

RAYMOND MICHAEL JACKSON, PETITIONER, VS. HON. FLORITO S. MACALINO, RUFUS B. RODRIGUEZ, BUREAU OF IMMIGRATION, JOHN DOE AND JANE DOE, RESPONDENTS.

G.R. No. 139255. November 24, 2003

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for certiorari under Rule 65 of the Rules of Court, as amended, for the reversal of the Decision[1] of the Regional Trial Court (RTC) of Pasay City, Branch 267, in Special Proceedings No. 10948 dismissing the petition for habeas corpus filed by the petitioner.

The Antecedents

SPO3 Rodolfo M. Villaceran of the Philippine National Police (PNP) filed an application with the RTC of Angeles City, Pampanga, for the issuance of a search warrant against petitioner Raymond M. Jackson, an American citizen, a.k.a. Allen Miller, and Jaime C. Bueta for the search of the articles listed therein at No. 17-21 Apple Street, Hensonville Homes, Balibago, Angeles City, and the seizure thereof for violation of Article 176 of the Revised Penal Code.[2] Judge Bernardita G. Erum granted the application and issued Search Warrant No. 97-29 on November 29, 1997.[3] The search was conducted on the said date; articles were seized and the petitioner and Bueta were apprehended and detained. Among the articles found in the possession of the petitioner was U.S. Passport No. Z4613110 issued on June 2, 1983 by the U.S. Embassy in Manila to and in the name of Raymond Michael Jackson, born on October 17, 1951 in South Dakota; and U.S. Passport No. 085238399 issued on August 15, 1996 by the New Orleans Passport Agency, Louisiana to and under the name of Steven Bernard Bator, born on August 20, 1949 in Detroit, Michigan.[4]

Another application for a search warrant was filed by SPO3 Pedro B. Barsana, Jr. with the RTC of Makati City for violation of Article 176 of the Revised Penal Code for the search of the premises at No. 5518 Second Floor, Macodyn Building, South Superhighway (corner Pasay Road), Makati City under the contract of Raymond Jackson a.k.a. Allen Miller and Bernard Bator and for the seizure of the articles described therein. Acting on the application on November 28, 1997, Judge Pedro N. Laggui of Branch 60 of the RTC issued Search Warrant No. 97-029.[5]

On December 2, 1997, an Information docketed as Criminal Case No. 97-2078 was filed with the Municipal Trial Court of Angeles City against the petitioner and Bueta for violation of Article 176 of the Revised Penal Code.[6]

When apprised of the seizure of the aforementioned passports from the petitioner, U.S. Vice Consul Raymond Greene of the United States Embassy in the Philippines advised the Department of Justice on December 10, 1997 that the said passports had been cancelled.[7] Summary deportation proceedings were initiated at the Commission of Immigration and Deportation (CID) against the petitioner docketed as SDO No. BOC 97-46. On December 11, 1997, the Board of Commissioners (BOC) issued an Order ordering the summary deportation of the petitioner to his country of origin and directing the Chief of Civil Security Unit to implement the order within three days from

notice thereof, subject to compliance with the 1997 Deportation Rules of Procedures - Office Memorandum No. ELM-97-013.[8] In the meantime, the name of the petitioner was included in the blacklist of the CID.[9]

Aside from the aforementioned criminal cases, other criminal cases were filed against Jackson with the RTC as follows:

Criminal Case No.

The Accused

In What Court Cases
are Pending

1. 98-1155

Raymond Michael Jackson
alias Allen Miller

Makati RTC -
Branch 133

2. 98-903

Raymond Jackson

Makati RTC -
Branch 135

3. 97-202

Raymond M. Jackson
a.k.a. Allen Miller and
Jaime Bueta

QC RTC -
Branch 83

4. 98-1152

Raymond Jackson

Makati RTC -
Branch 135[10]

On December 7, 1997, the Quezon City RTC ordered the release of the petitioner in Criminal Case No. 97-202 after posting a P6,000 bail.[11]

On September 18, 1998, the Makati RTC issued an order in Criminal Case No. 98-1155 directing the CID to hold the departure of the petitioner from the Philippines in view of the pending criminal cases against him.[12] On September 28, 1998, the Makati RTC ordered the release of the petitioner in Criminal Case No. 98-1152 after he posted bail in the amount of P40,000.[13]

