

IN THE MATTER OF THE PETITION FOR HABEAS CORPUS OF MARCELO A. MESINA, MONICO B. BIGLAEN, PETITIONER, VS. MAJOR GENERAL JOSEPHUS RAMAS, COLONEL VICENTE VINARAO AND MAJOR ERNESTO ...

G.R. No. 65162. October 15, 1983

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

In this application for habeas corpus filed by Monico B. Biglaen on behalf of his friend, Marcelo A. Mesina, identified as a licenced foreign exchange dealer, it was alleged: "On or about September 26, 1983, [at] about 4:30 in the afternoon, the said Marcelo A. Mesina was forcibly taken from his aforesaid place of business by individuals posing as members of the Intelligence Special Operations Division, Western Police District, Metropolitan Police Force, brought to respondent Maj. Ernesto Manzano of the PC Metro-com West Sector Command at Malacañang, Manila, and forthwith confined, restrained and deprived of his liberty in the detention cell of the Military Security Unit/Service at Fort Bonifacio, Makati, Metro Manila; 3. In spite of the fact that the above-named Marcelo A. Mesina has been confined at the Military Security Unit/Service at Fort Bonifacio, Makati, Metro Manila, no formal complaint or accusation for any specific offense has been filed against him nor any judicial writ or order for his commitment has at any time been issued so far; 4. The above-named Marcelo A. Mesina did not commit any offense whatsoever for which he may be arrested or deprived of his liberty without any formal charge or judicial warrant; 5. According to reliable information of the petitioner, his friend, Marcelo A. Mesina, is now being unlawfully deprived of his liberty for engaging in the business of foreign exchange, which business, however, he is duly authorized by the Central Bank of the Philippines to engage in. Attached hereto as Annex 'A' is a photocopy of said permit to engage in the business of foreign exchange; 6. Martial law having been lifted and, most of all, there being no formal charge being filed against Marcelo A. Mesina, it is respectfully submitted that under the circumstances his detention is utterly illegal." [1] The prayer was for the writ to be issued and for respondents or persons acting in their stead [2] "to appear before this Honorable Court and produce the living body of Marcelo A. Mesina, and explain forthwith why he should not be set at liberty without delay." [3]

At the session of October 4, 1983, the Court issued the writ of habeas corpus, required respondents to make a return on or before Wednesday, October 12, 1983, and set the petition for hearing on Thursday, October 13, 1983, at 11:00 o'clock in the morning. [4]

Before the return was filed, there was a motion to withdraw this petition. It was therein expressly manifested that on October 10, 1983, Marcelo A. Mesina "was already released from the Custody of the Military Security Unit/Service, Phil. Army, Fort Bonifacio, Makati, Metro Manila." [5] The prayer was for this Court to allow that the petition for habeas corpus be withdrawn "and to cancel the hearing of said Petition scheduled on October 13, 1983, at 11:00 o'clock in the morning as the issue involved has now become moot and academic." [6] In the return submitted the next day, it was set forth: "1. While Marcelo A. Mesina, for whom the present petition for habeas

corpus was filed has been in the custody of the Military Security Command, he was released on October 10, 1983. Xerox copy of the receipt executed by his wife is attached hereto as Annex 'A'. This is confirmed by petitioner's 'Motion to Withdraw Petition for Writ of Habeas Corpus' dated October 11, 1983." [7] Reference was then made to the ruling of this Court in *Herrera v. Enrile* [8] that with the release of the person detained, the petition has become moot and academic.

WHEREFORE, as prayed for, the petition is dismissed for being moot and academic.

Makasiar, Aquino, Guerrero, Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, and Gutierrez, Jr., JJ., concur.

Teehankee, J., no part.

Concepcion, Jr., J., on leave.

De Castro, J., on sick leave.

[1] Petition, pars. 2-6.

[2] The respondents are Major General Josephus Ramas, Colonel Vicente Vinarao and Major Ernesto Manzano.

[3] Petition, 3.

[4] Resolution of this Court dated October 4, 1983. Teehankee and Gutierrez, Jr., JJ. were on official leave. De Castro, J., was still on sick leave.

[5] Motion to Withdraw Petition for Writ of Habeas Corpus, 1.

[6] Ibid. Its last sentence reads as follows: "Also, movant would like to convey his deepest gratitude to the Supreme Court and the respondents for the speedy disposition of his case."

[7] Return of the Writ, par. 1.

[8] L-40181, February 25, 1975, 62 SCRA 547. Analogous cases follow: *Cruz v. Montoya*, L-39823, Feb. 25, 1975, 62 SCRA 543; *Romero v. Ponce Enrile*, L-44613, Feb. 28, 1977, 75 SCRA 429; *De la Plata v. Escarcha*, L-46367, Aug. 1, 1977, 78 SCRA 208; *Cañas v. Director of Prisons*, L-41557, Aug. 18, 1977, 78 SCRA 271; *Anas v. Ponce Enrile*, L-44800, Apr. 13, 1978, 82 SCRA 333; *Dacuyan v. Ramos*, L-48471, Sept. 30, 1978, 85 SCRA 487; *Ventura v. People*, L-46576, Nov. 6, 1978, 86 SCRA 188; *Florendo v. Javier*, L-36101, June 29, 1979, 91 SCRA 204.

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