CHAIRPERSON SIEGFRED B. MISON, IN HIS CAPACITY AS CHAIRPERSON OF BUREAU OF IMMIGRATION AND DEPORTATION, PETITIONER, VS. HON. PAULINO Q. GALLEGOS, IN HIS CAPACITY AS PRESIDING JU...

G.R. No. 210759. June 23, 2015

Ponente: PEREZ, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-210759/

PEREZ, J.:

The privilege of the writ of amparo is an extraordinary remedy adopted to address the special concerns 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.[3]

For the consideration of the Court are three consolidated petitions assailing the Orders dated 28 January 2014,[4] 29 January 2014,[5] and 18 February 2014,[6] as well as the Resolution dated 14 March 2014,[7] all issued by respondent Presiding Judge Paulino Gallegos (Judge Gallegos) of the Regional Trial Court-Manila, Branch 47 in SP. PROC. No. 14-131282.

The records show that on 23 December 2013, the International Criminal Police Organization (Interpol) of Seoul, Republic of Korea sent a Notice[8] to Interpol Manila requesting assistance in the location and deportation of respondent Ja Hoon Ku (Ku) for arbitrarily spending money allotted as reserve fund of Phildip Korea Co., Ltd. Consequently, the Embassy of the Republic of Korea wrote a Letter-Request[9] to petitioner, Hon. Siegfred Mison, Chairperson of the Bureau of Immigration (BI), for the immediate arrest and deportation of Ku to Korea for being an undesirable alien.

Meanwhile, on 1 January 2014, Ku’s visa expired.[10]

On 3 January 2014, Special Prosecutor Maria Antonette Bucasas-Mangrobang charged Ku for being a risk to public interest pursuant to Sec. 69, Act No. 2711.[11] This finding was approved by the BI Board of Commissioners which, on 16 January 2014, issued a Summary Deportation Order.[12]

On the same day, 16 January 2014, BI officers, with the assistance of the Manila Police District-Warrant and Subpoena Section, arrested Ku. Upon arrival at the BI detention center, Ku was detained.[13]

On 17 January 2014, the Republic of Korea voided Ku’s passport.[14]

Also on 17 January 2014, Ku filed a Petition for the Issuance of a Writ of Amparo with Interim Remedies, docketed as SP PROC. No. 14-131282.[15] On 22 January 2014, he also filed a Supplemental Petition for the Issuance of a Writ of Amparo.[16] Finding said supplemental petition to be sufficient in form and substance, Judge Gallegos, in an Order dated 22 January 2014, issued a Writ of Amparo.[17] On 24 January 2014, Ku filed a

Motion for the Issuance of a Temporary Protection Order (TPO).[18] Judge Gallegos then set the hearing on the TPO on 27 January 2014 at 8:30 a.m.,[19] while he set the hearing on the petition for the issuance of a writ of amparo on 29 January 2014 at 8:30 a.m.[20]

In the afternoon of 27 January 2014, petitioner filed his Return of the Writ.[21] He was then notified that a hearing on the TPO was held earlier in the morning and that the same was already submitted for resolution.[22] Petitioner then filed an Opposition to the Motion for Issuance of TPO on 28 January 2014.[23]

On 28 January 2014, Judge Gallegos issued the first assailed Order granting the motion for issuance of TPO, entrusting Ku's custody to the Philippine National Red Cross and/or its Chairman CEO Richard Gordon, and directing the Philippine National Police-Police Security and Protection Group (PNP-PSPG) to protect Ku and his immediate family.[24] On 29 January 2014, Judge Gallegos issued the second assailed Order directing the transfer of custody and protection of Ku to the PNP-PSPG.[25] Petitioner challenged these orders before the Court via a Petition for Certiorari[26] docketed as G.R. No. 210759.

