

**IN RE: IN THE MATTER OF THE ISSUANCE OF A WRIT OF HABEAS
CORPUS OF INMATES RAYMUNDO REYES AND VINCENT B.
EVANGELISTA, DULY REPRESENTED BY ATTY. RUBEE RUTH C.
CAGASCA-EVANGELISTA...**

G.R. No. 251954. June 10, 2020

Ponente: ZALAMEDA, J.

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ZALAMEDA, J.:

Before the Court is a Petition for the Issuance of Writ of Habeas Corpus praying for: 1) the issuance of a writ of habeas corpus directing respondent Gerald Bantag, as Director General of the Bureau of Corrections, to make a return thereon, showing legal authority to detain Raymundo Reyes (Reyes) and Vincent B. Evangelista (Evangelista), persons deprived of liberty (PDLs), and to present them personally before the Court; and 2) for the release of Reyes and Evangelista from incarceration at the New Bilibid Prison in Muntinlupa City.

Petitioner, Atty. Rubee Ruth C. Cagasca-Evangelista (petitioner), the wife of Evangelista, filed the instant petition as counsel for her husband and Reyes. She alleges that Reyes and Evangelista were convicted[1] by Branch 103, Regional Trial Court (RTC) of Quezon City on 14 December 2001 for violation of Section 15, Article III, Republic Act No. (RA) 6425,[2] as amended, for the illegal sale of 974.12 grams of methylamphetamine hydrochloride, or shabu, acting in conspiracy with one another, and were sentenced to suffer the penalty of reclusion perpetua and to pay the amount of Php 500,000.00 each. The penalty was made in accordance with the amendment introduced by RA 7659,[3] which increased the penalty of imprisonment for illegal sale of drugs from six (6) years and one (1) day to twelve (12) years, to reclusion perpetua to death for 200 grams or more of shabu. The said conviction was affirmed by the Supreme Court in a Decision[4] dated 27 September 2007.

More than a decade after the affirmation of Reyes and Evangelista's conviction by the Supreme Court, petitioner now claims that with the abolition of the death penalty,[5] and the repeal of the death penalty in RA 7659 as a consequence, the penalty for illegal sale of drugs should be reverted to that originally imposed in RA 6425, or from reclusion perpetua in RA 7659 to six (6) years and one (1) day to twelve (12) years in RA 6425. According to her, "if the convicts will serve the penalty of RECLUSION PERPETUA[,] it is as (sic) the same as punishing them to (sic) a crime that is not existing anymore. And said [penalty] will [be] tantamount to deprivation of their life and liberty and will not be fair and just in the eyes of man and law." [6]

Further, petitioner insists that both Reyes and Evangelista have already served 19 years and 2 months, or more than 18 years if the benefit of Good Conduct Time Allowance (GCTA) under RA 10592[7] was to be considered. And, with the benefit of the GCTA, which may be applied retroactively,[8] both Reyes and Evangelista have already served more than the required sentence imposed by law.

The primary consideration is the propriety of the petition for the issuance of the writ of habeas corpus.

We answer in the negative.

As a preliminary matter, we point out that petitioner disregarded the basic rules of procedure. There is no verified declaration of electronic submission of the soft copy of the petition. The required written explanation of service or filing under Section 11, Rule 13 of the Rules of Court is also patently lacking.

Second, petitioner disregarded the hierarchy of courts.

The Rules of Court provide that "[e]xcept 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." [9]

An application for a writ of habeas corpus may be made through a petition filed before this Court or any of its members, the Court of Appeals (CA) or any of its members in instances authorized by law, or the RTC or any of its presiding judges. [10] In the absence of all the RTC judges in a province or city, any metropolitan trial judge, municipal trial judge, or municipal circuit trial judge may hear and decide petitions for a writ of habeas corpus in the province or city where the absent RTC judges sit. [11]

Hence, this Court has concurrent jurisdiction, along with the CA and the trial courts, to issue a writ of habeas corpus. However, mere concurrency of jurisdiction does not afford parties absolute freedom to choose the court with which the petition shall be filed. [12] Petitioners should be directed by the hierarchy of courts. After all, the hierarchy of courts "serves as a general determinant of the appropriate forum for petitions for the extraordinary writs." [13]

In the landmark case of *Gios-Samar, Inc., v. DOTC*, [14] the Supreme Court ruled that direct recourse to this Court is proper only to seek resolution of questions of law, and not issues that depend on the determination of questions of facts:

In fine, while this Court has original and concurrent jurisdiction with the RTC and the CA in the issuance of writs of certiorari, prohibition, mandamus, quo warranto, and habeas corpus (extraordinary writs), direct recourse to this Court is proper only to seek resolution of questions of law. Save for the single specific instance provided by the Constitution under Section 18, Article VII, cases the resolution of which depends on the determination of questions of fact cannot be brought directly before the Court because we are not a trier of facts. We are not equipped, either by structure or rule, to receive and evaluate evidence in the first instance; these are the primary functions of the lower courts or regulatory agencies. This is the *raison d'être* behind the doctrine of hierarchy of courts. It operates as a constitutional filtering mechanism designed to enable this Court to focus on the more fundamental tasks assigned to it by the Constitution. It is a bright-line rule which cannot be brushed aside by an invocation of the transcendental importance or constitutional dimension of the issue or cause raised. (Emphasis supplied)

At first blush, petitioner seeks to raise a question of law – whether or not the abolition of the death penalty in RA 9346 reverted the penalty for illegal sale of shabu from RA 7659 to RA 6425 prior to its amendment, thus placing the question within the jurisdiction of this Court. The real question, however, is the release of Reyes and Evangelista from detention based on the alleged service of their sentences pursuant to RA 10592, which requires a determination of facts, i.e., if said PDLs are entitled to the benefit of GCTA. On this ground alone, the petition must be dismissed.

At any rate, it must be stressed that as a matter of policy, direct resort to this Court will not be entertained unless the redress desired cannot be obtained in the appropriate lower courts, and exceptional and compelling circumstances, such as in cases involving national interest and those of serious implications, justify the availment of the extraordinary remedy of the writ of certiorari, calling for the exercise of its primary jurisdiction. [15] Not one of these exceptional and compelling circumstances, however, were even alleged or shown in order for the

Court to disregard the sanctity of the hierarchy of courts.

Procedural considerations aside, the Court still finds the petition wanting in merit.

A prime specification of an application for a writ of habeas corpus is restraint of liberty. 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 that will preclude freedom of action is sufficient.[16] The rule is that if a person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge, or by virtue of a judgment or order of a court of record, the writ of habeas corpus will not be allowed.[17] Section 4, Rule 102 of the Revised Rules of Court provides:

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

In this case, the confinement of Reyes and Evangelista at the New Bilibid Prison in Muntinlupa City is valid pursuant to a lawful judgment. They were convicted for violation of Section 15, RA 6425, as amended by RA 7659, and the affirmation of their conviction was decreed by no less than this very Court.

We are aware that the writ of habeas corpus may also be availed of as a post-conviction remedy when, as a consequence of a judicial proceeding, any of the following exceptional circumstances is attendant: 1) there has been a deprivation of a constitutional right resulting in the restraint of a person; 2) the court had no jurisdiction to impose the sentence; or 3) the imposed penalty has been excessive, thus voiding the sentence as to such excess.[18] Here, petitioner invokes the third circumstance.

When the detention complained of finds its origin in what has been judicially ordained, the range of inquiry in a habeas corpus proceeding is considerably narrowed.[19] As a high prerogative writ which furnishes an extraordinary remedy, the writ of habeas corpus may be invoked only under extraordinary circumstances.[20] Mere invocation that an extraordinary circumstance exists is not enough, as in this case.

As claimed by petitioner, there is no dispute that death penalty has been abolished. This does not mean, however, that the penalties imposed under RA 7956, apart from death, have likewise been repealed. Section 1 of RA 9346, An Act Prohibiting the Death Penalty in the Philippines, provides:

SECTION 1. The imposition of the penalty of death is hereby prohibited. Accordingly, Republic Act No. Eight Thousand One Hundred Seventy-Seven (R.A. No. 8177), otherwise known as the Act Designating Death by Lethal Injection is hereby repealed, Republic Act No. Seven Thousand Six Hundred Fifty-Nine (R.A. No. 7659), otherwise known as the Death Penalty Law, and all other laws, executive orders and decrees, insofar as they impose the death penalty are hereby repealed or amended accordingly.

Upon a reading of the law, only the imposition of the death penalty has been removed, and RA 7659, as well as other laws, are repealed or amended insofar as they impose the death penalty. Section 2 of RA 9346 provides the appropriate penalty in lieu of death: reclusion perpetua, when the law violated makes use of the nomenclature of the Revised Penal Code; or life imprisonment, when the law violated does not make use of the said nomenclature. Evidently, RA 9346 did not repeal the amendment introduced in RA 7659 imposing the penalty of reclusion perpetua in cases of illegal sale of dangerous drugs. As such, the imposition of the penalty of imprisonment of reclusion perpetua against Reyes and Evangelista is valid.

On the issue of the applicability of RA 10592, Section 2, Rule IV of the 2019 Revised Implementing Rules and Regulations of Republic Act No. 10592, "An Act Amending Articles 29, 94, 97, 98, and 99 of Act No. 3815, as amended, otherwise known as the Revised Penal Code," (2019 IRR), issued by the Department of Justice (DOJ) and the Department of the Interior and Local Government (DILG), provides:

Section 2. GCTA During Service of Sentence. – The good conduct of a PDL convicted by final judgment in any penal institution, rehabilitation or detention center or any other local jail shall entitle him to the deductions described in Section 3 hereunder, as GCTA, from the period of his sentence, pursuant to Section 3 of RA No. 10592.

