DAVID E. SO, ON BEHALF OF HIS DAUGHTER MARIA ELENA SO GUISANDE, PETITIONER, VS. HON. ESTEBAN A. TACLA, JR., REGIONAL TRIAL COURT OF MANDALUYONG CITY, BRANCH 208; AND DR. BERNARD...

G.R. No. 190108. October 19, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

Before us are consolidated petitions:

(1) A petition for the writs of habeas corpus and amparo against Judge Esteban A. Tacla, Jr. (Judge Tacla) of the Regional Trial Court (RTC), Branch 208, Mandaluyong City, and Dr. Bernardo A. Vicente (Dr. Vicente) of the National Center for Mental Health (NCMH), docketed as G.R. No. 190108; and

(2) G.R. No. 190473, which is a petition for review on certiorari under Rule 45 of the Rules of Court filed by the Office of the Solicitor General (OSG) on behalf of Judge Tacla and Dr. Vicente of the NCMH, assailing the Resolution[1] of the Court of Appeals (CA) rendered in open court on December 3, 2009, in the case docketed as CA-G.R. SP No. 00039.

The antecedents are:

Petitioner David E. So (So) in G.R. No. 190108 filed the petition for the writs of habeas corpus and amparo on behalf of his daughter, Ma. Elena So Guisande (Guisande), accused of Qualified Theft in the criminal case pending before Judge Tacla. Petitioner So alleged, among others, that Guisande was under a life-threatening situation while confined at the NCMH, the government hospital ordered by the RTC Mandaluyong City to ascertain the actual psychological state of Guisande, who was being charged with a non-bailable offense.

Prior to the institution of the criminal proceedings before the RTC, Guisande was committed by So for psychiatric treatment and care at the Makati Medical Center (MMC). Thus, the return of the warrant for the arrest of Guisande, issued by Judge Tacla, stated that the former was confined at MMC for Bipolar Mood Disorder and that she was "not ready for discharge," as certified by her personal psychiatrist, Dr. Ma. Cecilia Tan.

Acting on the prosecution's Urgent Motion to Refer Accused's Illness to a Government Hospital, Judge Tacla ordered Guisande's referral to the NCMH for an independent forensic assessment of Guisande's mental health to determine if she would be able to stand arraignment and undergo trial for Qualified Theft.

Subsequently, Judge Tacla, upon motion of the NCMH, ordered that accused Guisande be physically brought to the NCMH, with NCMH Chief Dr. Vicente to have temporary legal custody of the accused, and thereafter, Judge Tacla would issue the corresponding order of confinement of Guisande in a regular jail facility upon the NCMH's determination that she was ready for trial.

Accused Guisande was confined at the NCMH Payward, Pavilion 6-I-E, instead of Pavilion 35, Forensic

Psychiatric Section, where female court case patients are usually confined at the NCMH. In connection therewith, Dr. Vicente issued a special Memorandum on November 9, 2009, reiterating existing hospital policies on the handling of court case patients undergoing evaluation procedures to foreclose any possibility of malingering[2] on the patient's part, specifically patients accused of a non-bailable crime.

Eventually, claiming "life-threatening" circumstances surrounding her confinement at the NCMH which supposedly worsened her mental condition and violated her constitutional rights against solitary detention and assistance of counsel, accused Guisande and her father simultaneously, albeit separately, filed a Motion for Relief from Solitary Confinement before the RTC Mandaluyong City, and the present petition in G.R. No. 190108 for the issuance of the writs of habeas corpus and amparo.

On the Motion for Relief filed with RTC Mandaluyong City, Judge Tacla issued the following Order:

> The Court rules to Grant accused's [Guisande's] motion subject to the condition that only the accused's counsel and the accused' physician on her hypothyroid condition are allowed to visit the accused in coordination with the respective psychiatrist/doctor of the NCMH taking charge of the psychiatric examination upon accused.[3]

On the petition for habeas corpus and amparo, this Court issued a Resolution on November 24, 2009, to wit:

> G.R. No. 190108 (David E. So, in Behalf of his Daughter Maria Elena So Guisande vs. Hon. Esteban A. Tacla, Jr., Regional Trial Court of Mandaluyong, Branch 208, Dr. Bernardo A. Vicente, National Center for Mental Health). - Acting on the Petition for Writs of Habeas Corpus and Amparo, the Court Resolved to
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> (a) ISSUE a JOINT WRIT OF HABEAS CORPUS AND AMPARO;
>
> (b) REFER the petition to the Court of Appeals, Manila, for (i) IMMEDIATE RAFFLE among the Members of the said Court; (ii) HEARING on December 3, 2009, Thursday, at 10:00 a.m.; and (iii) DECISION within ten (10) days after its submission for decision; and
>
> (c) ORDER the respondents to make a verified RETURN of the Joint Writ of Habeas Corpus and Amparo before the Court of Appeals, Manila, on December 1, 2009, and to COMMENT on the petition before said date.[4]

As directed by this Court, Judge Tacla and Dr. Vicente appeared before the CA on December 1, 2009 and, in the afternoon, filed their Consolidated Return of the Writ.

On December 3, 2009, the NCMH submitted its Evaluation Report to the RTC Mandaluyong City:

> ASSESSMENT AND REMARKS:
>
> Review of the history and clinical reports from Makati Medical Center revealed that Ma. Elena So-Guisande was diagnosed and managed as Bipolar I Disorder. On the other hand, based on a series of mental status examinations and observations at our center, she is found not manifesting signs and symptoms of psychosis at the present time. Neither a manic episode nor a severe depressive episode was manifested during her confinement at our center, despite voluntarily not taking her medication is. Although she is complaining of mood symptoms, these are not severe enough to impair her fitness to stand trial.
>
> Ms. Guisande does have sufficient understanding of the nature and objective of the court proceedings and the possible consequences of her cases. She is likewise capable of communicating with her counsels.
>
> She is therefore deemed COMPETENT to stand the rigors of court trial. (Emphasis supplied.)

On even date, pursuant to the directive of this Court, the CA's Special Seventeenth Division held a hearing. Thereafter, Justice Normandie B. Pizarro (Justice Pizarro), to whom the petition was raffled, disposed, in this

wise:

JUSTICE PIZARRO:

The essence of the deliberation this morning is on the proceedings that obtained pursuant to the September 22, 2009 Order of the Regional Trial Court, Branch 208, Mandaluyong City. The parties heard the arguments of the Petitioner on the right of the subject patient, Ma. Elena, to avail of extended medical treatment citing the Constitution and the Geneva Convention on Human Rights.

In the course of the proceedings this morning, Judge Tacla, Jr., informed this Court that the NCMH submitted to him a report consisting of eight (8) pages at about 8:46 this morning. The parties, specifically the petitioner, were shown the said report. Afterwards, Judge Tacla's opinion on the matter was heard and he did not interpose any objection thereto. The Accused, subject of this case, Ma. Elena So-Guisande, may now be discharged from the custody of the NCMH and is considered fit for the rigors of trial. The parties were heard on the matter and all of them were in accord with the dispositive portion of the aforesaid report.

After a prolonged discussion on the matter, and without objection on the part of the parties, as the Accused should now proceed to trial in accordance with law, and at the same time recognizing the right of the Accused to avail of further medication, this Court decrees the following set up that should cover this proceedings: The trial of this case shall resume and the arraignment at the Court a quo shall push through as originally scheduled on February 2, 2010. To balance the situation, the right to seek medical treatment of the subject is hereby recognized by all and the patient shall be confined at the St. Clare's Medical Center, 1838 Dian St., Palanan, Makati City, her hospital of choice, under the headship of Dr. Yat, subject to the twenty-four (24) hour custodial control of the NBI.

x x x x

JUSTICE PIZARRO:

Dr. Yat is directed to submit, again by agreement of the parties, a periodic report every fifteen days to the RTC, Branch 208, for its evaluation. The first report shall be submitted on or before December 18, 2009.

