

**EDITA T. BURGOS, PETITIONER, VS. GEN. HERMOGENES ESPERON, JR., LT. GEN. ROMEO P. TOLENTINO, MAJ. GEN. JUANITO GOMEZ, MAJ. GEN. DELFIN BANGIT, LT. COL. NOEL CLEMENT, LT. COL. MEL...**

*G.R. No. 178497. February 04, 2014*

Ponente: BRION, J.

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**BRION, J.:**

We resolve in this Resolution all the pending incidents in this case, specifically:

(a)

The determination of the relevance and advisability of the public disclosure of the documents submitted by respondents President Gloria Macapagal-Arroyo, Lt. Gen. Romeo P. Tolentino, Maj. Gen. Juanito Gomez, Maj. Gen. Delfin Bangit, Lt. Col. Noel Clement, Lt. Col. Melquiades Feliciano, Director General Oscar Calderon, Chief of Staff of the Armed Forces of the Philippines, Gen. Hermogenes Esperon, Jr.; Commanding General of the Philippine Army, Lt. Gen. Alexander Yano; and Chief of the Philippine National Police, Director General Avelino Razon, Jr. to this Court per paragraph III (i) of the fallo of our July 5, 2011 Resolution; and

(b)

The Urgent Ex Parte Motion Ex Abundanti Cautela[1] (together with sealed attachments) filed by petitioner Edita T. Burgos praying that the Court: (1) order the persons named in the sealed documents impleaded in CA-G.R. SP No. 00008-WA and G.R. No. 183713; (2) issue a writ of Amparo on the basis of the newly discovered evidence (the sealed attachments to the motion); and (3) refer the cases to the Court of Appeals (CA) for further hearings on the newly discovered evidence.

**FACTUAL ANTECEDENTS**

**A. The Court's June 22, 2010 Resolution**

These incidents stemmed from our June 22, 2010 Resolution referring the present case to the Commission on Human Rights (CHR) as the Court's directly commissioned agency, tasked with the continuation of the investigation of Jonas Joseph T. Burgos' abduction with the obligation to report its factual findings and recommendations to this Court. This referral was necessary as the investigation by the Philippine National Police-Criminal Investigation and Detection Group (PNP-CIDG), by the Armed Forces of the Philippines (AFP) Provost Marshal, and even the initial CHR investigation had been less than complete. In all of them, there were significant lapses in the handling of the investigation. In particular, we highlighted the PNP-CIDG's failure to identify the cartographic sketches of two (one male and one female) of the five abductors of Jonas, based on their interview with the eyewitnesses to the abduction.

In this same Resolution, we also affirmed the CA's dismissal of the petitions for Contempt and issuance of a Writ of Amparo with respect to President Macapagal-Arroyo who was then entitled, as President, to immunity from suit.

#### The March 15, 2011 CHR Report

On March 15, 2011, the CHR submitted to the Court its Investigation Report on the Enforced Disappearance of Jonas Burgos (CHR Report), in compliance with our June 22, 2010 Resolution. On the basis of the gathered evidence, the CHR submitted the following findings:

Based on the facts developed by evidence obtaining in this case, the CHR finds that the enforced disappearance of Jonas Joseph T. Burgos had transpired; and that his constitutional rights to life liberty and security were violated by the Government have been fully determined.

Jeffrey Cabintoy and Elsa Agasang have witnessed on that fateful day of April 28, 2007 the forcible abduction of Jonas Burgos by a group of about seven (7) men and a woman from the extension portion of Hapag Kainan Restaurant, located at the ground floor of Ever Gotesco Mall, Commonwealth Avenue, Quezon City.

x x x x

The eyewitnesses mentioned above were Jeffrey Cabintoy (Jeffrey) and Elsa Agasang (Elsa), who at the time of the abduction were working as busboy and Trainee-Supervisor, respectively, at Hapag Kainan Restaurant.

In his Sinumpaang Salaysay, Jeffrey had a clear recollection of the face of HARRY AGAGEN BALIAGA, JR. as one of the principal abductors, apart from the faces of the two abductors in the cartographic sketches that he described to the police, after he was shown by the Team the pictures in the PMA Year Book of Batch Sanghaya 2000 and group pictures of men taken some years thereafter.

The same group of pictures were shown to detained former 56[th] IB Army trooper Edmond M. Dag-uman (Dag-uman), who also positively identified Lt. Harry Baliaga, Jr. Daguman's Sinumpaang Salaysay states that he came to know Lt. Baliaga as a Company Commander in the 56[th] IB while he was still in the military service (with Serial No. 800693, from 1997 to 2002) also with the 56[th] IB but under 1Lt. Usmalik Tayaban, the Commander of Bravo Company. When he was arrested and brought to the 56[th] IB Camp in April 2005, he did not see Lt. Baliaga anymore at the said camp. The similar reaction that the pictures elicited from both Jeffrey and Daguman did not pass unnoticed by the Team. Both men always look pensive, probably because of the pathetic plight they are in right now. It came as a surprise therefore to the Team when they could hardly hide their smile upon seeing the face of Baliaga, as if they know the man very well.

Moreover, when the Team asked how certain Jeffrey was or [sic] that it was indeed Baliaga that he saw as among those who actually participated in Jonas' abduction. Jeffrey was able to give a graphic description and spontaneously, to boot, the blow by blow account of the incident, including the initial positioning of the actors, specially Baliaga, who even approached, talked to, and prevented him from interfering in their criminal act.

A Rebel-returnee (RR) named Maria Vita Lozada y Villegas @KA MY, has identified the face of the female in the cartographic sketch as a certain Lt. Fernando. While Lozada refuses to include her identification of Lt. Fernando in her Sinumpaang Salaysay for fear of a backlash, she told the Team that she was certain it was Lt. Fernando in the cartographic sketch since both of them were involved in counter-insurgency operations at the 56[th] IB, while she was under the care of the battalion from March 2006 until she left the 56[th] IB Headquarters in October 2007. Lozada's involvement in counter-insurgency operations together with Lt. Fernando was among the facts gathered by the CHR Regional Office 3 Investigators, whose investigation into the enforced disappearance of Jonas Joseph Burgos was documented by way of an After Mission Report dated August 13, 2008.

Most if not all the actual abductors would have been identified had it not been for what is otherwise called as

evidentiary difficulties shamelessly put up by some police and military elites. The deliberate refusal of TJAG Roa to provide the CHR with the requested documents does not only defy the Supreme Court directive to the AFP but ipso facto created a disputable presumption that AFP personnel were responsible for the abduction and that their superiors would be found accountable, if not responsible, for the crime committed. This observation finds support in the disputable presumption “That evidence willfully suppressed would be adverse if produced.” (Paragraph (e), Section 3, Rule 131 on Burden of Proof and Presumptions, Revised Rules on Evidence of the Rules of Court of the Philippines).

