

IMELDA R. MARCOS, PETITIONER, VS. THE HONORABLE SANDIGANBAYAN (FIRST DIVISION) AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 115132-34. August 09, 1995

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for certiorari to set aside as arbitrary and in grave abuse of discretion resolutions of the Sandiganbayan's First Division denying petitioner's motion for leave to travel abroad for medical treatment.

Petitioner, former First Lady and widow of former President Ferdinand E. Marcos, is the defendant in several criminal cases for violations of the Anti Graft and Corrupt Practices Act (R.A. No. 3019) now pending in the Sandiganbayan and in the regular courts. In two of these cases, i.e., Criminal Case Nos. 17450 and 17453, petitioner was found guilty by the First Division of the Sandiganbayan of violating §3(g) of the Anti Graft and Corrupt Practices Act (R.A. No. 3019) and was sentenced to suffer in each case imprisonment for an indeterminate period of 9 years and 1 day as minimum to 12 years and 10 days as maximum, with perpetual disqualification from public office. Petitioner filed a motion for reconsideration, which is pending resolution in the Sandiganbayan.

After her conviction in the two cases petitioner filed on December 24, 1993 a "Motion for Leave to Travel Abroad" to seek diagnostic tests and treatment by practitioners of oriental medicine in the People's Republic of China allegedly because of "a serious and life threatening medical condition" requiring facilities not available in the Philippines. Petitioner's motion was denied by the Sandiganbayan for failure of petitioner to give notice to the prosecution and because the time asked (December 29, 1993) was too close for the court to inform itself of the basis of the motion.

On December 29, 1993, petitioner filed in another case (Criminal Case No. 18742)[1] an "Urgent Ex-Parte Motion for Permission to Travel Abroad" to undergo diagnosis and treatment in China. The motion was supported by Ambulatory BP Reports, Nuclear Medicine Reports and Computed Tomography Scan Results prepared by her physician and cardiologist, Dr. Roberto V. Anastacio, and other doctors at the Makati Medical Center.

On January 4, 1994, petitioner filed in Criminal Case Nos. 17450 and 17453 another "Motion for Leave to Travel Abroad," to places including the United States and Europe, "if necessary," for treatment of "hypertensive heart disease, uncontrolled angina pectoris, and anterior myocardial infarction." It was alleged that the tests needed were not available in the Philippines.

The Chairman of respondent court's First Division, Presiding Justice Francis E. Garchitorena, contacted Dr. Gregorio B. Patacsil, Officer-in-Charge of the Philippine Heart Center, and later wrote him a letter,[2] asking for "expert opinion on coronary medicine," particularly on the following questions:

- Is [petitioner's] condition life-threatening?

- What are the "sophisticated biochemical tests" necessary (not merely desirable), if any are needed at all, to ascertain and remedy her condition?
- Are these tests available here?
- Is the present level of expertise in the Philippines adequate to respond to her condition?

The Presidential Commission on Good Government filed a manifestation interposing no objection to petitioner's motions "primarily on humanitarian grounds provided that the accused comply with the terms and conditions for travel as may be imposed" by respondent court. The Office of the Special Prosecutor,[3] on the other hand, opposed the motions, contending that:

- the absolute necessity to go abroad was not demonstrated;
- no statement was made by the accused that medical equipment and facilities here were "sorrily" inadequate for the needs of the movant;
- the conviction of the accused in Criminal Cases No. 17450 and No. 17453 might motivate her not to return if she were to be authorized to leave the country.

On January 7, 1994 hearing was held on petitioner's motion, during which petitioner presented Dr. Roberto V. Anastacio. After the hearing, the Sandiganbayan informed the parties that --a copy of petitioner's first motion and its supporting documents had been sent to Dr. Patacsil for study and comment by a committee of cardiologists.

After consulting Dr. Anastacio, petitioner's counsel asked the court to include among the questions to the committee the following: "Without the Biochemical test, may proper treatment be administered to Mrs. Marcos?" Petitioner's counsel also asked the court to include the list of medicine being taken by petitioner as part of the study. These requests were granted by the court.