In this regard, the Director Nestor M. Mantaring of NBI is politely DIRECTED to cause the transfer from NCMH to the St. Clare's Medical Center of the subject Accused, Ma. Elena So-Guisande, and to provide two (2) or three (3) security personnel to the Accused after making the proper coordination with the RTC, Branch 208. Director Mantaring is to submit a one (1) page compliance on the matter within three (3) days from receipt of this Resolution - furnishing Judge Tacla, Jr. a copy thereof.

x x x x

It is understood that the case pending before RTC, Branch 208, involves a non-bailable offense where normally the Accused should have been confined in jail. But considering the peculiarities of this case, the parties have all agreed to the set up as provided in this Order. It is also understood by the parties that henceforth the control of the trial proceedings as well as the control over the custody of the accused/patient shall be in the hands of the Regional Trial Court, Branch 208, Mandaluyong City.

STATE SOL. DE VERA:

Your honor, the Hospital fees to be settled before the transfer, Your Honor.

JUSTICE PIZARRO:

As committed in open-Court, Atty. Carpio shall insure the settlement of the fees for the confinement of Accused/patient at the NCMH, as a pre-condition for her release therefrom.

WHEREFORE, the foregoing considering considered, this petition for Habeas Corpus and Amparo is

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considered CLOSE and TERMINATED. All parties are notified in open court of this Order.

x x x x

JUSTICE PIZARRO:

Let copies of this Order be furnished the RTC, Br. 208, Mandaluyong City, the Director of the National Bureau of Investigation as well as the Supreme Court, and all the parties.

SO ORDERED.[5]

Hence, the petition for review on certiorari, docketed as G.R. No. 190473, filed by the OSG, which was consolidated with G.R. No. 190108.

During the pendency of these consolidated cases, various events occurred which ultimately led to the incident before this Court, i.e., a Manifestation and Motion[6] dated March 11, 2010, filed by the OSG on behalf of public respondents, Judge Tacla and Dr. Vicente, to wit:

1. On February 4, 2010, acting on the City Prosecutor's January 25, 2010 Motion to Withdraw Information, public respondent Judge ordered the dismissal of Criminal Case No. MC019-12281. Hence, their Urgent Prayer for Issuance of a Temporary Restraining Order (TRO) before this Honorable Court has been rendered moot and academic. A copy of the February 4, 2010 Order dismissing Criminal Case No. MC019-12281 is attached herewith as Annex "A."

2. Furthermore, in view of the dismissal of Criminal Case No. MC019-12281 from which the Petition for Writ of Habeas Corpus and Writ of Amparo (docketed before the Supreme Court as G.R. No. 190108 and Court of Appeals as CA-G.R. SP No. 00039) and the Petition for Review (docketed as G.R. No. 190473) stemmed from, these cases and pending incidents thereon should be dismissed for having been rendered moot and academic.

WHEREFORE, it is respectfully prayed that the Petition for Writ of Habeas Corpus and Writ of Amparo (docketed before the Supreme Court as G.R. No. 190108 and Court of Appeals as CA-G.R. SP No. 00039) and the Petition for Review (docketed as G.R. No. 190473) and all other pending incidents thereon be DISMISSED for having been rendered moot and academic.

Petitioner So filed a Comment[7] refuting the OSG's motion to dismiss G.R. Nos. 190108 and 190473. Through counsel, and using strong words, he vehemently opposed the dismissal of the petitions because they had filed criminal complaints and an administrative case against respondents Judge Tacla and Dr. Vicente, as well as the NCMH and an attending doctor thereat, for purported violations of accused Guisande's rights during her confinement at the NCMH. Adding to the flurry of cases, petitioner So filed a Verified Petition to cite Judge Tacla and Dr. Vicente in contempt before the CA for their supposed submission of an altered and falsified document, which was attached to, and formed an integral part of, their Consolidated Return of the Writ.

Posthaste, and even without us requiring the OSG to file one, it filed a Motion to Admit Reply[8] with its Reply[9] to the Comment of petitioner So attached thereto. The OSG clarified and denied outright petitioner So's allegation in the Comment that the criminal case for Qualified Theft against accused Guisande was a prevarication and concoction of private complainant[10] and that Judge Tacla had conspired to falsely accuse petitioner So's daughter, Guisande. In all, the OSG reiterated that GR. Nos. 190108 and 190473 had been rendered moot and academic with the dismissal of the criminal case for Qualified Theft against Guisande.