On October 1, 1998, the petitioner filed a motion for reconsideration with the CID for the reconsideration of the BOC Order dated December 11, 1997 directing his deportation.[14] He alleged inter alia that: (a) he was married to Lily Morales by whom he had two children: Cristina Jackson and Judaline Jackson; (b) his status was converted

into that of a permanent resident on September 30, 1987 under Section 13-A of the Immigration Act, as amended with Official Passport No. 3121487; (c) his deportation from the Philippines would deprive him of the opportunity to defend himself in the criminal cases pending against him. He appended to his motion a copy of his marriage contract with Lily Morales and their children's birth certificates. On October 14, 1998, the CID issued an order denying the petitioner's motion for reconsideration for lack of merit.[15]

The petitioner could not be deported because he filed a petition to lift the summary order of deportation with the CID which as of December 15, 1998 had not yet been resolved,[16] pending the issuance of clearances from the NBI and PNP, travel documents and an airplane ticket.

On May 18, 1999, Tedd Archabal, Vice Consul of the Anti-Fraud Unit in the U.S. Embassy in Manila, issued a certification that U.S. Passport No. Z4613110 issued to and under the name of "Raymond Michael Jackson" and No. 085238399 issued to Steven Bernard Bator had been cancelled because the persons appearing in the photographs affixed in the said passports did not match those appearing in the photographs affixed in the original applications for the issuance of the same.[17] The CID issued Mission Order No. RBR-99-164 on May 21, 1999 for the petitioner's arrest for being an undesirable alien under Section 37(a), paragraph 9 of the Philippine Immigration Act of 1940, as amended, [18] based on the hold departure order in Criminal Case No. 98-1155 and the certification of Vice Consul Tedd Archabal. The petitioner was arrested by P/C Inspector James B. Mejia of the Foreign Intelligence and Liaison Office, PNP Intelligence Group, Camp Crame, Quezon City, who turned him over to the CID on the said date.[19]

The petitioner filed a petition for habeas corpus with the Court on June 28, 1999 against the Commissioner of the CID and John Doe and Jane Doe; and on the same date, the Court issued a resolution (a) directing the issuance of a writ of habeas corpus and the respondents to make a return of the writ on or before July 2, 1999 at 8:30 a.m.; (b) ordering the Pasig RTC Judge to whom the case would be raffled to conduct a hearing of the petition, to render judgment and to serve a copy of its decision within two days from its promulgation.[20]

In their return filed with the RTC on July 8, 1999, the respondents alleged inter alia that the petitioner was arrested and detained at the CID on the basis of the summary deportation order issued by the BOC on December 11, 1997 and of the hold departure order of the Makati RTC in Criminal Case No. 98-1155; the petitioner's petition for habeas corpus was premature as there was a pending petition to lift the summary deportation order before the BOC filed by him.[21] On July 15, 1999, the RTC rendered a decision dismissing the petition of Jackson and denied his plea for a writ of habeas corpus.[22]

The petitioner assails the decision of the RTC and prays for the reversal thereof, contending that:

- RODRIGUEZ CANNOT ISSUE WARRANTS OF ARREST SINCE ONLY JUDGES CAN ISSUE THE SAME.
- ASSUMING, WITHOUT CONCEDING, THAT RODRIGUEZ CAN ISSUE WARRANTS OF ARREST, SUCH CAN ONLY BE ISSUED TO ENFORCE A FINAL ORDER OF DEPORTATION; HOWEVER, IN THE INSTANT CASE, THERE IS NO FINAL ORDER OF DEPORTATION.
- PETITIONER'S RIGHT TO DUE PROCESS HAS BEEN VIOLATED. [23]

The petitioner avers that under Article III, Section 2 of the Philippine Constitution, only judges are vested with authority to issue warrants for the arrest of persons, including aliens. Even if it is assumed that the Commissioner of the CID is authorized to issue a warrant of arrest, this is limited only to those cases where a final order of deportation had already been issued by the BOC, and only for the purpose of implementing the said order. According to the petitioner, the order of deportation issued by the BOC on December 11, 1999 is illegal; hence,

null and void. The petitioner was not apprised of any specific charges filed against him with the CID and was not heard on the said charges as required by law before the order was issued. The petitioner asserts that there was no probable cause for his arrest by the CID and that the respondents even violated the Memorandum Circular of the Secretary of Justice dated June 7, 1999.[24] The petitioner cited the ruling of the Court in *Lao Gi v. CA*[25] to fortify his petition.