In saying that the requested document is irrelevant, the Team has deemed that the requested documents and profiles would help ascertain the true identities of the cartographic sketches of two abductors because a certain Virgilio Eustaquio has claimed that one of the intelligence operatives involved in the 2007 ERAP 5 case fits the description of his abductor.

As regards the PNP CIDG, the positive identification of former 56[th] IB officer Lt. HARRY A. BALIAGA, JR. as one of the principal abductors has effectively crushed the theory of the CIDG witnesses that the NPAs abducted Jonas. Baliaga’s true identity and affiliation with the military have been established by overwhelming evidence corroborated by detained former Army trooper Dag-uman.

For lack of material time, the Commission will continue to investigate the enforced disappearance of Jonas Burgos as an independent body and pursuant to its mandate under the 1987 Constitution. Of particular importance are the identities and locations of the persons appearing in the cartographic sketches; the allegations that CIDG Witnesses Emerito G. Lipio and Meliza Concepcion-Reyes are AFP enlisted personnel and the alleged participation of Delfin De Guzman @ Ka Baste in the abduction of Jonas Burgos whose case for Murder and Attempted Murder was dismissed by the court for failure of the lone witness, an army man of the 56[th] IB to testify against him.

Interview with Virgilio Eustaquio, Chairman of the Union Masses for Democracy and Justice (UMDJ), revealed that the male abductor of Jonas Burgos appearing in the cartographic sketch was among the raiders who abducted him and four others, identified as Jim Cabauatan, Jose Curament, Ruben Dionisio and Dennis Ibona otherwise known as ERAP FIVE.

Unfortunately, and as already pointed out above, The Judge Advocate General (TJAG) turned down the request of the Team for a profile of the operatives in the so-called “Erap 5” abduction on the ground of relevancy and branded the request as a fishing expedition per its Disposition Form dated September 21, 2010.

Efforts to contact Virgilio Eustaquio to secure his affidavit proved futile, as his present whereabouts cannot be determined. And due to lack of material time, the Commission decided to pursue the same and determine the whereabouts of the other members of the “Erap 5” on its own time and authority as an independent body.[2]

## B. The Court’s July 5, 2011 Resolution

On July 5, 2011, in light of the new evidence and leads the CHR uncovered, we issued a Resolution: (1) issuing anew a Writ of Habeas Corpus and referring the habeas corpus petition to the CA; (2) holding in abeyance our ruling on the merits of the Amparo aspect of the case; referring back the same to the CA in order to allow Lt. Harry A. Baliaga, Jr. and the present Amparo respondents to file their Comments on the CHR Report; and ordering Lt. Baliaga to be impleaded as a party to the Amparo petition; and (3) affirming the dismissal of the petitioner’s petition for Contempt, without prejudice to the re-filing of the contempt charge as may be warranted by the results of the subsequent CHR investigation. To quote the exact wording of our Resolution:

WHEREFORE, in the interest of justice and for the foregoing reasons, we RESOLVE to:

- IN G.R. NO. 183711 (HABEAS CORPUS PETITION, CA-G.R. SP No. 99839)

- ISSUE a Writ of Habeas Corpus anew, returnable to the Presiding Justice of the Court of Appeals who shall immediately refer the writ to the same Division that decided the habeas corpus petition;

- ORDER Lt. Harry A. Baliaga, Jr. impleaded in CA-G.R. SP No. 99839 and G.R. No. 183711, and REQUIRE him, together with the incumbent Chief of Staff, Armed Forces of the Philippines; the incumbent Commanding General, Philippine Army; and the Commanding Officer of the 56[th] IB, 7[th] Infantry Division, Philippine Army at the time of the disappearance of Jonas Joseph T. Burgos, Lt. Col. Melquiades Feliciano, to produce the person of Jonas Joseph T. Burgos under the terms the Court of Appeals shall prescribe, and to show cause why Jonas Joseph T. Burgos should not be released from detention;

- REFER back the petition for habeas corpus to the same Division of the Court of Appeals which shall continue to hear this case after the required Returns shall have been filed and render a new decision within thirty (30) days after the case is submitted for decision; and

- ORDER the Chief of Staff of the Armed Forces of the Philippines and the Commanding General of the Philippine Army to be impleaded as parties, separate from the original respondents impleaded in the petition, and the dropping or deletion of President Gloria Macapagal-Arroyo as party-respondent.

- IN G.R. NO. 183712 (CONTEMPT OF COURT CHARGE, CA-G.R. SP No. 100230)

e. AFFIRM the dismissal of the petitioner's petition for Contempt in CA-G.R. SP No. 100230, without prejudice to the re-filing of the contempt charge as may be warranted by the results of the subsequent CHR investigation this Court has ordered; and

f. ORDER the dropping or deletion of former President Gloria Macapagal-Arroyo as party-respondent, in light of the unconditional dismissal of the contempt charge against her.

- IN G.R. NO. 183713 (WRIT OF AMPARO PETITION, CA-G.R. SP No. 00008-WA)

g. ORDER Lt. Harry A. Baliaga, Jr., impleaded in CA-G.R. SP No. 00008-WA and G.R. No. 183713, without prejudice to similar directives we may issue with respect to others whose identities and participation may be disclosed in future investigations and proceedings;

h. DIRECT Lt. Harry A. Baliaga, Jr., and the present Amparo respondents to file their Comments on the CHR report with the Court of Appeals, within a non-extendible period of fifteen (15) days from receipt of this Resolution.

i. REQUIRE General Roa of the Office of the Judge Advocate General, AFP; the Deputy Chief of Staff for Personnel, JI, AFP, at the time of our June 22, 2010 Resolution; and then Chief of Staff, AFP, Gen. Ricardo David, (a) to show cause and explain to this Court, within a non-extendible period of fifteen (15) days from receipt of this Resolution, why they should not be held in contempt of this Court for their defiance of our June 22, 2010 Resolution; and (b) to submit to this Court, within a non-extendible period of fifteen (15) days from receipt of this Resolution, a copy of the documents requested by the CHR, particularly:

1)

The profile and Summary of Information and pictures of T/Sgt. Jason Roxas (Philippine Army); Cpl. Maria Joana Francisco (Philippine Air Force); M/Sgt. Aron Arroyo (Philippine Air Force); an alias T.L. - all reportedly assigned with Military Intelligence Group 15 of Intelligence Service of the Armed Forces of the Philippines - and 2Lt. Fernando, a lady officer involved in the counter-insurgency operations of the 56[th] IB in 2006 to 2007;

2)

Copies of the records of the 2007 ERAP 5 incident in Kamuning, Quezon City and the complete list of the

intelligence operatives involved in that said covert military operation, including their respective Summary of Information and individual pictures; and

3)

Complete list of the officers, women and men assigned at the 56[th] and 69[th] Infantry Battalion and the 7[th] Infantry Division from January 1, 2004 to June 30, 2007 with their respective profiles, Summary of Information and pictures; including the list of captured rebels and rebels who surrendered to the said camps and their corresponding pictures and copies of their Tactical Interrogation Reports and the cases filed against them, if any.