On 4 February 2014, the Court issued a Resolution in G.R. No. 210759 issuing a Temporary Restraining Order (TRO) enjoining the enforcement of the Orders dated 28 and 29 January 2014 and directing the BI to retain custody of Ku, as well as requiring Ku to comment on the petition.[27] In issuing this resolution, the Court intimated the possibility of misuse by Ku of the writ of amparo given that he was validly arrested and placed under the jurisdiction and custody of the BI; thus the case cannot be categorized as one of extralegal killing or enforced disappearance.[28]

Owing to the Court's Resolution dated 4 February 2014, in the hearing set on 11 February 2014 before the trial court, petitioner verbally moved for the dismissal of the amparo petition.[29] On 18 February 2014, however, Judge Gallegos issued the third assailed order denying the motion to dismiss for lack of merit.[30] Thus, petitioner appealed the matter to the Court via the Petition for Certiorari and Prohibition[31] docketed as G.R. No. 211403.

On 25 February 2014, Ku filed an appeal memorandum on his deportation order addressed to the Office of the President (OP).[32]

On 14 March 2014, Judge Gallegos issued the assailed Resolution granting the privilege of the writ of amparo, to wit:

> WHEREFORE, the privilege of the Writ of Amparo is hereby GRANTED. [Ku] is ordered immediately released from [petitioner's] custody without prejudice to the institution of the proper remedy to extradition. Moreover, the [petitioner] and/or agents are ordered to cease and desist from further violating the right to liberty of [Ku] and the members of his family by filing cases to legitimize his detention.[33]

Meanwhile, in the Resolution dated 18 March 2014 in G.R. No. 211403, the Court issued a TRO enjoining the RTC from enforcing the Order dated 18 February 2014 and from further proceeding with the case.[34]

On 19 March 2014, the OP granted Ku provisional liberty only until 31 August 2014 or until his appeal was resolved, whichever came first.[35] Ku then moved for the release of his passport before the RTC, which petitioner opposed and to which he filed a counter-motion for the RTC to release said passport to the BI, given that such was one of the conditions for the OP's grant of provisional liberty to Ku.[36] In the Order dated 26 March 2014, however, Judge Gallegos merely noted petitioner's motion for being moot, considering that he already released Ku's passport on 20 March 2014, upon the personal request of Ku.[37]

Due to the complexities involved, petitioner filed the Petition for Review on Certiorari in G.R. No. 211590, essentially assailing the Resolution dated 14 March 2014.

Condensing the various issues raised in these petitions,[38] we come to the central question of whether or not the privilege of the writ of amparo was properly granted in the case at bar.

We rule in the negative.

Section 1 of the Rule on the Writ of Amparo (Amparo Rule)[39] provides:

> 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.

On 25 September 2007, the Court promulgated the Amparo Rule "in light of the prevalence of extralegal killings and enforced disappearances." It was an exercise for the first time of the Court's expanded power to promulgate rules to protect our people's constitutional rights, which made its maiden appearance in the 1987 Constitution in response to the Filipino experience of the martial law regime. As the Amparo Rule was intended to address the intractable problem of "extralegal killings" and "enforced disappearances," its coverage, in its present form, is confined to these two instances or to threats thereof. "Extralegal killings" are "killings committed without due process of law, i.e., without legal safeguards or judicial proceedings." On the other hand, "enforced disappearances" are "attended by the following characteristics: an arrest, detention or abduction of a person by a government official or organized groups or private individuals acting with the direct or indirect acquiescence of the government; the refusal of the State to disclose the fate or whereabouts of the person concerned or a refusal to acknowledge the deprivation of liberty which places such persons outside the protection of law."[40]

This pronouncement on the coverage of the writ was further cemented in the latter case of Lozada, Jr. v. Macapagal-Arroyo[41] where this Court explicitly declared that as it stands, the writ of amparo is confined only to cases of extrajudicial killings and enforced disappearances, or to threats thereof. As to what constitutes "enforced disappearance," the Court in Navia v. Pardico[42] enumerated the elements constituting "enforced disappearances" as the term is statutorily defined in Section 3(g) of Republic Act (R.A.) No. 9851,[43] to wit:

> (a)
>
> that there be an arrest, detention, abduction or any form of deprivation of liberty;
>
> (b)
>
> that it be carried out by, or with the authorization, support or acquiescence of, the State or a political organization;
>
> (c)
>
> that it be followed by the State or political organization's refusal to acknowledge or give information on the fate or whereabouts of the person subject of the amparo petition; and
>
> (d)
>
> that the intention for such refusal is to remove the subject person from the protection of the law for a prolonged period of time.[44]