In their comment on the petition, the respondents averred that the CID is authorized under Section 37(a) of the Philippine Immigration Act of 1940, as amended, to issue warrants for the arrest of aliens on the CID's finding of the existence of a ground for deportation. The petitioner cannot feign lack of due process because he filed a motion for the reconsideration of the December 11, 1997 Order of the BOC ordering his summary deportation which the BOC denied on October 14, 1998. When Mission Order RBR-99-164 was issued on May 21, 1999 to effect the arrest of the petitioner, it was on the basis of a final and executory order of deportation. The RTC, for its part, held that (a) the petition was premature because the petitioner's petition with the CID to lift the summary order of deportation had not yet been resolved by the BOC of the CID; (b) the petition for habeas corpus was inappropriate because the petitioner was validly detained under a mission order issued by the Commissioner based on the order of deportation issued by the BOC on December 11, 1997; (c) the petitioner is estopped from assailing his arrest and detention by the CID.

The petition is dismissed.

Section 1, Rule 102 of the Rules of Court, as amended, provides that "except as otherwise expressly provided by law, the writ of habeas corpus shall extend to all cases of illegal confinement or detention by which any person is deprived of his liberty, or by which the rightful custody of any person is withheld from the person entitled thereto." The ultimate purpose of the writ of habeas corpus is to relieve a person from unlawful restraint. It is essentially a writ of inquiry and is granted to test the right under which he is detained.[26] Section 4, Rule 102 of the said Rules provides when the writ of habeas corpus is not allowed or discharged authorized:

Sec. 4. When writ not allowed or discharged authorized. - If it appears that the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge or by virtue of a judgment or order of a court of record, and that the court or judge had jurisdiction to issue the process, render the judgment; or make the order, the writ shall not be allowed; or if the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgment, or order. Nor shall anything in this rule be held to authorize the discharge of a person charged with or convicted of an offense in the Philippines, or of a person suffering imprisonment under lawful judgment.

The term "court" includes quasi-judicial bodies like the Deportation Board of the Bureau of Immigration.[27]

Even if the arrest of a person is illegal, supervening events may bar his release or discharge from custody. What is to be inquired into is the legality of his detention as of, at the earliest, the filing of the application for a writ of habeas corpus, for even if the detention is at its inception illegal, it may, by reason of same supervening events such as the instances mentioned in Section 4, Rule 102, be no longer illegal at the time of the filing of the application. Any such supervening events are the issuance of a judicial process preventing the discharge of the detained person.[28]

As a general rule, the burden of proving illegal restraint by the respondents rests on the petitioner who attaches such restraints. Whether the return sets forth process where on its face shows good ground for the detention of the petitioner, it is incumbent on him to allege and prove new matter that tends to invalidate the apparent effects of such process.[29]

Section 13 of Rule 102 of the Rules of Court, as amended, provides that if it appears that the detained person is in

custody under a warrant of commitment in pursuance of law, the return shall be considered prima facie evidence of the cause of restraint:

Sec. 13. When the return evidence, and when only a plea. - If it appears that the prisoner is in custody under a warrant of commitment in pursuance of law, the return shall be considered prima facie evidence of the cause of restraint; but if he is restrained of his liberty by any alleged private authority, the return shall be considered only as a plea of the facts therein set forth, and the party claiming the custody must prove such facts.

In this case, based on the return of the writ by the respondents, the petitioner was arrested and detained at the CID detention center at Bicutan, Parañaque City, under Mission Order No. RBR-99-164 dated May 21, 1999 based on the Order of the BOC dated December 11, 1997 which had become final and executory. The BOC found, after due proceedings, that:

Records show that on 10 December 1997, Vice Consul Raymond Greene of the U.S. Embassy in Manila advised the Department of Justice that the U.S. passports which were confiscated from the abovenamed respondent when he was arrested by PNP operatives in Angeles City on 30 November 1997 and purportedly issued to Raymond Michael Jackson and Steven Bernard Bator have been determined to have been tampered. As a consequence, said passports were cancelled by the U.S. Embassy.

In *Schonemann vs. Commissioner Santiago, et al.*, (G.R. No. 86461, 30 May 1989), the Supreme Court ruled that if a foreign embassy cancels the passport of an alien, or does not reissue a valid passport to him, the alien loses the privilege to remain in the country.