These documents shall be released exclusively to this Court for our examination to determine their relevance to the present case and the advisability of their public disclosure.

j. ORDER the Chief of Staff of the Armed Forces of the Philippines and the Commanding General of the Philippine Army to be impleaded as parties, in representation of their respective organizations, separately from the original respondents impleaded in the petition; and the dropping of President Gloria Macapagal-Arroyo as party-respondent;

k. REFER witnesses Jeffrey T. Cabintoy and Elsa B. Agasang to the Department of Justice for admission to the Witness Protection Security and Benefit Program, subject to the requirements of Republic Act No. 6981; and

l. NOTE the criminal complaint filed by the petitioner with the DOJ which the latter may investigate and act upon on its own pursuant to Section 21 of the Rule on the Writ of Amparo.[3]

### C. The Court's August 23, 2011 Resolution

On August 23, 2011, we issued a Resolution resolving among others:

(a)

to NOTE the Explanation separately filed by Brigadier Gen. Gilberto Jose C. Roa, Armed Forces of the Philippines (AFP), General Ricardo A. David, Jr., AFP (ret.), and Rear Admiral Cornelio A. dela Cruz, Jr., AFP;

x x x x

(c)

to LIMIT the documents to be submitted to this Court to those assigned at the 56[th] Infantry Battalion (IB) from January 1, 2004 to June 30, 2007, and to SUBMIT these materials within ten (10) days from notice of this Resolution, without prejudice to the submission of the other documents required under the Court's July 5, 2011 Resolution, pertaining to those assigned at the other units of the AFP, should the relevance of these documents be established during the Court of Appeal's hearing;

(d)

to REQUIRE the submission, within ten (10) days from notice of this Resolution, of the Summary of Information and individual pictures of the intelligence operatives involved in the ERAP 5 incident, in compliance with the Court's July 5, 2011 Resolution;

(e)

to REQUIRE the submission, within ten (10) days from notice of this Resolution, of the profile and Summary of Information and pictures of an alias T.L., reportedly assigned with Military Intelligence Group 15 of the Intelligence Service of the AFP and of a 2Lt. Fernando, a lady officer in the counter-insurgency operations of

the 56[th] IB in 2006 to 2007, in compliance with the Court's July 5, 2011 Resolution.[4]

#### The Respondents' September 23, 2011 Manifestation and Motion

On September 23, 2011, the respondents submitted a Manifestation and Motion in compliance with the Court's August 23, 2011 Resolution. Attached to this Manifestation and Motion are the following documents:

- The Summary of Information (SOI) of the officers and enlisted personnel of the 56[th] IB, 7[th] ID from January 1, 2004 to June 30, 2007;
- The Summary of Information (SOI) of the intelligence operatives who were involved in the ERAP 5 incident; and
- The Summary of Information (SOI) of 2Lt. Fernando, who was a member of the 56[th] IB, 7[th] ID.[5]

#### D. The Court's September 6, 2011 Resolution

On August 19, 2011, the petitioner filed a Manifestation and a Motion for Clarificatory Order praying among others that she be allowed to examine the documents submitted to the Court pursuant to paragraph III (i) of the Court's July 5, 2011 Resolution. In our September 6, 2011 Resolution, we resolved, among others, to:

(3)

DENY the petitioner's request to be allowed to examine the documents submitted to this Court per paragraph (i) of the fallo of our July 5, 2011 Resolution, without prejudice to our later determination of the relevance and of the advisability of public disclosure of those documents/materials;[6]

#### E. The Court's October 11, 2011 Resolution

On October 11, 2011, we issued a Resolution requiring the CHR to secure Virgilio Eustaquio's affidavit, and to submit a report of its ongoing investigation of Jonas' abduction, viz:

(1)

REQUIRE the Commission on Human Rights to undertake all available measures to obtain the affidavit of witness Virgilio Eustaquio in connection with his allegation that one of the male abductors of Jonas Joseph T. Burgos, appearing in the cartographic sketch, was among the "raiders" who abducted him and four others, identified as Jim Cabauatan, Jose Curament, Ruben Dionisio and Dennis Ibona (otherwise known as the "ERAP FIVE");

(2)

DIRECT the Commission on Human Rights to submit to this Court, within thirty (30) days from receipt of this Resolution, a Report, with its recommendations of its ongoing investigation of Burgos' abduction, and the affidavit of Virgilio Eustaquio, if any, copy furnished the petitioner, the Court of Appeals, the incumbent Chiefs of the AFP, the PNP and the PNP-CIDG, and all the present respondents before the Court of Appeals.[7]

#### F. The Court's November 29, 2011 Resolution

On November 2, 2011, we received a letter dated October 28, 2011 from Commissioner Jose Manuel S. Mamauag, Team Leader, CHR Special Investigation Team, requesting photocopies of the following documents:

- SOI of the officers and enlisted personnel of the 56[th] IB, 7[th] ID from January 1, 2004 to June 30, 2007;
- SOI of the intelligence operatives who were involved in the ERAP 5 incident; and

- SOI of 2Lt. Fernando who was a member of the 56<sup>th</sup> IB, 7<sup>th</sup> ID.[8]

In our November 29, 2011 Resolution, we denied the CHR's request considering the confidential nature of the requested documents and because the relevance of these documents to the present case had not been established. We referred the CHR to our July 5, 2011 Resolution where we pointedly stated that these documents shall be "released exclusively to this Court for our examination to determine their relevance to the present case and the advisability of their public disclosure." [9]

We held that "[w]e see no reason at this time to release these confidential documents since their relevance to the present case has not been established to our satisfaction. It is precisely for this reason that we issued our October 24, 2011 Resolution and directed the CHR to submit to this Court, within thirty (30) days from receipt of the Resolution, a Report with its recommendations of its ongoing investigation of Jonas Burgos' abduction, and the affidavit of Virgilio Eustaquio, if any. Simply stated, it is only after the CHR's faithful compliance with our October 24, 2011 Resolution that we will be able to determine the relevance of the requested documents to the present case." [10]

#### G. The March 20, 2012 CHR Progress Report and Eustaquio's Affidavit

On March 20, 2012, the CHR submitted its Progress Report detailing its efforts to secure the affidavit of witness Eustaquio in relation with his allegation that one of the male abductors of Jonas, appearing in the cartographic sketch, was among the raiders who abducted him and four others, identified as Jim Cabauatan, Jose Curament, Ruben Dionisio and Dennis Ibona (otherwise known as the "ERAP FIVE"). Attached to this Report is Eustaquio's sworn affidavit dated March 16, 2012, which pertinently stated:

- I was one of the victims in the abduction incident on May 22, 2006 otherwise known as ERAP 5 and because of that, we filed a case with the Ombudsman against Commodore Leonardo Calderon, et al., all then ISAFP elements, docketed as OMB-P-C-06-04050-E for Arbitrary Detention, Unlawful Arrest, Maltreatment of Prisoners, Grave Threats, Incriminatory Machination, and Robbery.