Thereafter, a "Supplement to the Motion for Leave Abroad" was filed on January 17, 1994 together with additional documents, consisting of the following:

(a)

a faxed letter from Dr. Denton A. Cooley of the Texas Heart Institute dated January 11, 1994;

(b)

a letter dated May 9, 1990 from David B. Case, M.D. addressed to lawyer Gerry Spence;

(c)

a letter dated May 23, 1990 from Dr. Vincent De Quattro of the University of Southern California Hypertension Diagnostic Laboratory;

(d)

two letters, both dated January 3, 1994 from China, one from the Tranjin Medical College, and another without letterhead from one F.S. Tsui, both letters offering their facilities for diagnosis and treatment of hypertension and related illness through the "Classic Art of Chinese Medical Technology."

On January 20, 1994, the Sandiganbayan received by FAX machine the report of the committee,[4] containing findings which were contrary to the conclusions of petitioner's physicians. The Presiding Justice immediately informed by phone petitioner's counsel, Attorneys Vicente D. Millora and Manuel M. Lazaro, of the committee's report. Atty. Lazaro requested that a copy of the report be sent to him by FAX machine, while Atty. Millora got

his copy personally from the court.

On January 26, 1994, Dr. Ramon F. Abarquez, Jr. was heard by the court on his committee's report. Present at the hearing were the two lawyers of petitioner and Dr. Anastacio.

On February 11, 1994, the court accepted petitioner's "Supplemental Motion to Travel Abroad" and heard the rebuttal testimony of Dr. Roberto V. Anastacio, as well as the testimony of Dr. Jorge Garcia, heart surgeon from Washington, D.C., in support of petitioner's motion to travel abroad.

On February 18, 1994 the court denied petitioner's motions. The dispositive portion of its resolution reads:

IN VIEW OF THE FOREGOING, it is the judgment of this Court that the imperative necessity of the accused to undertake a trip abroad for diagnosis and treatment has not been established and for this reason DENIES the various motions of accused Imelda R. Marcos to leave for abroad.

SO ORDERED.

Petitioner filed a motion for reconsideration and a "Motion to Admit Clinical Summary and to Resolve Motion for Reconsideration." The Clinical Summary was a recent medical report on petitioner's condition after she had undergone another medical examination at the Philippine Heart Center.[5] Petitioner also filed a "Motion to Admit Recognizance in Support of, and to Resolve Soonest, the Motion for Reconsideration to Travel Abroad." Attached to the motion were letters of Vice President Joseph E. Estrada offering to be guarantor for the return of petitioner and those of twenty four members of the House of Representatives[6] requesting the court to allow petitioner to travel abroad.

In a resolution dated April 19, 1994, respondent court denied petitioner's motion for reconsideration for lack of merit even as it expressed disapproval of the intervention of the Vice President and the twenty four congressmen and warned them and petitioner's counsel, Atty. Rodolfo U. Jimenez, that "repetition of any attempt to influence the resolutions, decisions or orders or any judicial action of [respondent court] will be responded to appropriately."

Hence, this petition for certiorari to set aside the resolutions dated February 18, 1994 and April 19, 1994 of the First Division of the Sandiganbayan on the ground that they were issued with grave abuse of discretion, amounting to lack or in excess of jurisdiction. Petitioner claims that

1. [The Sandiganbayan] arbitrarily disregarded or misinterpreted the testimonies, medical findings and recommendations of petitioner's attending physicians and relied on or substituted them with the academic views of Dr. Abarquez and the Committee, who never examined or treated personally the petitioner, and erroneously concluded "that the imperative necessity for trip abroad by the accused for diagnosis and treatment has not been established";
2. It adopted an unusual and unorthodox conduct of trial as demonstrated by the following: (a) it motu proprio contacted a third party asking the latter to give an opinion on petitioner's motion and medical findings; (b) it unusually participated in the examination of petitioner's witnesses; (c) thru its PJ, it presented its own witness; (d) it requested the formation of a committee to study the evidence presented; (e) it did not decide the case on the basis of the evidence presented; (f) decided on the basis of evidence (academic) it sought;
3. It failed to resolve that, in the clash between basic constitutional rights of the petitioner and the authority of the court over the petitioner, the basic constitutional rights must prevail;
- 4(a). It considered the conviction of petitioner in two (2) criminal cases which are pending reconsideration as

factors in denying the rights of petitioner to life, health and liberty and depriving the penumbras of such right to give life and substance;

4(b). Respondent court violated the cluster of rights of "personhood", "privacy" or "personal liberty".

