorsement of an application for search warrant, calls for a review.

As correctly observed by the OCAT, the very specific requirement under Sec. 12, Chap. V of A.M. No. 03-8-02-SC - that the heads of the PNP, NBI, and ACTAF of the AFP, personally endorse applications of search warrants to be filed before the RTCs of Manila and Quezon City - deters the delegation of said duty even to their authorized representatives. Hence, as suggested,[12] A.M. No. 03-8-02-SC must be amended to delete the word "personally" in the second paragraph of Sec. 12, Chap. V thereof. However, as to the proposal of the OCAT to insert the phrase "or their respective duly authorized officials as provided by law," the Court is of the view that the

abridged phrase "or their respective duly authorized officials" is more than sufficient to serve the intended purpose. The phrase "as provided by law" is a mere surplus since, as correctly pointed out by the OCAT, it may be presumed that the delegation of authority by the head of the agency concerned is in accordance with law.[13]

The aforementioned amendments of Sec. 12, Chap. V of A.M. No. 03-8-02-SC, will not only enable the Chief of the PNP, but the heads of the NBI and ACTAF of the AFP, as well, to delegate to their duly authorized representatives the duty to endorse applications for search warrant to be filed before the RTCs of Manila and Quezon City.

NOW, THEREFORE, BE IT RESOLVED, as it is hereby Resolved, in accordance with the following discussion, that:

(1) The request of P/Dir. Gen. Jesus A. Verzosa for leave to delegate to the Director of the DIDM, PNP, the authority to endorse applications for search warrants to be filed before the RTCs of Manila and Quezon City, is hereby GRANTED in accordance with Sec. 12, Chapter V of A.M. No. 03-8-02-SC, as it is hereinafter amended; and

(2) Sec. 12, Chapter V of the Guidelines on the Selection and Appointment of Executive Judges and Defining their Powers, Prerogatives and Duties, as embodied in A.M. No. 03-8-02-SC, as approved by the Court in its Resolution of 27 January 2004, is hereby AMENDED to read as follows:

> SEC. 12. Issuance of search warrants in special criminal cases by the Regional Trial Courts of Manila and Quezon City. - The Executive Judges and, whenever they are on official leave of absence or are not physically present in the station, the Vice-Executive Judges of the RTCs of Manila and Quezon City shall have authority to act on applications filed by the National Bureau of Investigation (NBI), the Philippine National Police (PNP) and the Anti-Crime Task Force (ACTAF), for search warrants involving heinous crimes, illegal gambling, illegal possession of firearms and ammunitions as well as violations of the Comprehensive Dangerous Drugs Act of 2002, the Intellectual Property Code, the Anti-Money Laundering Act of 2001, the Tariff and Customs Code, as amended, and other relevant laws that may hereafter be enacted by Congress, and included herein by the Supreme Court.
>
> The applications shall be endorsed by the heads of such agencies or their respective duly authorized officials and shall particularly describe therein the places to be searched and/or the property or things to be seized as prescribed in the Rules of Court. The Executive Judges and Vice-Executive Judges concerned shall issue the warrants, if justified, which may be served outside the territorial jurisdiction of the said courts.
>
> The Executive Judges and the authorized Judges shall keep a special docket book listing names of Judges to whom the applications are assigned, the details of the applications and the results of the searches and seizures made pursuant to the warrants issued.
>
> This Section shall be an exception to Section 2 of Rule 126 of the Rules of Court. (Emphasis supplied.)

This amendment shall apply to all current, as well as succeeding heads of the PNP, NBI, and ACTAF of the AFP. It shall take effect on 20 July 2009 and shall be published in a newspaper of general circulation in the Philippines not later than 5 July 2009.

SO ORDERED.

Puno, C. J., Quisumbing, Ynares-Santiago, Carpio, Corona, Carpio-Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, and Bersamin, JJ., concur.

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[1] Rollo, pp. 3-4.

[2] Id. at 12.

[3] Id. at 3-4.

[4] Id. at 4.

[5] Id. at 2.

[6] Id. at 7.

[7] Id. at 12.

[8] Also the concurrent Commander of AIDSOTF, as well as Task Force Usig.

[9] Rollo, p. 12.

[10] Id.

[11] Id. at 17.

[12] Id. at 15-24.

[13] Id. at 21.

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