The following shall not be entitled to any GCTA during service of sentence:

- a. Recidivists;
- b. Habitual Delinquents;
- c. Escapees; and
- d. PDL convicted of Heinous Crimes.

It is clear from the aforequoted provision that PDLs convicted of heinous crimes shall not be entitled to GCTA. Section 1 of RA 10592, amending Article 29 of the RPC, supports this:

x x x Provided, finally, that recidivists, habitual delinquents, escapees and persons charged with heinous crimes are excluded from the coverage of this Act. (Emphasis supplied)

Reyes and Evangelista, who were found guilty of illegal sale of dangerous drugs exceeding 200 grams, have committed a heinous crime. This is in consonance with RA 7659, which includes the distribution or sale of dangerous drugs as heinous for being a grievous, odious and hateful offense and which, by reason of its inherent or manifest wickedness, viciousness, atrocity and perversity is repugnant and outrageous to the common standards and norms of decency and morality in a just, civilized and ordered society.[21]

Rules and regulations issued by administrative bodies to interpret the law which they are entrusted to enforce, such as the 2019 IRR issued by the DOJ and the DILG, have the force of law, and are entitled to great respect. Administrative issuances partake of the nature of a statute and have in their favor a presumption of legality. As such, courts cannot ignore administrative issuances especially when, as in this case, its validity was not put in issue. Unless an administrative order is declared invalid, courts have no option but to apply the same.[22]

Accordingly, the writ cannot be issued and the discharge of Reyes and Evangelista from imprisonment should not be authorized.

WHEREFORE, the petition is hereby DISMISSED.

SO ORDERED.

Leonen, (Chairperson), Gesmundo, Carandang, and Gaerlan,[*] JJ., concur.

[*] Reorganization of the Three Divisions of the Court and Designation of the Chairpersons and Members thereof per Special Order No. 2762 dated 10 January 2020.

[1] Rollo, pp. 13-16.

[2] The Dangerous Drugs Act of 1972.

[3] Pursuant to Section 14, RA 7659 (An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as amended, other Special Penal Laws and for other Purposes) amended

Section 15, Article II of RA 6425 to read as follows:

"Sec. 15. Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs. – The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug. xxx."

[4] Rollo, pp. 18-34; *People v. Evangelista*, 560 Phil. 510-522 (2007); G.R. No. 175281, 27 September 2007.

[5] RA 9346, An Act Prohibiting the Imposition of Death Penalty in the Philippines.

[6] Rollo, p. 6.

[7] An Act Amending Articles 29, 94, 97, 98 and 99 of Act No. 3815, as amended, otherwise known as the Revised Penal Code.

[8] Rollo, p. 6; *Inmates of the New Bilibid Prison, Muntinlupa City v. Secretary Leila N. De Lima*, G.R. Nos. 212719 and 214637, 25 June 2019.

[9] Rule 102, Section 1.

[10] *In re: Salibo v. Warden*, G.R. No. 197597, 08 April 2015, 755 SCRA 296, 308.

[11] See *Batas Pambansa Blg.(BP) 129, The Judiciary Reorganization Act of 1980*, Section 35.

[12] *Agcaoili, Jr. v. Fariñas*, G.R. No. 232395, 03 July 2018.

[13] *Id.* Citing *Chamber of Real Estate and Builders Assn. (CREBA) v. Sec. of Agrarian Reform*, 635 Phil. 283, 300 (2010) citing *Heirs of Bertuldo Hinog v. Melicor*, 495 Phil. 422, 432 (2005), unless you write citations omitted.

[14] G.R. No. 217158, 12 March 2019.

[15] *Yee v. Bernabe*, G.R. No. 141393, 19 April 2006, 487 SCRA 385, 394.

[16] *Garcia v. De Lima*, G.R. No. 207034 (Notice), 09 November 2015.

[17] *Barreda v. Vinarao*, 555 Phil. 823-831(2007); G.R. No. 168728, 02 August 2007, 529 SCRA 120, 124-125.

[18] *In re: Abellana v. Paredes*, G.R. No. 232006, 10 July 2019.

[19] *Id.*

[20] *De Villa v. The Director, New Bilibid Prisons*, 485 Phil. 368-395 (2004); G.R. No. 158802, 17 November 2004, 442 SCRA 706, 721.

[21] Second Whereas Clause of RA 7659.

[22] *Landbank of the Philippines Heirs of Tañada*, 803 Phil. 103-115 (2017); G.R. No. 170506, 11 January 2017, 814 SCRA 117, 127.

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