As clarified in Navia, with the enactment of R.A. No. 9851, the Amparo Rule is now a procedural law anchored, not only on the constitutional rights to life, liberty and security, but on a concrete statutory definition as well of what an 'enforced or involuntary disappearance' is. Therefore, A.M. No. 07-9-12-SC's reference to enforced disappearances should be construed to mean the enforced or involuntary disappearance of persons contemplated

in Section 3(g) of R.A. No. 9851. Meaning, in probing enforced disappearance cases, courts should read A.M. No. 07-9-12-SC in relation to R.A. No. 9851.[45]

Guided by the parameters of R.A. No. 9851, we can readily discern that Ku's circumstance does not come under the statutory definition of an enforced or involuntary disappearance. Indeed, Ku was arrested by agents of the BI, but there was no refusal on the part of the BI to acknowledge such arrest nor was there any refusal to give information on the whereabouts of Ku. Neither can it be said that the BI had any intention to remove Ku from the protection of the law for a prolonged time.

Although Ku claims that he was arbitrarily arrested and detained by agents of the BI, that he was not read his rights under the constitution and was not informed of the reason for his arrest, nor provided a copy of any document leading to his arrest and detention,[46] the arresting officers are all consistent in testifying that, upon Ku's arrest, they introduced themselves as agents of the BI, presented to Ku the Warrant of Deportation, and informed him of his constitutional rights as well as the expiration of his visa.[47]

More importantly, there was no attempt on the part of the BI to conceal Ku or his whereabouts. Within the Bureau, Ku's arrest and the fact that he was in their custody was not obscured as, in fact, these were well-documented as evidenced by the Return of Warrant of Deportation dated 20 January 2014[48] and the After-Mission Report dated 17 January 2014.[49] More importantly, in the Return of the Writ, petitioner readily disclosed to the trial court that Ku was in the custody of the BI pursuant to a Warrant of Deportation and a Summary Deportation Order.[50]

These documents and pleading show that there was never any intention on the part of the BI to remove Ku from the protection of the law for a prolonged time. Besides, when Ku was arrested at 9:30 p.m. on 16 January 2014, and received at the BI Detention Center at 11:30 p.m. also on 16 January 2014,[51] the following day or on 17 January 2014, Ku's counsel was immediately able to file his Entry of Appearance with Motion for Reconsideration before the BI,[52] thereby showing that Ku's legal rights were amply guarded and that he was never removed from the protection of the law.

Section 5 of the Amparo Rule enumerates what an amparo petition should contain, among which is the right to life, liberty and security of the aggrieved party violated or threatened with violation by an unlawful act or omission of the respondent, and how such threat or violation is committed with the attendant circumstances detailed in supporting affidavits, to wit:

> SEC. 5. Contents of Petition. – The petition shall be signed and verified and shall allege the following:
>
> (a)
>
> The personal circumstances of the petitioner;
>
> (b)
>
> The name and personal circumstances of the respondent responsible for the threat, act or omission, or, if the name is unknown or uncertain, the respondent may be described by an assumed appellation;
>
> (c)
>
> The right to life, liberty and security of the aggrieved party violated or threatened with violation by an unlawful act or omission of the respondent, and how such threat or violation is committed with the attendant circumstances detailed in supporting affidavits;
>
> (d)

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The investigation conducted, if any, specifying the names, personal circumstances, and addresses of the investigating authority or individuals, as well as the manner and conduct of the investigation, together with any report;

(e)

The actions and recourses taken by the petitioner to determine the fate or whereabouts of the aggrieved party and the identity of the person responsible for the threat, act or omission; and

(f)

The relief prayed for.

The petition may include a general prayer for other just and equitable reliefs.

Ku claims that he fears for his life and feels the serious danger of being detained for a long period of time without any cause, and that he fears that the BI will fabricate criminal cases against him to hold him under detention.[53] According to Ku, what he seeks to obtain in filing an amparo petition is the protection it will give to his person against the actions of some government officials who will likely take advantage of their positions and use the power of the government at their command. Ku adds that the longer he stays in confinement the more he is exposed to life-threatening situations and the further the violation of his guaranteed rights.[54]

The allegations of Ku, though, are specious. It is to be noted that the Amparo Rule requires the parties to establish their claims by substantial evidence.[55] Other than making unfounded claims, however, Ku was not able to present evidence that he was exposed to "life-threatening situations" while confined at the BI Detention Center. On the contrary, the records show that he is afforded visitorial rights and that he has access to his counsel.