WHEREFORE, in view of the foregoing, the Board of Commissioners hereby orders the summary deportation of NORMAN LLOYD @ RAYMOND MICHAEL JACKSON @ STEVEN BERNARD BATOR to his country of origin subject to compliance with the 1997 Deportation Rules of Procedures-Office Memorandum Order No. ELM-97-013.

The Chief of the Civil Security Unit is hereby ordered to implement this Order within three (03) days from receipt hereof.

Include respondent's name on the Blacklist.

Give respondent a copy hereof.[30]

The information relayed by U.S. Vice Consul Raymond Greene to the DOJ on December 10, 1997 was reiterated by U.S. Vice Consul Tedd Archabal in his certification forwarded to the DOJ on May 18, 1999, thus:

CERTIFICATION

I, Tedd Archabal, Vice Consul of the United States hereby certify that United States Passport Number Z4613110 issued June 2, 1983 at the U.S. Embassy, Manila in the name of RAYMOND MICHAEL JACKSON, born October 17, 1951 at South Dakota is a genuine United States Government document that has been altered and photosubstituted.

I also certify that United States Passport Number 085238399 issued August 15, 1996 at the New Orleans Passport Agency, Louisiana, in the name of STEVEN BERNARD BATOR, born August 20, 1949 at Detroit, Michigan, is a genuine United States Government document that has been altered and photosubstituted, as well.

I further certify that a comparison of photographs affixed to U.S. Passports Number Z4613110 and 085238399 - which were seized by Philippine National Police officers on or about November 29, 1997 from a man claiming to be Raymond Michael Jackson - and photographs affixed to the original applications for passports number Z4613110 and 085238399 in the names of Raymond Michael Jackson and Steven Bernard Bator on file with the U.S. Department of State, Washington, DC, revealed that these are not/not the same people.[31]

The petitioner's arrest and detention are in accord with Section 45(d) in relation to Section 37(a)(9) of the Philippine Immigration Act of 1940 which respectively reads:

SEC. 45. (d) being an alien, enters the Philippines without inspection and admission by the immigration officials, or obtains entry into the Philippines by willful, false, or misleading representation or willful concealment of a material fact;

...

SEC. 37. (a) The following aliens shall be arrested upon the warrant of the Commissioner of Immigration or of any other officer designated by him for the purpose and deported upon the warrant of the Commissioner of Immigration after a determination by the Board of Commissioners of the existence of the ground for deportation as charged against the alien:

...

(9) Any alien who commits any of the acts described in Sections Forty- five and Forty-six of this Act, independent of criminal action which may be brought against him: ...

In *Tung Chin Hui v. Rodriguez*,^[32] this Court held that such documents from a foreign embassy attesting to the cancellation of the passports held by their national on the ground that the said passports were tampered with; hence, cancelled were sufficient grounds for the arrest and deportation of aliens from the Philippines:

The above-quoted official letters demonstrate the speciousness of the petitioner's contention that his passport could not have been cancelled in 1995, inasmuch as he was allowed to enter the country as late as 1998. The letters show that the Philippine government was informed about the cancellation only in 1998.

Furthermore, the foregoing letters of the official representative of the Taiwanese government belie the petitioner's submission that there was no evidence to prove the findings of the CA and the Board of Commissioners. Verily, these documents constitute sufficient justification for his deportation. As the Court held in the landmark case *Forbes v. Chuoco Tiaco*, "[t]he mere fact that a citizen or subject is out of the territory of his country does not relieve him from that allegiance which he owes to his government, and his government may, under certain conditions, properly and legally request his return."^[33]

The petitioner cannot feign ignorance of the charges against him in the CID and insist on being deprived by the BOC of his right to due process as prescribed for in Section 37(c) of the Philippine Immigration Act of 1940, thus:

(c) No alien shall be deported without being informed of the specific grounds for deportation nor without being given a hearing under rules of procedure to be prescribed by the Commissioner of Immigration.