- On March 16, 2012, I was approached again by the CHR Special Investigation Team regarding the information I have previously relayed to them sometime in September 2010 as to the resemblance of the cartographic sketch of the man as described by the two eyewitnesses Elsa Agasang and Jeffrey Cabintoy in the abduction case of Jonas Burgos;

- I can say that the male abductor of Jonas Burgos appearing in the cartographic sketch is among the raiders who abducted me and my four other companions because the cartographic sketch almost exactly matched and/or resembled to the cartographic sketch that I also provided and described in relation to the said incident at my rented house in Kamuning, Quezon City on May 22, 2006.

- I am executing this affidavit voluntarily, freely and attest to the truth of the foregoing.[11]

#### H. The March 18, 2013 CA Decision

On March 18, 2013, the CA issued its decision pursuant to the Court's July 5, 2011 Resolution referring the Amparo and Habeas Corpus aspects of the case to the CA for appropriate hearings and ruling on the merits of the petitions.

##### Petition for Habeas Corpus

The CA held that the issue in the petition for habeas corpus is not the illegal confinement or detention of Jonas, but his enforced disappearance. Considering that Jonas was a victim of enforced disappearance, the present case is beyond the ambit of a petition for habeas corpus.

### Petition for the Writ of Amparo

Based on its finding that Jonas was a victim of enforced disappearance, the CA concluded that the present case falls within the ambit of the Writ of Amparo. The CA found that the totality of the evidence supports the petitioner's allegation that the military was involved in the enforced disappearance of Jonas. The CA took note of Jeffrey Cabintoy's positive identification of Lt. Baliaga as one of the abductors who approached him and told him not to interfere because the man being arrested had been under surveillance for drugs; he also remembered the face of Lt. Baliaga – the face he identified in the pictures because he resembles his friend Raven. The CA also held that Lt. Baliaga's alibi and corroborative evidence cannot prevail over Cabintoy's positive identification, considering especially the absence of any indication that he was impelled by hatred or any improper motive to testify against Lt. Baliaga. Thus, the CA held that Lt. Baliaga was responsible and the AFP and the PNP were accountable for the enforced disappearance of Jonas.

Based on these considerations, the CA resolved to:

1)

RECOGNIZING the abduction of Jonas Burgos as an enforced disappearance covered by the Rule on the Writ of Amparo;

2)

With regard to authorship,

a)

DECLARING Maj. Harry A. Baliaga, Jr. RESPONSIBLE for the enforced disappearance of Jonas Burgos; and

b)

DECLARING the Armed Forces of the Philippines and elements of the Armed Forces of the Philippines, particularly the Philippine Army, ACCOUNTABLE for the enforced disappearance of Jonas Burgos;

3)

DECLARING the Philippine National Police ACCOUNTABLE for the conduct of an exhaustive investigation of the enforced disappearance of Jonas Burgos. To this end, the PNP through its investigative arm, the PNP-CIDG, is directed to exercise extraordinary diligence to identify and locate the abductors of Jonas Burgos who are still at large and to establish the link between the abductors of Jonas Burgos and those involved in the ERAP 5 incident.

(4)

DIRECTING the incumbent Chief of Staff of the Armed Forces of the Philippines and the Director General of the Philippine National Police, and their successors, to ensure the continuance of their investigation and coordination on the enforced disappearance of Jonas Burgos until the persons found responsible are brought before the bar of justice;

(5)

DIRECTING the Commission on Human Rights to continue with its own independent investigation on the enforced disappearance of Jonas Burgos with the same degree of diligence required under the Rule on the Writ of Amparo; and

(6)

DIRECTING the Armed Forces of the Philippines and the Philippine National Police to extend full assistance to the Commission on Human Rights in the conduct of the latter's investigation.

The Chief of Staff, Armed Forces of the Philippines, the Director General, Philippine National Police and the Chairman, Commission on Human Rights are hereby DIRECTED to submit a quarterly report to this Court on the results of their respective investigation.

The filing of petitioner's Affidavit-Complaint against Maj. Harry A. Baliaga, Jr., et al. before the Department of Justice on June 9, 2011 is NOTED. Petitioner is DIRECTED to immediately inform this Court of any development regarding the outcome of the case.[12]

The Respondent's April 3, 2013 Motion for Partial Reconsideration

The Solicitor General, in behalf of the public respondents (the AFP Chief of Staff and the PNP Director General), filed a motion for partial reconsideration of the March 18, 2013 CA decision. The motion made the following submissions:

5. x x x[T]he Director General, PNP, respectfully takes exception to the Honorable Court's findings that the PNP, specifically the CIDG, "failed to exercise extraordinary diligence in the conduct of its investigation." x x x [T]hat this Honorable Court arrived at a conclusion different from that of the CIDG, or accorded different credence to the statements of the witnesses presented by the parties, does not necessarily translate to the CIDG's failure to exercise extraordinary diligence.

6. The Chief of Staff, AFP also takes exception to the Honorable Court's findings that the "Chief of Staff of the Armed Forces of the Philippines and the Commanding General should be held accountable for Jonas Burgos disappearance for failing to exercise extraordinary diligence in conducting an internal investigation on the matter. The unwillingness of the respondent officers of the 56[th] IB to cooperate in the investigation conducted by the CHR is a persuasive proof of the alleged cover up of the military's involvement in the enforced disappearance of Jonas Burgos."

The AFP and the Philippine Army conducted a thorough investigation to determine the veracity of the allegations implicating some of its officers and personnel. After the conduct of the same, it is the conclusion of the Armed Forces of the Philippines and the Philippine Army, based on the evidence they obtained, that Jonas Burgos has never been in custody.

7. The Chief of Staff, AFP, also respectfully takes exception to the finding of the Honorable Court "recognizing the abduction of Jonas Burgos as an enforced disappearance."

x x x x

That the Honorable Court found a member of the Philippine Army or even a group of military men to be responsible for the abduction of Jonas Burgos, does not necessarily make the same a case of "enforced disappearance" involving the State. There is dearth of evidence to show that the government is involved. Respondent Baliaga's alleged participation in the abduction and his previous membership in the 56[th] Infantry Battalion of the Philippine Army, by themselves, do not prove the participation or acquiescence of the State.[13]

#### I. The CA Resolution dated May 23, 2013

On May 23, 2013, the CA issued its resolution denying the respondents' motion for partial reconsideration. The CA ruled that as far as the PNP was concerned, its failure to elicit leads and information from Cabintoy who witnessed Jonas' abduction is eloquent proof of its failure to exercise extraordinary diligence in the conduct of its investigation. As far as the AFP was concerned, the CA held that the fact that Lt. Baliaga of the Philippine Army

was positively identified as one of the abductors of Jonas, coupled with the AFP's lack of serious effort to conduct further investigation, spoke loudly of the AFP leadership's accountability.