5. It perceived that there is no "imperative necessity" for petitioner to avail of medical examination and treatment abroad notwithstanding that such perception/conclusion cannot constitute a cause to deny or deprive petitioner of her constitutional rights, nor can it refute the medical findings of petitioner's attending physicians.

Called upon to comment, the Solicitor General, in representation of the prosecution in the criminal cases, contends that respondent court acted properly in seeking the advice of medical experts in regard to petitioner's motion to travel; that in any event petitioner is estopped from questioning the referral of her medical condition to other experts by agreeing to submit additional questions for their consideration; and that the right to life is not absolute but must be balanced by the State's right to prosecute and enforce the judgments of its courts, and that petitioner's conviction in two cases is relevant along with "humanitarian and equity" considerations.

The question for decision is whether the Sandiganbayan gravely abused its discretion in denying petitioner's request to travel abroad for medical treatment. After due consideration of the parties' arguments, we find that it did not.

Respondent court had to seek expert opinion because petitioner's motion was based on the advice of her physician. The court could not be expected to just accept the opinion of petitioner's physician in resolving her request for permission to travel. The subject lay beyond its competence and since the grant of the request depended on the verification of the claim that petitioner was suffering from a medical condition that was alleged to be serious and life threatening, the respondent court, we think, followed the only prudent course available of seeking the opinion of other specialists in the field.

Indeed, when even in their own field of expertise (law) courts are allowed to invite amici curiae to shed light on recondite points of law, there is no reason for denying them assistance on other subjects. Presiding Justice Garchitorena's letter to Dr. Patacsil is notable in this regard for its sedulous concern for "greater need for information and expert advise" to the end that respondent court may be able to determine "whether or not it is necessary and urgent for petitioner to travel abroad."

What would be objectionable would be if respondent court obtained information without disclosing its source to the parties and used it in deciding a case against them. Then the parties could justifiably complain that their right to due process has been violated. But, in this case, everything was on the level, with the parties taking part in the proceedings of the court.

At all events if petitioner did not agree to the procedure adopted by the court, her counsel should have objected when informed by the court on January 7, 1994 that it had referred Dr. Anastacio's report to the Philippine Heart Center for advice and opinion. Counsel did not object. Instead, after consulting Dr. Anastacio, he requested the court to submit additional questions for referral to the Philippine Heart Center and later took part in cross examining Dr. Abarquez, Jr. when the latter testified. Petitioner is thus estopped from questioning what she now calls the "unusual and unorthodox" manner of resolving her request for permission to travel abroad.

Now, if the respondent court disregarded the findings and recommendations of petitioner's physician, it was because in light of the report of the panel of experts which reviewed the findings and recommendations of petitioner's physicians, petitioner failed to prove the necessity for a trip abroad. It should be emphasized that considering the fact that she is facing charges before the courts in several cases, in two of which she was convicted although the decision is still pending reconsideration, petitioner did not have an absolute right to leave

the country and the burden was on her to prove that because of danger to health if not to her life there was necessity to seek medical treatment in foreign countries.[7]

Nor is there warrant for the claim that respondent court acted arbitrarily in disregarding the findings of petitioner's physicians and relying on the opinion of specialists from the Philippine Heart Center because the latter did not personally examine her and for that reason their opinion is allegedly "academic." The question raised by petitioner's motion was not whether petitioner was suffering from a serious and life threatening medical condition. Rather the question before the Sandiganbayan was whether on the basis of reports attached to the motions for travel there was evidence to show that she was suffering from such ailments (i.e., coronary artery disease and labile hypertension) and there was need for diagnostic tests which could only be performed abroad. Consequently, it was unnecessary for the Philippine Heart Center's specialists to examine the petitioner personally. Given the findings of petitioner's own physicians, they found that petitioner had not been shown to be suffering from coronary artery disease and uncontrolled high blood pressure (labile hypertension).

