

WELLINGTON QUE REYES, PETITIONER, VS. GENERAL FIDEL RAMOS OF THE PHILIPPINE CONSTABULARY (PC), CAMP CRAME, QUEZON CITY (Q.C.); MAJOR ROLANDO ABADILLA OF THE METROCOM POLICE INTE...*G.R. No. L-40027. January 29, 1976*

Ponente: FERNANDO, J.

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This application for habeas corpus filed by Wellington Que Reyes, through a sister, is premised on his having been "confined, restrained and deprived of his liberty" in the stockade or detention cell at Camp Crame, Quezon City,[1] notwithstanding the absence of a formal complaint or accusation for any specific offense imputed to him, or of any judicial writ or order for his commitment.[2] It was further alleged therein that he had not committed any offense for which he could be arrested or deprived of his liberty.[3] While General Fidel Ramos, Chief of the Philippine Constabulary, was named as respondent, it was specifically made clear that as far as he was aware, such detention was ordered by respondent Major Rolando Abadilla of Camp Crame.[4] Its last paragraph is worded thus: "That the new Constitution being in full operation and the civil court not [having] been abolished, the confinement of your petitioner under circumstances above narrated is utterly illegal, unjust and without any jurisdiction." [5]

The petition was filed on January 25, 1975. Two days later, this Court issued the following resolution: "Considering the allegations contained, the issues raised and the arguments adduced in the petition for habeas corpus, the Court Resolved: (a) to [issue] a writ of habeas corpus, returnable to this Court on Wednesday, January 29, 1975 at 10:00 a.m.; and (b) to require the respondents to file an [answer] thereto not later than January 28, 1975, and not to move to dismiss the petition." [6] The return was duly filed on January 28, 1975. It sought the dismissal thereof on the ground that there was a valid arrest and seizure order against petitioner. Then came the hearing on January 29, 1975 resulting in the following resolution of this Court: "When this case was called for hearing this morning, Atty. Apolo P. Gaminde, assisted by Atty. Belen E. Tuy, appeared and argued for the petitioners, while Assistant Solicitor General Santiago M. Kapunan, Col. Eustaquio Purugganan and Lt. Col. Felix R. Solomon of the Judge Advocate General's Office, appeared and argued for the respondents. In compliance with the writ, the body of petitioner Wellington Reyes was brought before this Court. Counsel for respondents manifested that the case of the petitioner will be referred to the City Fiscal of Manila at 2:00 p.m. today. In view thereof, the Court Resolved to [require]: (a) the petitioner to [file] within five (5) days from notice a sworn manifestation stating the facts related to the alleged referral to the City Fiscal's Office of Manila by the Judge Advocate General's Office of the case of petitioner sometime in December 1974 and the alleged dismissal or recommendation of dismissal thereof by the Assistant City Fiscal of Manila, a copy of such sworn manifestation to be served on the Solicitor General who may file a counter-manifestation within the same period from receipt thereof; and (b) the counsel for respondent to [file] within five (5) days from notice hereof, a documented explanation of why the case of the petitioner was not immediately referred to the Civil Authorities after the

issuance of General Order No. 41 and also why petitioner has been detained since January 24, 1975 without the supposed scheduled referral of the case to the City Fiscal's Office." [7]