To date, the respondents have not appealed to this Court, as provided under Section 19 of the Rule on the Writ of Amparo.[14]

#### J. The Petitioner's Urgent Ex Parte Motion Ex Abundanti Cautela dated April 1, 2013

On April 1, 2013, the petitioner filed an Ex Parte Motion Ex Abundanti Cautela asking the Court to: (1) order the persons named in the sealed documents to be impleaded in CA-G.R. SP No. 00008-WA and G.R. No. 183713; (2) issue a writ of Amparo on the basis of the newly discovered evidence (the sealed attachment to the motion); and (3) refer the cases to the CA for further hearing on the newly discovered evidence.

The petitioner alleged that she received from a source (who requested to remain anonymous) documentary evidence proving that an intelligence unit of the 7[th] Infantry Division of the Philippine Army and 56[th] Infantry Battalion, operating together, captured Jonas on April 28, 2007 at Ever Gotesco Mall, Commonwealth Avenue, Quezon City. This documentary evidence consists of: (1) After Apprehension Report dated April 30, 2007; (2) Psycho Social Processing Report dated April 28, 2007; and (3) Autobiography of Jonas. The petitioner also claimed that these are copies of confidential official reports on file with the Philippine Army.

##### i. After Apprehension Report dated April 30, 2007

This report is a photocopy consisting six pages dated April 30, 2007, addressed to the Commanding Officer, 7MIB, 7ID, LA, Fort Magsaysay, NE. The report detailed the planning and the objective of apprehending target communist leaders, among them, one alias "Ramon" who was captured at Ever Gotesco Mall, Commonwealth, Quezon City on April 28, 2007 by joint elements of the 72 MICO and S2, 56[th] IB. This report also listed the names of the military personnel belonging to task organization 72 MICO and 56[th] IB who conducted the operation.

##### ii. Psycho Social Processing Report dated April 28, 2007

This report details Jonas' abduction and "neutralization"; the results of his interrogation and the intelligence gathered on his significant involvements/activities within the CPP/NPA/NDF organization.

##### iii. Undated Autobiography

This autobiography narrates how Jonas started as a student activist, his recruitment and eventual ascent in the CPP/NPA as an intelligence officer.

#### K. The Court's April 11, 2013 Resolution

In our April 11, 2013 Resolution, the Court resolved to require the respondents to Comment on the petitioner's Urgent Ex Parte Motion Ex Abundanti Cautela and its attachments, within ten (10) days from receipt of the Resolution. In the same Resolution, the Court:

(1)

required BGen. Roa and Lt. Gen. Emmanuel T. Bautista to fully comply with the terms of Section III (i) of the dispositive portion of our July 5, 2011 Resolution within fifteen (15) days from receipt of the resolution;

(2)

required Lt. Gen. Emmanuel T. Bautista to submit a written assurance within fifteen (15) days from receipt of

the Resolution that the military personnel listed in the submitted After Apprehension Report can be located and be served with the processes that the Court may serve;

(3)

issued a Temporary Protection Order in favor of the petitioner and all the members of her immediate family;

(4)

directed the DOJ and the NBI to provide security and protection to the petitioner and her immediate family and to submit a confidential memorandum on the security arrangements made;

(5)

directed the NBI to coordinate and provide direct investigative assistance to the CHR as it may require pursuant to the authority granted under the Court's June 22, 2010 Resolution.[15]

i. The respondents' Comment from the petitioner's Urgent Ex Parte Motion Ex Abundanti Cautela dated June 6, 2013

On June 6, 2013, the respondents, through the Office of the Solicitor General, filed their comments on the petitioner's Urgent Ex Parte Motion Ex Abundanti Cautela.

First, the respondents alleged that the documents submitted by the petitioner do not exist in the concerned military units' respective records, nor are they in the custody or possession of their respective units. To support their allegations, the respondents submitted the following:

- Certification dated May 29, 2013 from Maj. Gen. Gregorio Pio P. Catapang, Jr. Commander, 7[th] Infantry Division, Philippine Army stating that the documents[16] submitted by the petitioner "do not exist nor in the possession/custody of this Headquarters."

- Certification dated May 29, 2013, from Lt. Col. Louie D.S. Villanueva, Assistant Chief of Staff, Office of the Assistant Chief of Staff for Personnel, G1, 7[th] Infantry Division, Philippine Army stating that the documents submitted by the petitioner "could not be found nor do they exist in the records of this Command."

- Certification dated May 24, 2013 from Lt. Col. Bernardo M. Ona, Commanding Officer, 56[th] Infantry Battalion, 7[th] Infantry Division, Philippine Army stating that the documents submitted by the petitioner "do not exist at this unit."

- Certification dated May 24, 2013 from 1Lt. Donal S. Frias, Acting Commanding Officer, 72[nd] Military Intelligence Company, 7[th] Military Intelligence Battalion, 7[th] Infantry Division, Philippine Army stating that the documents submitted by the petitioner "do not exist at the records or in the possession of this unit." [17]

The respondents also submitted the affidavits of Lt. Col. Melquiades Feliciano, Maj. Allan M. Margarata and Cpl. Ruby Benedicto, viz:

a. In his June 3, 2013 Affidavit, Col. Feliciano stated:

- That I was assigned as Battalion Commander of 56[th] Infantry Division, 7[th] Infantry Division, PA last 17 January 2007 to 17 August 2007.

- That I was showed a photocopy of the After Apprehension Report dated 30 April 2007 wherein members of 56[th] IB, 7ID, PA were included therein.

- I vehemently oppose to (sic) the existence of the said document and the participation of my men listed

thereat. There were no military operations that I have authorized or approved regarding Jonas Burgos. The contents thereof are false and utter fabrication of facts.

b. In his May 31, 2013 Affidavit, Maj. Margarata stated:

- That I was assigned at 72<sup>nd</sup> Military Intelligence Company (72MICO), 7<sup>th</sup> Infantry Division, PA from 01 July 2006 to 01 July 2008.

- That I was showed a photocopy of the Psycho-Social Processing Report dated 28 April 2007 and After Apprehension Report dated 30 April 2007, both of which purportedly came from 72MICO, 7<sup>th</sup> Infantry Division, Philippine Army and that on the last page of the Psycho-Social Processing Report appears my name therein.

- I vehemently oppose to (sic) the existence of the said documents and the implication of my name in the said documents. The contents thereof are purely a product of wild imagination. I have never seen such document until now.