Moreover, his primary fear, which prompted him to file the amparo petition, was that the BI would trump up charges against him so as to justify his detention. The fact remains, however, that even before his arrest, deportation charges against him were already duly filed and ruled upon by the BI.

As such, it can readily be discerned that the RTC's grant of the privilege of the writ of amparo was improper in this case as Ku and his whereabouts were never concealed, and as the alleged threats to his life, liberty and security were unfounded and unsubstantiated. It is to be emphasized that the fundamental function of the writ of amparo is to cause the disclosure of details concerning the extrajudicial killing or the enforced disappearance of an aggrieved party. As Ku and his whereabouts were never hidden, there was no need for the issuance of the privilege of the writ of amparo in the case at bar.

It is to be additionally observed that Ku is guilty of forum shopping. Being the subject of a Warrant of Deportation and a Summary Deportation Order, Ku's proper recourse is with the BI and, thereafter, with the DOJ and the OP.[56] Ku knows this and, in fact, he filed a Motion for Reconsideration before the BI and an Appeal before the OP. When Ku, however, injudiciously filed a Petition and a Supplemental Petition for the Issuance of a Writ of Amparo, he committed forum shopping by seeking a remedy which he had already solicited from another tribunal.

In Kiani v. BID,[57] where petitioner therein filed before the trial court a petition for a writ of habeas corpus seeking to have the detention of her husband declared as illegal and to order the latter's release, and where her husband filed before the Bureau of Immigration and Deportation (BID) an omnibus motion seeking to question the summary deportation order issued against him, the Court held that petitioner indulged in forum shopping.

The Court clarified that under Section 8, Chapter 3, Title I, Book III of Executive Order No. 292, the power to deport aliens is vested in the President of the Philippines, subject to the requirements of due process. The

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Immigration Commissioner is vested with authority to deport aliens under Section 37 of the Philippine Immigration Act of 1940, as amended. Thus, a party aggrieved by a Deportation Order issued by the BOC is proscribed from assailing said Order in the RTC even via a petition for a writ of habeas corpus. Conformably with ruling of the Court in Domingo v. Scheer, such party may file a motion for the reconsideration thereof before the BOC.[58]

Citing Balite v. Court of Appeals,[59] the Court held that there is forum shopping when a party seeks to obtain remedies in an action in one court, which had already been solicited, and in other courts and other proceedings in other tribunals. While a party may avail of the remedies prescribed by the Rules of Court, such party is not free to resort to them simultaneously or at his/her pleasure or caprice. A party should not be allowed to present simultaneous remedies in two different forums, for it degrades and wreaks havoc to the rule on orderly procedure. A party must follow the sequence and hierarchical order in availing of such remedies and not resort to shortcuts in procedure or playing fast and loose with the said rules. Forum shopping, an act of malpractice, is considered as trifling with the courts and abusing their processes. It is improper conduct and degrades the administration of justice.

On a final note, the Court observes that Judge Gallegos knowingly disregarded the Court's directives as regards this case. The records show that the Court's Resolution dated 4 February 2014, wherein we issued a TRO enjoining the enforcement of the Orders dated 28 and 29 January 2014 and intimated the impropriety of the amparo petition, was received by the RTC on 5 February 2014.[60] This should have alerted Judge Gallegos to proceed with caution and restraint in granting the privilege of the writ of amparo. And yet, despite having knowledge of the Court's pronouncements, Judge Gallegos proceeded to grant the said privilege.

Also, the records show that the Court's Resolution dated 18 March 2014, wherein we issued a TRO enjoining the enforcement of the Order dated 18 February 2014 and enjoining the RTC from further proceeding with the case, was received by the RTC on 20 March 2014 at 9:00 a.m.[61] Although by then, Judge Gallegos already issued the Resolution dated 14 March 2014 which granted the privilege of the writ of amparo, his receipt of the Court's Resolution dated 18 March 2014 should have forewarned him against releasing Ku's passport. That he did so demonstrates his resistance and unwillingness to follow the Court's edicts.