On the very next day, January 30, 1975, a manifestation was filed by the Solicitor General. It reads thus: "1. Petitioner had been released from detention as of 1:45 p.m. of January 29, 1975, as evidenced by a copy of the Temporary Release Order No. 75-073, dated January 1975, * * *; 2. The case against petitioner for falsification of public document was referred on January 29, 1975 to the office of the City Fiscal of Quezon City (docketed as I.S. No. 75-1652), and not to the Manila Fiscal, it appearing that the falsified public document was executed in Quezon City; * * * 3. Respondents further wish to state that TSgt. Jaime Orilloso and Sgt. Estanislao Gamboa of the Metrocom Police Intelligence Service apprehended petitioner on January 24, 1975 on the strength of the Arrest, Search and Seizure Order No. 2530 signed by the Secretary of National Defense, which order as of the time of petitioner's arrest was still subsisting and had not been recalled. Manila, January 30, 1975." [8] Thereafter, the compliance offering the explanation as to why the case against petitioner was not immediately referred to the civilian authorities after the issuance of General Order No. 49 and why petitioner was detained since January 24, 1975 without the scheduled referral of the case to the City Fiscal's Office, was submitted to this Court on February 21, 1975. It was signed by Solicitor General Estelito P. Mendoza, Assistant Solicitor General Santiago M. Kapunan and Solicitor Celso P. Ylagan. It is worded thus: "1. One Mrs. Marciana Abcede filed on September 3, 1973 a complaint for Estafa against petitioner with the PC Metrocom; 2. On January 16, 1974, Mrs. Abcede's complaint was referred to the Judge Advocate General, AFP; 3. On the basis of Mrs. Abcede's complaint, the Secretary of National Defense issued on February 26, 1974 [arrest, search and seizure order] No. 2530 for the apprehension of petitioner, * * *; 4. However, petitioner's immediate arrest could not be effected because he was not found in any of his known addresses, and his whereabouts were unknown; 5. As the [arrest, search and seizure order] issued on February 26, 1974 continued to be effective and unexecuted, petitioner was arrested by elements of PC Metrocom, at about 10:30 in the morning of January 24, 1975 (Friday). He was immediately brought to Camp Crame for investigation. Said investigation included not only another complaint against petitioner filed by Mrs. Abcede with the PC on November 10, 1973, this time for Falsification of Public Documents, but eighteen (18) criminal cases and/or complaints as well. The investigating team came across these other cases when they looked into petitioner's police records with the various police agencies in the Greater Manila area; 6. Investigating elements of the PC Metrocom proceeded thereafter to all Courts and offices where these criminal cases and/or complaints are pending trial and/or disposition, including the Office of Civil Relations, GHQ, AFP, at Camp General Emilio Aguinaldo, Quezon City, where the two complaints for Estafa were filed, to follow up the disposition and/or status of all these cases; in those cases where warrants of arrest were issued against petitioner, to verify if said warrants were served or executed. It took the PC Metrocom the whole afternoon of Friday (January 24, 1975) and all of the following day, Saturday (January 25, 1975), to carry out this series of actions; 7. Verification of said eighteen (18) cases and/or complaints, disclosed the following information: (a) Criminal Case No. 131535, for Estafa, dismissed upon desistance of offended party, (b) Criminal Case No. VII-142963, for Malicious Mischief, pending - out on bail, (c) Criminal Case No. VII-149769, for Slight Physical Injuries, pending - out on bail, (d) Criminal Case No. III-150828 for Grave Coercion, pending - out on bail, (e) Criminal Case No. III-159834, for Grave Threats, pending - out on bail, (f) I.S. No. 72-1767, for Estafa, pending, (g) Estafa, filed with MMP - no disposition on file (July 18, 1969), (h) Estafa, filed with MMP - no disposition on file (November 25, 1970), (i) Illegal Possession of Firearms and Ammunitions, filed with MMP - no disposition on file (November 25, 1970), (j) Violation of Ordinance 2646 (Jaywalking) - no disposition on file (January 20, 1972), (k) Estafa thru Falsification of Commercial Documents, before Br. VI, CFI, Manila, dismissed, upon desistance of offended party, (l) Estafa, before Br. VIII, City Court, Manila, dismissed, upon desistance of offended party, (m) Estafa, before Br. VIII, City Court, Manila, pending, (n) Estafa complaint, filed with OCR, GHQ, AFP (1973) - no disposition on file (o) Estafa, complaint, filed with OCR, GHQ, AFP - no disposition on

