

**IN THE MATTER OF THE PETITION FOR HABEAS CORPUS OF
MARIANO LORENZO, IRENEA SAN DIEGO-LORENZO, PETITIONER,
VS. MAJOR EUSTAQUIO MALLILLIN, CAPTAIN ROLANDO LORENZO,
AND SEGUNDO LOR...**

G.R. No. 73218. June 20, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

Petitioner Irene San Diego Lorenzo is the wife of Mariano Lorenzo. She alleges that on December 9, 1985, Mariano went to the Headquarters of the 171st PC Company, Malolos, Bulacan, upon the invitation of respondent commanding officer Major Eustaquio Mallillin for an arbitration conference with a certain Segundo Lorenzo, father of respondent Captain Rolando Lorenzo involving a land case won by Mariano Lorenzo; and that since then, Mariano failed to come home because he was detained by the respondents and is still being kept in confinement without any legal grounds.

On January 8, 1986, we issued a resolution to among others, issue the writ of habeas corpus, returnable to the executive judge of the Regional Trial Court of Bulacan and to require the respondents to make a return of the writ and appear personally and produce the person of Mariano Lorenzo. In the same resolution, the lower court was designated to hear and resolve the petition and, thereafter, submit its report to this Court which retains full control over the petition.

After hearing the parties, Judge Jesus R. de Vega of the Regional Trial Court, Third Judicial Region, Malolos, Bulacan, Branch IX submitted the following resolution:

"On the assigned date of appearance and production of the person of Mariano Lorenzo as directed in the Writ aforementioned, Rolando Lorenzo (Capt.), one of the respondents, thru counsel, filed a return dated January 13, 1986 stating that Mariano Lorenzo is not and has never been under custody or detention or restrained of his liberty by the respondents 'for which reason they are not in a position to comply with the writ'; and that petitioner's allegation that her husband is under custody or being detained by the respondents is 'absolutely false.'

"Notwithstanding the negativity of the foregoing return, petitioner asked for and was given permission by the Court to present evidence on the circumstances surrounding the disappearance of Mariano Lorenzo who was last seen on December 9, 1985 when he went to the 171st PC Co. headquarters in response to a radio message invitation sent by Major Eustaquio Mallillin of the said command who is also a respondent herein. But at the same time, the Court directed the respondents Major Mallillin and Capt. Lorenzo to prepare and submit another return of the writ to be attested this time by the P.C. Provincial Commander. This was complied with by the filing of a 'Supplemental Return' on January 17, 1986 by Major Mallillin and Capt. Lorenzo, attested by Lt. Col. Cesar I. Alvarez, PC Provincial Commander, and containing substantially the same allegations as that first return made by Capt. Lorenzo aforementioned. Together with and in addition thereto respondents also submitted an affidavit executed by Deputy Sheriff Bienvenido Villarente and Stenographic Reporter Guillermo

Inocencio, Jr., of this Court who alleged having seen Mariano Lorenzo at the RTC pre-mises (Br. XVII) in Malolos, Bulacan in the morning of December 18 or 19, 1985. (T.s.n., 1&17/86, page 46).

"The testimonial and documentary evidence presented by petitioner appear to be circumstantial in nature, as so admitted by petitioner's counsel. Said evidence purports to show that in the morning of December 9, 1985, Angelito Lorenzo, son of petitioner, accompanied his father Ambrosio (sic) Lorenzo to the PC headquarters in Malolos, Bulacan, as the latter was invited by respondent Major Mallillin for an 'arbitration' conference with Segundo Lorenzo (brother of Mariano) and Segundo's son, co-respondent Capt. Rolando Lorenzo, about a land dispute wherein Segundo and Rolando had filed a complaint with Major Mallillin. Angelito went with his father up to the gate only of the PC headquarters, for he had to go to Manila to attend his classes thereat. But he saw his father enter the PC headquarters compound.

"On the other hand, appearing established by evidence for petitioner, hence undisputed are the following facts:

"a)

that Mariano Lorenzo was invited to the PC headquarters in Malolos on December 9, 1985. This is shown by the radio message dated December 10, 1985 of PC Major Mallillin received on that same date by petitioner, and which message states that Mariano Lorenzo 'failed to appear' on December 9th - the scheduled date of appearance. For which he (Ambrosio) was again being notified to 'appear' at the office of Major Mallillin at PC headquarters on December 11, 1985 at 9:00 A.M. 'for arbitration conference relative to the complaint filed against him (Ambrosio) by this unit.' (See Annex "A" of the affidavit of petitioner dated Jan. 13, 1986, par. 3 (c) - also marked as Exh. "1" page 19 of the records.)

"b)

that it was in the morning of December 9, 1985 when petitioner last saw her missing husband Mariano and the latter told his wife (herein petitioner) that he is going to the 171st P.C. Headquarters in Malolos to inquire about the matter subject of the invitation of Major Mallillin; and

"c)

that despite the letter-complaints sent by petitioner to the CIS, Camp Crame, Quezon City (Exh. "B") and the Minister of National Defense (Exh. "C"), Mariano Lorenzo has remained a missing person up to this time.

"Given the foregoing conflicting versional accounts considered with the further fact that Capt. Rolando Lorenzo, one of the herein respondents is a nephew of Mariano, the disappearance of Mariano Lorenzo is indeed strange and puzzling. The evidence on record does not clearly and sufficiently substantiate the claim of petitioner that Mariano Lorenzo has been and is now under the custody and detention of the respondents. Definite and clear, however, is the fact that the disappearance took place incidental to the action taken by Major Mallillin on the alleged 'complaint' about a land dispute filed with the 171st PC headquarters by Segundo Lorenzo, father of Capt. Rolando Lorenzo, who is a subordinate of Major Mallillin."

Considering the findings of the lower court, there appears to be no reason to keep the petition active, for the courts are in no position at this time to resolve the issue of whether or not Mariano Lorenzo is being detained by the respondents and, if not, whether they have any thing to do with or any knowledge of his disappearance. In the meantime, the petition is dismissed without prejudice to another petition or any other action appropriate to the circumstances being filed once facts warranting such filing become available.

WHEREFORE, this case is hereby DISMISSED. The Chief of Staff, Armed Forces of the Philippines, is directed to cause an investigation to be made in this case and for that purpose, the Clerk of Court is directed to furnish the former with copies of Judge Jesus R. de Vega's resolution. The petitioner may also wish to bring this matter up with the Presidential Commission on Human Rights.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Paras, JJ., concur.

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