It is well to note that a resolution of the Supreme Court should not be construed as a mere request, and should be complied with promptly and completely. Such failure to comply accordingly betrays not only a recalcitrant streak in character, but also disrespect for the Court's lawful order and directive.[62]

Judge Gallegos should know that judges must respect the orders and decisions of higher tribunals, especially the Supreme Court from which all other courts take their bearings. A resolution of the Supreme Court is not to be construed as a mere request nor should it be complied with partially, inadequately or selectively.[63]

In the Judiciary, moral integrity is more than a cardinal virtue, it is a necessity. The exacting standards of conduct demanded from judges are designed to promote public confidence in the integrity and impartiality of the judiciary. When the judge himself becomes the transgressor of the law which he is sworn to apply, he places his office in disrepute, encourages disrespect for the law and impairs public confidence in the integrity of the judiciary itself.[64]

WHEREFORE, premises considered, the Court hereby resolves to:

a)

GRANT the present petitions, and REVERSE and SET ASIDE the Resolution dated 14 March 2014 of the Regional Trial Court which granted the privilege of the Writ of Amparo;

b)

DENY the privilege of the Writ of Amparo sought via the Petition for the Issuance of a Writ of Amparo and the Supplemental Petition for the Issuance of Writ of Amparo in SP. PROC. No. 14-131282 before the Regional Trial of Manila, Branch 47; and

c)

DIRECT the Office of the Court Administrator to file the appropriate administrative charge/s against Judge Paulino Q. Gallegos in accordance with the tenor of this Decision, and to forthwith submit to the Court its report and recommendation thereon.

SO ORDERED.

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

Jardeleza, J., no part.

Velasco, Jr., and Brion, JJ., on leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on June 23, 2015 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on August 19, 2015 at 10:10 a.m.

Very truly yours,
(SGD.)
FELIPA G. BORLONGAN-ANAMA
Clerk of Court

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[1] He is the Commissioner of the Bureau, thus he is also the Chairperson of the Board of Commissioners of the Bureau.

[2] Executive Order No. 292 (1987) renamed the office “Bureau of Immigration.”

[3] Pador v. Arcayan, G.R. No. 183460, 12 March 2013, 693 SCRA 192, 199-200.

[4] Rollo (G.R. No. 210759), pp. 152-154.

[5] Rollo (G.R. No. 211403), pp. 79-80.

[6] Id. at. 46-47.

[7] Rollo (G.R. No. 211590), pp. 55-79.

[8] Rollo (G.R. No. 210759), p. 87.

[9] Id. at 88.

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[10] Id. at 233; Comment/Opposition (to the Petition for Review on Certiorari).

[11] Id. at 101; Charge Sheet.

[12] Id. at102.

[13] Id. at 107-108; After-Mission Report dated 17 January 2014.

[14] Rollo (G.R. No. 211590), p. 289; Certification issued by the Embassy of the Republic of Korea dated 3 February 2014.

[15] Rollo (G.R. No. 210759), pp. 48-54.

[16] Id. at 55.

[17] Id. at 65.

[18] Id. at 45-47.

[19] Id. at 69; Order dated 24 January 2014.

[20] Id. at 66-67; Order dated 22 January 2014.

[21] Id. at 70-80.

[22] Id. at 11; Petition for Certiorari.

[23] Id. at 38-44.

[24] Id. at 34-35.

[25] Id. at 37.

[26] Id. at 3-52.

[27] Id. at 155-160; Resolution dated 4 February 2014.

[28] Rollo (G.R. No. 211403), p. 219; Resolution dated 18 March 2014.

[29] Id. at 46; Order dated 18 February 2014.

[30] Id. at 47.

[31] Id. at 7-43.

[32] Id. at 254; Order dated 19 March 2014.

[33] Rollo (G.R. No. 211590), p. 79.

[34] Rollo (G.R. No. 211403), pp. 217-221.

[35] Id. at 256.

[36] Id. at 255-256.