This is so because on October 1, 1998, the petitioner filed a motion with the CID for the reconsideration of the December 11, 1997 Order of the BOC. The petitioner did not allege therein that he was not informed of the charges against him. In fact, the petitioner did not even rebut the claim of the U.S. Vice Consul that the passport he was carrying was tampered and had been already cancelled. Neither did he allege that he requested for the reinstatement of his passport with the United States Embassy. Despite the finality of the deportation order of the BOC, it still entertained the petitioner's motion for reconsideration but denied the same on its findings that there were inconsistencies in his sworn statement and the documents he presented in support of his motion, thus:

After going over the motion, we find no valid reason to disturb the order of 12 (sic) December 1997. Likewise, the same had long become final and executory.

Furthermore, the grounds alleged in the motion have no merit and are irrelevant. The alleged marriage of respondent to a Filipina, a certain Lily Morales, with whom respondent allegedly begot two (2) children named Cristina and Judaline both surnamed Jackson, and the supposed conversion of respondent's status to permanent

resident on 30 September 1987 under Section 13(a) of the Immigration Act (CA No. 613, as amended), does not change the fact that the two (2) US passports purportedly issued to Raymond Michael Jackson and Steven Bernard Bator which were used by respondent, were tampered and subsequently cancelled by the U.S. Embassy. Respondent already lost the privilege to remain in the country (*Schonemann v. Comm. Santiago*, G.R. No. 86461, 30 May 1989).

It is also significant to note the evident inconsistencies in the sworn statement of respondent conducted by Special Prosecutor Henry B. Tubban on 5 December 1997 with the documents attached in the motion. Hereunder are the said inconsistencies:

- Annex "A" of the Motion is an alleged Marriage Contract between the respondent and one Lily H. Morales showing Manila City Hall as the place of marriage and which was held on 6 September 1984.

In the Sworn Statement, the respondent claimed to have entered the country for the first time only in 1988 (p. 1 of sworn statement), that he married a certain Lily Morales sometime in 1989 in Angeles City (p. 2 of sworn statement).

- The motion stated that out of the union of the respondent with Ms. Morales, two (2) children named Cristina and Judaline both surnamed Jackson, were born. In the sworn statement of the respondent, he stated that they have five (5) children.

In addition, in the marriage contract (Annex "A" of motion), it was stated that Ms. Morales is 17 years of age, a minor. However, below the personal circumstances of the respondent and Mrs. Morales is a statement in bold letters that "BOTH PARTIES ARE OF LEGAL AGES."

The foregoing creates a serious doubt on the allegations in the motion and on the authenticity of the documents attached thereto. With more reason that the motion should be denied.[34]

Moreover, the petitioner, in his motion for reconsideration with the CID, offered to post a bail bond for his provisional release to enable him to secure the necessary documents to establish the appropriate grounds for his permanent stay in the Philippines. By offering to post a bail bond, the petitioner thereby admitted that he was under the custody of the CID and voluntarily accepted the jurisdiction of the CID.[35]

The present as clearly as the petitioner's petition to lift the order of deportation was as yet unresolved by the BOC when he filed the petition for habeas corpus.

IN LIGHT OF ALL THE FOREGOING, the petition is DISMISSED. The Decision of the RTC in Special Proceedings No. 10948 is AFFIRMED. Costs against the petitioner.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] Penned by Judge Florito S. Macalino.

[2] Records, p. 164.

[3] *bid.*

[4] *Id.* at 177.

[5] Records, pp. 37-38.

[6] Records, pp. 43-44.

[7] Rollo, p. 187.

[8] Ibid.

[9] Id.

[10] Id. at 152-156.

[11] Records, p. 154.

[12] Id. at 55.

[13] Id. at 36.

[14] Rollo, pp. 188-190.

[15] Id. at 191-192.

[16] Id. at 81.

[17] Id. at 186.

[18] Records, p. 180.

[19] Rollo, p. 80.

[20] Records, p. 1.

[21] Id. at 172-174.

[22] Id. at 99-102.

[23] Rollo, p. 9.

[24] Id. at 162.

[25] 180 SCRA 756 (1989).

[26] Velasco v. Court of Appeals, 245 SCRA 677 (1995).

[27] Rodriguez v. Bonifacio, 344 SCRA 519 (2000); Velasco v. Court of Appeals, supra.

[28] Velasco v. Court of Appeals, supra at 685.

[29] Feria v. Court of Appeals, 325 SCRA 525 (2000).

[30] Rollo, p. 187.

[31] Id. at 186.

[32] 356 SCRA 31 (2001).

[33] Id. at 42.

[34] Rollo, pp. 191-192.

[35] Velasco v. Court of Appeals, supra.

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