file, (p) Attempted Parricide, filed with MMP & Metrocom - closed due to complainant's desistance, (q) Criminal Case No. 7143987, for Incriminatory Machination - case withdrawn, (r) Criminal Case No. 7143986, for Attempted Corruption of Public Official - case withdrawn by Reviewing Fiscal on November 15, 1971; 8. On January 27, 1975 (Monday), even before respondents could effect the actual transfer of petitioner's case to the proper City Fiscal's Office (considering limitations of time, facilities for investigation, etc.), this Honorable Court resolved to issue the Writ (habeas corpus) returnable to itself on Wednesday, January 29, 1975, at 10:00 a.m.; and to require respondents to file Answer not later than January 28, 1975; 9. From January 27 to January 29, 1975, respondents took no action on these cases and complaints, including Mrs. Abcede's complaint for Falsification of Public Documents, by way of referring or indorsing them to the prosecuting agencies, the proceedings having become sub judice, respondents [being] of the impression that the matter should be left to the disposition of this Honorable Court; 10. On January 29, 1975, at about 2:00 in the afternoon, after the hearing in the morning of herein Petition before this Tribunal, respondents forwarded Mrs. Abcede's complaint for Falsification of Public Documents to the Office of the City Fiscal of Quezon City (I.S. No. 75-1652); * * * 11. On the same date (January 29, 1975), at exactly 1:45 o'clock in the afternoon, petitioner was granted temporary release [and] * * * on February 4, 1975, petitioner was granted permanent release. * * *"[9]

The petition has thus become moot and academic. In the very recent case of *Cayaga vs. Tangonan*,^[10] also a habeas corpus application, there was a reiteration of the principle that the release of a person under detention renders the petition moot and academic.^[11] So we rule again. It is not amiss though to refer to recent pronouncements after martial law was instituted on the subject of confinement at the instance of military authorities. It remains undoubted that where the restraint of liberty is premised under Proclamation No. 1081 and in pursuance of its express terms, the individual whose release is sought falls within the class of persons as to whom the privilege of habeas corpus has been suspended.^[12] Since the writ itself, however, is never suspended, there is no bar to a petition of this character, especially so where on the face of the application itself it appears that there is no justification for such detention. It is in that way that this writ of liberty serves a highly useful purpose. While it is to be assumed, and with reason, that no abuse of the broader powers under martial rule would be attempted by military officials, still, especially on the part of those in the lower echelon, and possibly due to excess of zeal, there could be detention without color of law. Should such a regrettable incident occur, certainly the courts are open for redress. Nor does the mere fact that the record of this petitioner, as set forth in the Compliance, attested to his frequent brushes with the law, preclude him from availing himself of the remedy. Quite apropos is this observation from Justice Frankfurter: "It is a fair summary of history to say that the safeguards of liberty have frequently been forged in controversies involving not very nice people."^[13]

Wherefore, it being a matter of record that there is an order from the Secretary of National Defense that as of February 4, 1975, petitioner was granted permanent release, and with the writ of habeas corpus having served its purpose, the petition is dismissed for being moot and academic. No costs.

Antonio, Aquino, Concepcion Jr., and Martin, JJ., concur.

Barredo, J., did not take part.

[1] Petition, par. 2.

[2] Ibid, par. 3.

[3] Ibid, par. 4.

[4] Ibid, par. 5.

[5] Ibid, par. 9.

[6] Resolution dated January 27, 1975.

[7] Resolution dated January 29, 1975.

[8] Manifestation dated January 30, 1975.

[9] Compliance dated February 19, 1975.

[10] L-40970, August 21, 1975, 66 SCRA 216.

[11] The following cases were cited: Tan Me Nio vs. Collector of Customs, 34 Phil. 944 (1916); Zagala vs. Ilustre, 48 Phil. 282 (1925); Gonzales vs. Viola, 61 Phil. 824 (1935); Lino vs. Fugoso, 77 Phil. 933 (1947); Camasura vs. Provost Marshall, 78 Phil. 142 (1947); Vivo vs. Morfe, L-25410, Dec. 18, 1967, 21 SCRA 1309; Aquino vs. Ponce Enrile, L-35546, Sept. 17, 1974, 59 SCRA 183; Herrera vs. Enrile, L-40181, Feb. 25, 1975, 62 SCRA 547, Ibid, 219.

[12] Aquino vs. Ponce Enrile, L-35546, Sept. 17, 1974, 59 SCRA 183.

[13] United States vs. Rabinowitz, 339 US 56 (1950).

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