Significantly, on August 25, 2010, the OSG filed another Manifestation and Motion[11] informing this Court of the following:

(1) Resolution dated June 7, 2010 issued by Assistant City Prosecutor Teresa D. Escobar-Pilares (Assistant City Prosecutor Escobar-Pilares), dismissing the charge of petitioner So against Judge Tacla and Dr. Vicente and their counsels for Falsification under Article 171 and 172 of the Revised Penal Code, docketed as I.S. No. XV-07-INV-10B-01371, for insufficiency of evidence;[12] and

(2) Resolution dated July 27, 2010 of the CA in CA-G.R. SP No. 00039, where petitioner So's verified petition for contempt was dismissed for lack of merit, and where the CA ordered the petition for habeas corpus/writ of amparo closed and terminated.[13]

Likewise, the OSG reiterated its motion to dismiss the instant consolidated petitions.

We completely agree with the OSG. Accordingly, we deny the petitions in G.R. Nos. 190108 and 190473 for having been rendered moot and academic by the dismissal of Criminal Case No. MC09-12281 for Qualified Theft pending before the RTC Mandaluyong City.

As correctly pointed out by the OSG, the petition for the writs of habeas corpus and amparo was based on the criminal case for Qualified Theft against petitioner So's daughter, Guisande. To recall, petitioner So claimed that the conditions and circumstances of his daughter's, accused Guisande's, confinement at the NCMH was "life threatening"; although Guisande was accused of a non-bailable offense, the NCMH could not adequately treat Guisande's mental condition. Thus, to balance the conflicting right of an accused to medical treatment and the right of the prosecution to subject to court processes an accused charged with a non-bailable offense, the CA directed the transfer of Guisande from the NCMH to St. Clare's Medical Center, while noting that because of the peculiarities of this case, there was a deviation from the regular course of procedure, since accused Guisande should have been confined in jail because she was charged with a non-bailable offense.

Notably, nowhere in the transcript of the CA hearing on December 3, 2009, nor in the Order recited in open court by Justice Pizarro, is there an affirmation of petitioner So's claim that the confinement of accused Guisande at the NCMH was illegal. Neither were the respective acts performed by respondents Judge Tacla and Dr. Vicente in ascertaining the mental condition of accused Guisande to withstand trial declared unlawful. On the contrary, the NCMH, a well-reputed government forensic facility, albeit not held in high regard by petitioner So's and accused Guisande's family, had assessed Guisande fit for trial.

The Rules on the Writs of Habeas Corpus and Amparo are clear; the act or omission or the threatened act or omission complained of - confinement and custody for habeas corpus and violations of, or threat to violate, a person's life, liberty, and security for amparo cases - should be illegal or unlawful.

Rule 102 of the Rules of Court on Habeas Corpus provides:

> Sec. 1. To what habeas corpus extends. - 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.

while the Rule on the Writ of Amparo states:

> Section 1. Petition. - The petition for a writ of amparo is a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.
>
> The writ shall cover extralegal killings and enforced disappearances or threats thereof.

Our decisions on the propriety of the issuance of these writs reiterate the foregoing rules. In Lourdes D. Rubrico, Jean Rubrico Apruebo, and Mary Joy Rubrico Carbonel v. Gloria Macapagal-Arroyo, Gen. Hermogenes Esperon,

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P/Dir. Gen. Avelino Razon, Maj. Darwin Sy a.k.a Darwin Reyes, Jimmy Santana, Ruben Alfaro, Capt. Angelo Cuaresma, a certain Jonathan, P/Supt. Edgar B. Roquero, Arsenio C. Gomez, and Office of the Ombudsman,[14] we qualified:

> The privilege of the writ of amparo is envisioned basically to protect and guarantee the rights to life, liberty, and security of persons, free from fears and threats that vitiate the quality of this life. It is an extraordinary writ conceptualized and adopted in light of and in response to the prevalence of extra-legal killings and enforced disappearances. Accordingly, the remedy ought to be resorted to and granted judiciously, lest the ideal sought by the Amparo Rule be diluted and undermined by the indiscriminate filing of amparo petitions for purposes less than the desire to secure amparo reliefs and protection and/or on the basis of unsubstantiated allegations.[15]

In the recent Nurhida Juhuri Ampatuan v. Judge Virgilio V. Macaraig, RTC, Manila, Branch 37, Director General Avelino Razon, Jr., Director Geary Barias, PSSupt. Co Yee M. Co, Jr., and Police Chief Inspector Agapito Quimson,[16] we intoned:

> The most basic criterion for the issuance of the writ, therefore, is that the individual seeking such relief is illegally deprived of his freedom of movement or place under some form of illegal restraint. If an individual's liberty is restrainted via some legal process, the writ of habeas corpus is unavailing. Fundamentally, in order to justify the grant of the writ of habeas corpus, the restraint of liberty must be in the nature of an illegal and involuntary deprivation of freedom of action.
>
> In general, the purpose of the writ of habeas corpus is to determine whether or not a particular person is legally held. A prime specification of an application for a writ of habeas corpus, in fact, is an actual and effective, and not merely nominal or moral, illegal restraint of liberty. The writ of habeas corpus was devised and exists as a speedy and effectual remedy to relieve persons from unlawful restraint, and as the best and only sufficient defense of personal freedom. xxx The essential object and purpose of the writ of habeas corpus is to inquire into all manner of involuntary restraint as distinguished from voluntary, and to relieve a person therefrom if such restraint is illegal. Any restraint which will preclude freedom of action is sufficient.
>
> In passing upon a petition for habeas corpus, a court or judge must first inquire into whether the petitioner is being restrained of his liberty. If he is not, the writ will be refused. Inquiry into the cause of detention will proceed only where such restraint exists. If the alleged cause is thereafter found to be unlawful, then the writ should be granted and the petitioner discharged. Needless to state, if otherwise, again the writ will be refused.
>
> While habeas corpus is a writ of right, it will not issue as a matter of course or as a mere perfunctory operation on the filing of the petition. Judicial discretion is called for in its issuance and it must be clear to the judge to whom the petition is presented that, prima facie, the petitioner is entitled to the writ. It is only if the court is satisfied that a person is being unlawfully restrained of his liberty will the petition for habeas corpus be granted. If the respondents are not detaining or restraining the applicant of the person in whose behalf the petition is filed, the petition should be dismissed.[17]

In the cases at bar, the question before the CA was correctly limited to which hospital, the NCMH or a medical facility of accused's own choosing, accused Guisande should be referred for treatment of a supposed mental condition.[18] In addition, we note that it was procedurally proper for the RTC to ask the NCMH for a separate opinion on accused's mental fitness to be arraigned and stand trial. Be that as it may, the CA allowed the transfer of accused to St. Clare's Medical Center under the custody of Dr. Rene Yat, who was required periodically to report on his evaluation, every fifteen (15) days, to the RTC Mandaluyong City, although in the same breath, the CA also ordered the continuation of the arraignment and trial of the accused for Qualified Theft before the same trial court. In other words, Guisande remained in custody of the law to answer for the non-bailable criminal charge against her, and was simply allowed to pursue medical treatment in the hospital and from a doctor of her

choice.

Certainly, with the dismissal of the non-bailable case against accused Guisande, she is no longer under peril to be confined in a jail facility, much less at the NCMH. Effectively, accused Guisande's person, and treatment of any medical and mental malady she may or may not have, can no longer be subjected to the lawful processes of the RTC Mandaluyong City. In short, the cases have now been rendered moot and academic which, in the often cited David v. Macapagal-Arroyo,[19] is defined as "one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical use or value."

Finally, the Resolutions of the CA and Assistant City Prosecutor Escobar-Pilares, unmistakably foreclose the justiciability of the petitions before this Court.

In CA-G.R. SP No. 00039, the CA said:

> We are also not swayed by [David So's] argument that [petitioners] advanced lies to this Court when they stated in their petition that Elena was facing two (2) non-bailable offenses. During the hearing on the petition for habeas corpus/writ of amparo, the counsel for [David So] stated that Elena was facing only one (1) non-bailable offense to which [petitioners] did not anymore object. Besides, the number of non-bailable offenses is not even material in the instant case for habeas corpus/writ of amparo as the only issue to be determined here was whether or not Elena's confinement at NCMH was lawful.
>
> Finally, the issue in the verified petition, of whether [petitioners] were in contempt of court, is rendered moot and academic considering that this Court had already rendered its open court Order on December 8, 2009, which was favorable to [David So], and it was only later that the latter raised the issue of contempt.
>
> Finding no merit in [David So's] verified petition for contempt against [Judge Tacla, Dr. Vicente and the NCMH], and there being no other objections made by the parties against Our March 17, 2010 Resolution, the instant petition for habeas corpus/writ of amparo is declared CLOSED and TERMINATED.
>
> SO ORDERED.[20]