The Order dated 19 March 2014 of the OP provides:

In view of the foregoing, BI is hereby directed to provisionally release [Ku] upon his posting of a cash bond amounting to Fifty Thousand Dollars (US$50,000.00) and compliance with the following conditions:

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- [Ku's] name should be included in the BI's Hold Departure List to prevent his unauthorized departure from the Philippines.

- [Ku] shall surrender his passport to the BI.

- [Ku] shall personally (physical and actual appearance) report to the BI's intelligence Division every first and third Monday of the month.

- An authorized official of Iglesia ni Cristo should execute an Affidavit of Undertaking specifying that he will absolutely be responsible for [Ku's] custody with the duty at all time to keep [Ku] under his surveillance. He must further state that in case respondent-appellant escapes, he cannot be relieved of liability on his recognizance on the claim that he had not participated in nor consented to the escape. Also, he must indicate in the undertaking that he will return the custody of [Ku] to the BI on 1 September 2014, in case the appeal is still pending resolution by this Office.

- [Ku's] provisional liberty is valid only until 31 August 2014 or until the Appeal is resolved, whichever comes first, unless this Order is revoked or recalled by this Office while the case is still pending resolution. Meanwhile, the execution of the order appealed from is stayed because of the Appeal within the period prescribed in Section 9 of Administrative Order (AO) No. 22 dated 11 October 2011.

[37] Id. at 271-273; Manifestation dated 5 May 2014.

[38] In G.R. No. 210759:

> THE RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION IN ISSUING THE ASSAILED ORDERS.
>
> - THE RESPONDENT JUDGE ISSUED THE ASSAILED ORDERS WITHOUT GIVING THE PETITIONER DUE PROCESS.
>
> - THE RESPONDENT JUDGE HAS NO JURISDICTION TO ORDER THE RELEASE OF PRIVATE RESPONDENT.
>
> THE WRIT OF AMPARO AND ITS INTERIM REMEDIES HAVE A SPECIFIC OBJECT – TO PREVENT EXTRALEGAL KILLINGS AND ENFORCED DISAPPEARANCES. IN THIS CASE, THE PETITION FAILED TO PROVIDE MATERIAL ALLEGATIONS.
>
> DISCHARGE FROM CONFINEMENT IS NOT AMONG THE RELIEF COVERED BY THE WRIT OF AMPARO YET THE RESPONDENT JUDGE NONETHELESS GRANTED THE SAME.
>
> PRIOR TO THE JANUARY 29, 2014 HEARING, THE PRIVATE RESPONDENT DID NOT PRAY FOR HIS RELEASE TO THE PSPG, AND THE RESPONDENT JUDGE DID NOT ORDER SO. WHEN PETITIONER, IN OPEN COURT, POINTED THAT ASSUMING THE FIRST ASSAILED ORDER IS VALID, ANY TRANSFER OF CUSTODY WILL ONLY BE UPON THIS HONORABLE COURT'S ACCREDITATION, THE RESPONDENT JUDGE ORDERED FOR THE TRANSFER OF CUSTODY TO THE PSPG, EVEN IF IT IS NOT PART OF THE PSPG'S MANDATE TO TAKE CUSTODY OF DETAINED UNDOCUMENTED AND UNDESIRABLE ALIENS.
>
> THE PETITIONER IS VALIDLY DETAINED BY THE BI. HIS RELEASE IS SUBJECT TO THE JURISDICTION OF THE BI.

In G.R. No. 211403:

> FOR CERTIORARI

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I.

THE RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION IN DENYING THE MOTION TO DISMISS.

- THERE IS NO BASIS FOR RESPONDENT JUDGE TO ISSUE THE WRIT OF AMPARO OR TO GRANT THE PRIVILEGES OF THE WRIT. THE MATTER OF PRIVATE RESPONDENT'S DETENTION IS WITHIN THE JURISDICTION OF THE BI AND NOW, THE OFFICE OF THE PRESIDENT, WHERE PRIVATE RESPONDENT'S APPEAL IS NOW PENDING.