- I can only surmise that these are plainly a fishing expedition on the part of Mrs. Edita Burgos. A ploy to implicate any military personnel especially those belonging to the 7<sup>th</sup> Infantry Division, Philippine Army.

c. In her May 31, 2013 Affidavit, Cpl. Benedicto stated:

- That I was never assigned at 72<sup>nd</sup> Military Intelligence Company, 7<sup>th</sup> Infantry Division, PA.

- That I was showed a photocopy of the Psycho-Social Processing Report dated 28 April 2007 and After Apprehension Report dated 30 April 2007, both of which purportedly came from 72MICO, 7<sup>th</sup> Infantry Division, Philippine Army and that on the last page of the Psycho-Social Processing Report appears my name therein.

- I vehemently oppose to (sic) the existence of the said documents and the implication of my name in the said documents. The contents thereof are false and utter fabrication of facts. How can I ever be at 72MICO if I was never assigned thereat.

- I have never been an interrogator in my entire military service. I have never been a member of any operation which involves the name of Jonas Burgos or any other military operation for that matter. I have never seen such document until now.

- Furthermore, I have never worked with Maj. Allan Margarata or of his unit, 72MICO.[18]

Second, the respondents note that none of the documents submitted by the petitioner were signed; a writ of Amparo cannot be issued and the investigation cannot progress on the basis of false documents and false information.

Lastly, the respondents argue that since the National Bureau of Investigation (NBI) and CHR are conducting their own investigations of the case, the petitioner's motion at this point is premature; the proceedings to be conducted by the CA will be at the very least redundant.

#### ii. The Respondents' Compliance dated June 7, 2013

On June 7, 2013, the respondents, through the Office of Judge Advocate General, complied with our April 11, 2013 Resolution by submitting the following documents:

- Profile/Summary of Information (SOI) with pictures of the personnel of 56<sup>th</sup> Infantry Battalion (IB), 69<sup>th</sup> IB, and 7<sup>th</sup> Infantry Division, Philippine Army (PA). These documents were submitted by the 7<sup>th</sup> ID in sealed nine (9) small and three (3) big boxes (total of twelve (12) sealed boxes);

- Investigation Report of the Intelligence Service, Armed Forces of the Philippines (ISAFP) on the 2007 “ERAP 5” incident in Kamuning, Quezon City; Profile/Summary of Information (SOI) with pictures of the Intel Operatives involved in the “ERAP 5” incident; and certification issued by the Command Adjutant of ISAFP concerning T/Sgt. Jason Roxas (Philippine Army), Cpl. Maria Joana Francisco (Philippine Air Force), M/Sgt. Aron Arroyo (Philippine Air Force), an alias T.L., all reportedly assigned with the Military Intelligence Group 15 of the Intelligence Service, AFP (MIG 15, ISAFP). These documents were submitted by ISAFP in a sealed envelope;
- Profile/Summary of Information (SOI) with a picture of 2LT Fernando PA. This document was submitted by Deputy Chief of Staff for Personnel, G1, PA in a sealed envelope;
- A certification issued by 56IB and 69IB, 7ID, PA concerning captured/surrendered rebels;
- A certification stating the present location and whereabouts of military personnel listed in the submitted After Apprehension Report, dated April 30, 2007, allegedly identified as members of the Task Organization -72 MICO and 56[th] IB with the inclusion of four (4) separate certifications from Commander, 7ID, PA, Office of the Assistant Chief of Staff for Personnel, G1, 7ID, PA, Commanding Officer, 72 MICO, and 56Ib, 71ID, PA, respectively, stating the non-existence of the following documents: Psycho-Social Processing Report dated 28 April 2007; After-Apprehension Report dated 30 April 2007; Autobiography of Jonas Burgos; and Picture of Jonas Burgos;
- Affidavit of Compliance of General Emmanuel T. Bautista, AFP, the Chief of Staff, assuring that the active military personnel mentioned in the purported apprehension report can be located at their given locations and be served with the processes that may be issued by the Honorable Court.[19]

### OUR RULING

A. On the relevancy and disclosure of the documents submitted to this Court per paragraph III(i) of the fallo of our July 5, 2011 Resolution

The directive for the submission of the above-mentioned documents arose from our determination in our June 22, 2010 Resolution that the PNP-CIDG failed to identify the cartographic sketches of two (one male and one female) of the five abductors of Jonas, based on their interview with eyewitnesses to the abduction. For this reason, the Court directly commissioned the CHR to continue the investigation of Jonas’ abduction and the gathering of evidence.

Based on its March 15, 2011 Report, the CHR uncovered a lead – a claim made by Eustaquio, Chairman of the Union Masses for Democracy and Justice, that the male abductor of Jonas appearing in the cartographic sketch was among the raiders who abducted him and four others, known as the “ERAP FIVE.”

This prompted the CHR to request copies of the documents embodied in par. III(i) of the fallo of the Court’s July 5, 2011 Resolution from General Gilberto Jose C. Roa of the Office of the Judge Advocate General, AFP. Gen. Roa initially denied this request but eventually complied with the Court’s directive of July 5, 2011 to submit the documents via the September 23, 2011 Manifestation and Motion and the June 7, 2013 Compliance. In the same July 5, 2011 Resolution, the Court made it plain that these documents shall be released exclusively to the Court for its examination to determine their relevance to the present case and the advisability of their public disclosure.

Pursuant to the Court’s October 11, 2011 Resolution, the CHR submitted its March 20, 2012 Progress Report on its continuing investigation of Jonas’ abduction. Attached to this Progress Report was Virgilio Eustaquio’s sworn affidavit stating that: (1) he was one of the victims of the abduction incident on May 22, 2006, otherwise known

as the “ERAP FIVE” incident; (2) as a result of this incident, they filed a case with the Ombudsman against Commodore Leonardo Calderon and other members of the Intelligence Service, AFP (ISAFP) for arbitrary detention, unlawful arrest, maltreatment of prisoners, grave threats, incriminatory machination and robbery; and (3) the male abductor of Jonas appearing in the cartographic sketch shown to him by the CHR was among the raiders who abducted him and his four companions because it resembled the cartographic sketch he described in relation to the ERAP FIVE incident on May 22, 2006.

After reviewing the submissions of both the respondents[20] and the CHR[21] pursuant to the Court’s July 5, 2011, August 23, 2011 and October 11, 2011 Resolutions, we resolve to grant the CHR access to these requested documents to allow them the opportunity to ascertain the true identities of the persons depicted in the cartographic sketches.

At this point, we emphasize that the sworn affidavit of Eustaquio (that attests to the resemblance of one of Jonas’ abductors to the abductors of the ERAP FIVE) constitutes the sought-after missing link that establishes the relevance of the requested documents to the present case. We note that this lead may help the CHR ascertain the identities of those depicted in the cartographic sketches as two of Jonas’ abductors (one male and one female) who, to this day, remain unidentified.