In XV-07-INV-10B-01371 for Falsification under Articles 171 and 172 of the Revised Penal Code, the Assistant City Prosecutor made the following findings:

> x x x [T]he undersigned finds no probable cause that respondents committed the charges filed against them.
>
> Examination of the Contract of Confinement which was claimed to have been falsified reveals that it was merely a photocopy. The supposed full photocopy of the original copy of the subject contract did not contain any alteration (change) or intercalation (insertion) that could have changed its meaning or that could have made it speak of something false. The contents of the contract depicting that [Guisande's] yaya (Ms. Galleto) was indeed confined at the NCMH as claimed by respondents to accompany [Guisande], [So's] daughter who was confined thereat remained the same. Respondents explained that they were unaware of the inadvertent partial reproduction of the document and supported the same with an affidavit of good faith executed by an NCMH clerk explaining why it was only partially reproduced.
>
> Likewise, respondents' statement that [Guisande] is "facing non-bailable offenses" is not absolutely false. Respondents satisfactorily explained that at the time of the filing of their pleading, they believed in good faith that she was facing more than one non-bailable offenses (sic) as she was charged with Qualified Theft before the Mandaluyong City RTC, Branch 208 and Syndicated Estafa before the San Juan Prosecutor's office. While it may be true that [Guisande] has only one (1) non-bailable offense pending in court, respondents proved with their evidence that she had o.thers pending at the time in other forum.
>
> WHEREFORE, premises considered, it is respectfully recommended that the charges for Falsification under Articles 171 and 172 of the Revised Penal Code filed against all respondents namely: (1) Judge Esteban A.

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Tacla, Jr., (2) Dr. Bernardino A. Vicente, (3) ASG General Magtanggol M. Castro, SSS Diana H. Castañeda-de Vera, SS Charina A. Soria and AS Jefferson C. Secillano, be DISMISSED for insufficiency of evidence.[21]

WHEREFORE, in light of the foregoing disquisition, the petitions in G.R. Nos. 190108 and 190473 for the Writs of Habeas Corpus and Amparo, and review on certiorari under Rule 45 of the Rules of Court are DENIED for being moot and academic. No costs.

SO ORDERED.

Corona, C.J., Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Del Castillo, Villarama, Jr., Perez, Mendoza, and Sereno, JJ., concur.
Carpio, J., no part, close relation to a party.
Carpio Morales, Bersamin, and Abad, JJ., on leave.

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[1] Rollo (G.R. No. 190473), pp. 31-115.

[2] Intentional production of false or grossly exaggerated physical or psychological symptoms, motivated by external incentives such as avoiding military duty, avoiding work, obtaining financial compensation, evading criminal prosecution, or obtaining drugs x x x. Quick Reference to the Diagnostic Criteria from DSM-IV-TR, American Psychiatric Association Washington, D.C., 2000.

[3] Rollo (G.R. No. 190473), p. 10.

[4] Rollo (G.R. No. 190108), p. 29.

[5] Rollo (G.R. No. 190473), pp. 109-114.

[6] Rollo (G.R. No. 190108), pp. 73-76.

[7] Id. at 89-92.

[8] Id. at 106-108.

[9] Id. at 109-194.

[10] In the Criminal Case for Qualified Theft, private complainant is Christopher Arenas.

[11] Dated August 23, 2010; rollo (G.R. No. 190108), pp. 200-203.

[12] Id. at 211-214.

[13] Id. at 205-209.

[14] G.R. No. 183871, Feb. 18, 2010.

[15] Emphasis supplied.

[16] G.R. No. 182497, June 29, 2010.

[17] Emphasis supplied.

[18] As per Justice Acosta; rollo, p. 62.

[19] G.R. No. 171396, May 3, 2006, 489 SCRA 160.

[20] Rollo (G.R. No. 190108), p. 209.

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[21] Id. at 213-214.

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