- THE WRIT OF AMPARO AND ITS INTERIM REMEDIES HAVE A SPECIFIC OBJECT – TO PREVENT EXTRALEGAL KILLINGS AND ENFORCED DISAPPEARANCES. THE PETITION FOR THE ISSUANCE OF A WRIT OF AMPARO FAILED TO PROVIDE MATERIAL ALLEGATIONS OF THREATS TO LIFE, LIBERTY, OR SECURITY DUE TO UNLAWFUL ACTS OF PETITIONER.

- PETITIONER HAS RAISED THE MATTER OF LACK OF JURISDICTION IN ITS RETURN OF THE WRIT. THE PROHIBITION IN FILING A MOTION TO DISMISS NO LONGER APPLIES.

- THIS HONORABLE COURT HAS AFFIRMED THE LACK OF BASIS FOR RESPONDENT JUDGE TO GRANT THE PRIVILEGES OF THE WRIT OF AMPARO.

FOR PROHIBITION

II.

RESPONDENT JUDGE SHOULD BE RELIEVED FROM RULING ON THE CASE.

In G.R. No. 211590:

I.
WHETHER COUNSEL, IN A PETITION FOR THE ISSUANCE OF A WRIT OF AMPARO, COULD SIGN THE VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING.

II.
WHETHER FORUM SHOPPING IS COMMITTED WHEN A PETITION FOR ISSUANCE OF A WRIT OF AMPARO AND AN APPLICATION FOR PROVISIONAL RELEASE PENDING APPEAL WITH THE OFFICE OF THE PRESIDENT ARE BOTH FILED TO SECURE THE RELEASE OF THE CLAIMANT.

III.
WHETHER A PETITION FOR ISSUANCE OF A WRIT OF AMPARO IS PROPER TO QUESTION THE LEGALITY OF THE DETENTION OF A POTENTIAL DEPORTEE UNDER THE CUSTODY OF THE BUREAU OF IMMIGRATION.

IV.
ASSUMING A PETITION FOR ISSUANCE OF A WRIT OF AMPARO IS PROPER, WHETHER OR NOT A POTENTIAL DEPORTEE COULD BE RELEASED THEREUNDER.

[39] A.M. No. 07-9-12-SC.

[40] Secretary of National Defense of National Defense v. Manalo, 589 Phil. 1, 37-38 (2008).

[41] G.R. No. 184379-80, 24 April 2012, 670 SCRA 545.

[42] 688 Phil. 266, 279 (2012).

[43] Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against

Humanity.

[44] Caram v. Segui, G.R. No. 193652, 5 August 2014, 732 SCRA 86, 97.

[45] Navia v. Pardico, supra note 42.

[46] Rollo (G.R. No. 210759), pp. 48-53; Petition for the Issuance of a Writ of Amparo.

[47] Id. at 107, After-Mission Report; Id. at 111, Judicial Affidavit of Armelo B. De Castro; Id. at 117, Judicial Affidavit of Dione D. Bustonera, Jr.

[48] Id. at 89.

[49] Id. at 107-108.

[50] Id. at 70.

[51] Id. at 107-108; After-Mission Report.

[52] Id. at 103; Resolution dated 23 January 2014.

[53] Id. at 49; Petition for the Issuance of Writ of Amparo.

[54] Id. at 59-60; Supplemental Petition for the Issuance of Writ of Amparo.

[55] Sec. 17. Burden of Proof and Standard of Diligence Required. – The Parties shall establish their claims by substantial evidence.

The respondent who is a private individual or entity must prove that ordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent who is a public official or employee must prove that extraordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent public official or employee cannot invoke the presumption that official duty has been regularly performed to evade responsibility or liability.

[56] Kiani v. BID, 518 Phil. 501, 515 (2006).

[57] Id. at 512.

[58] Id. at 515.

[59] 486 Phil. 638, 650-651 (2004).

[60] Rollo (G.R. No. 210759), p. 165-K.

[61] Rollo (G.R. No. 211403), p. 227-F.

[62] Office of the Court Administrator v. Indar, A.M. No. RTJ-11-2287, 22 January 2014, 714 SCRA 381, 393 citing Falsification of Daily Time Records of Ma. Emcisa A. Benedictos, 675 Phil. 459, 465 (2011).

[63] Id. citing Soria v. Judge Villegas, 461 Phil. 665, 669-670 (2003).

[64] Id. at 394.

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