In view of the sensitive and confidential nature of the requested documents, we direct the Clerk of Court of the Supreme Court to allow the duly-authorized representatives of the CHR to inspect the requested documents in camera within five (5) days from receipt of this Resolution. The documents shall be examined and compared with the cartographic sketches of the two abductors of Jonas, without copying and without bringing the documents outside the premises of the Office of the Clerk of Court of the Supreme Court. The inspection of the documents shall be within office hours and for a reasonable period of time sufficient to allow the CHR to comprehensively investigate the lead provided by Eustaquio.

To fully fulfill the objective of the Rule on the Writ of Amparo, further investigation using the standard of extraordinary diligence should be undertaken by the CHR to pursue the lead provided by Eustaquio. We take judicial notice of the ongoing investigation being conducted by the Department of Justice (DOJ), through the NBI, on the disappearance of Jonas.[22] In this regard, we direct the NBI to coordinate and provide direct investigative assistance to the CHR as the latter may require, pursuant to the authority granted under the Court’s June 22, 2010 Resolution.

For this purpose, we require the CHR to submit a supplemental investigation report to the DOJ, copy furnished the petitioner, the NBI, the incumbent Chiefs of the AFP, the PNP and the PNP-CIDG, and all the respondents within sixty days (60) days from receipt of this Resolution.

#### B. On the Urgent Ex Parte Motion Ex Abundanti Cautela

After reviewing the newly discovered evidence submitted by the petitioner and considering all the developments of the case, including the March 18, 2013 CA decision that confirmed the validity of the issuance of the Writ of Amparo in the present case, we resolve to deny the petitioner’s Urgent Ex Parte Motion Ex Abundanti Cautela.

We note and conclude, based on the developments highlighted above, that the beneficial purpose of the Writ of Amparo has been served in the present case. As we held in *Razon, Jr. v. Tagitis*,[23] the writ merely embodies the Court’s directives to police agencies to undertake specified courses of action to address the enforced disappearance of an individual. The Writ of Amparo serves both a preventive and a curative role. It is curative as it facilitates the subsequent punishment of perpetrators through the investigation and remedial action that it

directs.[24] The focus is on procedural curative remedies rather than on the tracking of a specific criminal or the resolution of administrative liabilities. The unique nature of Amparo proceedings has led us to define terms or concepts specific to what the proceedings seek to achieve. In *Razon Jr., v. Tagitis*, [25] we defined what the terms “responsibility” and “accountability” signify in an Amparo case. We said:

Responsibility refers to the extent the actors have been established by substantial evidence to have participated in whatever way, by action or omission, in an enforced disappearance, as a measure of the remedies this Court shall craft, among them, the directive to file the appropriate criminal and civil cases against the responsible parties in the proper courts. Accountability, on the other hand, refers to the measure of remedies that should be addressed to those who exhibited involvement in the enforced disappearance without bringing the level of their complicity to the level of responsibility defined above; or who are imputed with knowledge relating to the enforced disappearance and who carry the burden of disclosure; or those who carry, but have failed to discharge, the burden of extraordinary diligence in the investigation of the enforced disappearance.[26]

In the present case, while Jonas remains missing, the series of calculated directives issued by the Court outlined above and the extraordinary diligence the CHR demonstrated in its investigations resulted in the criminal prosecution of Lt. Baliaga. We take judicial notice of the fact that the Regional Trial Court, Quezon City, Branch 216, has already found probable cause for arbitrary detention against Lt. Baliaga and has ordered his arrest in connection with Jonas’ disappearance.[27]

We also emphasize that the CA in its March 18, 2013 decision already ruled with finality on the entities responsible and accountable (as these terms are defined in *Razon, Jr. v. Tagitis*) for the enforced disappearance of Jonas. In its March 18, 2013 decision, the CA found, by substantial evidence, that Lt. Baliaga participated in the abduction on the basis of Cabintoy’s positive identification that he was one of the abductors of Jonas who told him not to interfere because the latter had been under surveillance for drugs. In the same Decision, the CA also held the AFP and the PNP accountable for having failed to discharge the burden of extraordinary diligence in the investigation of the enforced disappearance of Jonas. Thus, the CA issued the following directives to address the enforced disappearance of Jonas:

(1)

DIRECT the PNP through its investigative arm, the PNP-CIDG, to identify and locate the abductors of Jonas Burgos who are still at large and to establish the link between the abductors of Jonas Burgos and those involved in the ERAP 5 incident;

(2)

DIRECT the incumbent Chief of Staff of the Armed Forces of the Philippines and the Director General of the Philippines National Police, and their successors, to ensure the continuance of their investigation and coordination on the enforced disappearance of Jonas Burgos until the persons found responsible are brought before the bar of justice;

(3)

DIRECT the Commission on Human Rights to continue with its own independent investigation on the enforced disappearance of Jonas Burgos with the same degree of diligence required under the Rule on the Writ of Amparo;

(4)

DIRECT the Armed Forces of the Philippines and the Philippine National Police to extend full assistance to the Commission on Human Rights in the conduct of the latter’s investigation; and

(5)

DIRECT the Chief of Staff, Armed Forces of the Philippines, the Director General, Philippine National Police and the Chairman, Commission on Human Rights to submit a quarterly report to the Court on the results of their respective investigation.[28]

We note that the respondents did not appeal the March 18, 2013 CA decision and the May 23, 2013 CA resolution denying their motion for partial reconsideration.

Based on the above considerations, in particular, the final ruling of the CA that confirmed the validity of the issuance of the Writ of Amparo and its determination of the entities responsible for the enforced disappearance of Jonas, we resolve to deny the petitioner's prayer to issue the writ of Amparo anew and to refer the case to the CA based on the newly discovered evidence. We so conclude as the petitioner's request for the reissuance of the writ and for the rehearing of the case by the CA would be redundant and superfluous in light of: (1) the ongoing investigation being conducted by the DOJ through the NBI; (2) the CHR investigation directed by the Court in this Resolution; and (3) the continuing investigation directed by the CA in its March 18, 2013 decision.

We emphasize that while the Rule on the Writ of Amparo accords the Court a wide latitude in crafting remedies to address an enforced disappearance, it cannot (without violating the nature of the writ of Amparo as a summary remedy that provides rapid judicial relief) grant remedies that would complicate and prolong rather than expedite the investigations already ongoing. Note that the CA has already determined with finality that Jonas was a victim of enforced disappearance.

We clarify that by denying the petitioner's motion, we do not thereby rule on the admissibility or the merits of the newly discovered evidence submitted by the petitioner. We likewise do not foreclose any investigation by the proper investigative and prosecutory agencies of the other entities whose identities and participation in the enforced disappearance of Jonas may be disclosed in future investigations and proceedings. Considering that the present case has already reached the prosecution stage, the petitioner's motion should have been filed with the proper investigative and prosecutory agencies of the government.

To expedite proceedings, we refer the petitioner's motion, this Resolution and its covered cases to the DOJ for investigation, for the purpose of filing the appropriate criminal charges in the proper courts against the proper parties, if warranted, based on the gathered evidence. For this purpose, we direct the petitioner to furnish the DOJ and the NBI copies of her Urgent Ex Parte Motion Ex Abundanti Cautela, together with the sealed attachments to the Motion, within five (5) days from receipt of this Resolution.

As mentioned, we take judicial notice of the ongoing investigation by the DOJ, through the NBI, of the disappearance of Jonas. This DOJ investigation is without prejudice to the Office of the Ombudsman's exercise of its primary jurisdiction over the investigation of the criminal aspect of this case should the case be determined to be cognizable by the Sandiganbayan.[29]

As we direct below, further investigation for purposes of the present proceedings shall continue to be undertaken by the CHR, in close coordination with the NBI, for the completion of the investigation under the terms of our June 22, 2010 Resolution and the additional directives under the present Resolution.

As a final note, we emphasize that our ROLE in a writ of Amparo proceeding is merely to determine whether an enforced disappearance has taken place; to determine who is responsible or accountable; and to define and impose the appropriate remedies to address the disappearance.

As shown above, the beneficial purpose of the Writ of Amparo has been served in the present case with the CA's

final determination of the persons responsible and accountable for the enforced disappearance of Jonas and the commencement of criminal action against Lt. Baliaga. At this stage, criminal, investigation and prosecution proceedings are already beyond the reach of the Writ of Amparo proceeding now before us.

Based on the above developments, we now hold that the full extent of the remedies envisioned by the Rule on the Writ of Amparo has been served and exhausted. Considering the foregoing, the Court RESOLVES to:

(1)

DENY petitioner Edita Burgos' Urgent Ex Parte Motion Ex Abundanti Cautela;

(2)

REFER the petitioner's Urgent Ex Parte Motion Ex Abundanti Cautela, this Resolution and its covered cases to the Department of Justice for investigation for the purpose of filing the appropriate criminal charges in the proper courts against the proper parties if such action is warranted by the gathered evidence. The referral to the Department of Justice is without prejudice to the Office of the Ombudsman's exercise of its primary jurisdiction over the investigation should the case be determined to be cognizable by the Sandiganbayan;

(3)

DIRECT the petitioner to furnish the Department of Justice and the National Bureau of Investigation copies of her Urgent Ex Parte Motion Ex Abundanti Cautela, together with the sealed attachments to the Motion, within five (5) days from receipt of this Resolution;

(4)

DIRECT the Clerk of Court of the Supreme Court to allow the duly-authorized representatives of the Commission on Human Rights to inspect the requested documents in camera within five (5) days from receipt of this Resolution. For this purpose, the documents shall be examined and compared with the cartographic sketches of the two abductors of Jonas Burgos without copying and bringing the documents outside the premises of the Office of the Clerk of Court of the Supreme Court. The inspection of the documents shall be conducted within office hours and for a reasonable period of time that would allow the Commission on Human Rights to comprehensively investigate the lead provided by Virgilio Eustaquio;

(5)

DIRECT the National Bureau of Investigation to coordinate and provide direct investigative assistance to the Commission on Human Rights as the latter may require, pursuant to the authority granted under the Court's June 22, 2010 Resolution.

(6)

REQUIRE the Commission on Human Rights to submit a supplemental investigation report to the Department of Justice, copy furnished the petitioner, the National Bureau of Investigation, the incumbent Chiefs of the Armed Forces of the Philippines, the Philippine National Police and the Philippine National Police-Criminal Investigation and Detection Group, and all the respondents, within sixty (60) days from receipt of this Resolution.

(7)

DECLARE this Writ of Amparo proceeding closed and terminated, without prejudice to the concerned parties' compliance with the above directives and subject to the Court's continuing jurisdiction to enforce compliance with this Resolution.

**SO ORDERED.**

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza, Reyes, Perlas-Bernabe, and Leonen, JJ., concur.

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[1] Dated April 1, 2013; rollo, Vol. 3, pp. 3577-3586.

[2] Id. at 808-812, Vol. 1; italics, emphases and underscores ours.

[3] Id. at 956-960; italics, emphases and underscores in the original.

[4] Id. at 1198-1199; italics and emphases in the original.

[5] Id. at 1261-1264, Vol. 2.

[6] Id. at 3025, Vol. 3; emphases in the original.

[7] Id. at 3046; emphases in the original.

[8] Id. at 3131.

[9] Id. at 3131-3132.

[10] Id. at 3132.

[11] Id. at 3440.

[12] Id. at 3601-3602; emphases and italics in the original.

[13] Id. at 3612-3614.

[14] Section 19 of the Rule on the Writ of Amparo states:

SEC. 19. Appeal. – Any party may appeal from the final judgment or order to the Supreme Court under Rule 45. The appeal may raise questions of fact or law or both.

The period of appeal shall be five (5) working days from the date of notice of the adverse judgment.

The appeal shall be given the same priority as in habeas corpus cases.

[15] Rollo, pp. 3592-3594, Vol. 3; italics ours.

[16] The documents refer to: Psycho-Social Processing Report dated April 28, 2007; After-Apprehension Report dated April 30, 2007; Undated Autobiography of Jonas; and Picture of Jonas.

[17] Rollo, (no pagination), Vol. 3.

[18] Id., (no pagination). Annexes 1-F – 1-H; emphases ours.

[19] Id., (no pagination).

[20] The respondents' submissions include the September 23, 2011 Manifestation and Motion and the June 7, 2013 Compliance.

[21] CHR Progress Report dated March 20, 2012; rollo, pp. 3451-3499, Vol. 3.

[22] See Christine O. Avendano and TJ Burgonio, New NBI Probe to lead to truth behind Burgos' disappearance-De Lima, Philippine Daily Inquirer, April 4, 2013.

[23] G.R. No. 182498, December 3, 2009, 606 SCRA 598.

[24] Secretary of Defense v. Manalo, 589 Phil. 1, 41 (2008).

[25] Supra note 23.

[26] Id. at 620-621; emphases supplied.

[27] See Jeanette I. Andrade and Nikko Dizon, Court orders arrest of Army Major in Jonas Burgos Abduction, Philippine Daily Inquirer, October 22, 2013.

[28] Rollo, p. 3601.

[29] See Section 15 (1) of the Ombudsman Act of 1989 which provides:

The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of this primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases.

See also Honasan II v. The Panel of Investigating Prosecutors of the Department of Justice, G.R. No. 159747, April 13, 2004, 427 SCRA 46, 70, where the Court held that the “DOJ Panel is not precluded from conducting any investigation of cases against public officers involving violations of penal laws but if the cases fall under the exclusive jurisdiction of the Sandiganbayan, then respondent Ombudsman may, in the exercise of its primary jurisdiction take over at any stage.”

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