The claim that petitioner is suffering from a life threatening medical condition is based on a letter dated November 4, 1993 of Dr. Roberto V. Anastacio, cardiologist at the Makati Medical Center, to Dr. Jorge M. Garcia, heart surgeon of the Washington Heart Institute at Washington D.C., recommending diagnostic tests abroad for petitioner. In his letter (marked Annex B of petitioner's first "Motion for Leave to Travel Abroad") Dr. Anastacio claimed that petitioner complained of chest pains; that she had an uncontrolled high blood pressure with "a spread of 200/100-100/70;" that the ambulatory blood pressure monitoring device showed her highest systolic BP to be from 184 to 204 mmHg at 6 P.M., 1:35 A.M. and 3 A.M. and her highest diastolic pressure to be 120 mmHg; that an Electrocardiogram indicated a myocardial infarction; that an Exercise--HexaMibi Tc-99m myocardial perfusion imaging showed an "abnormal myorcardial injury in the anterior region." Dr. Anastacio concluded:

Definitely, we have established that Mrs. Marcos is suffering from a dangerous level of rises in blood pressure provoked by high level of emotional stress and now complicated with a strong evidence of myocardial injury.

Her significant family history of hypertension in her father and siblings (eldest sister and brother) and that indeed two of them have experienced sudden cardiac death as complicating manifestations of uncontrolled high blood pressure of this type place this patient in the high risk category of sudden cardiac death. (Emphasis added)

He recommended:

Definitely, Mrs. Marcos should undergo immediate studies [abroad] to define the following:

- To investigate invasively (Coronary Arteriogram) to correlate the severity of coronary obstruction and the recent development of myocardial infarction in relation to sudden cardiac death.
- To do biochemical studies at the same time e.g. Continuous-Serial Vasopressine-Arginine and Catecho-lamine level determination in relation with her uncontrolled high, dangerous level of high blood pressure not only in the stratification of her "Sudden Death" risk staging but likewise, equally important is the control of her uncontrolled high blood pressure.
- The observed sensitiveness to the drugs administered, makes drug therapy risky without a concomittant close monitoring of the hemodynamic and biochemical parameters which will help avert a possible iatrogenic, fatal cardiovascular event.

Based on these findings, Dr. Ramon F. Abarquez, Jr., Dr. Homobono B. Calleja and Dr. Romeo A. Divinagracia, however, found the diagnosis of "definite coronary artery disease" to be "questionable" for the following reasons:

- The location and character of the chest pain (sharp pain lasting for a few seconds left mid axillary and not related to effort) is not the common presentation of pain due to coronary artery disease (angina pectoris).
- The Stress Test done during the Thallium Scan was adequate (maximum predicted heart rate of 106%) and yet was negative for ischemia.
- The Thallium Myocardial Imaging (Nuclear Scan) showed only a small questionable perfusion defect on the anterior wall. It can also be considered as a false positive finding due to soft tissue artifacts as mentioned in the report. (Emphasis added)

In fact the finding that petitioner did not have ischemia[8] and that there was only a small perfusion defect on the anterior wall which could be considered a "false positive finding" is based on petitioner's own nuclear medical report,[9] prepared by the Makati Medical Center, which contains the following conclusions:

CONCLUSIONS: ABNORMAL MYOCARDIAL PERFUSION IMAGING. EVIDENCE FOR PRIOR MYOCARDIAL INJURY IN THE ANTERIOR REGION. THERE WAS NO EVIDENCE FOR STRESS INDUCED MYOCARDIAL ISCHEMIA.

ALTHOUGH THESE FINDINGS ARE SUGGESTIVE OF CORONARY ARTERY DISEASE, PHOTON ATTENUATION SECONDARY TO SOFT TISSUE ARTIFACTS CAN NOT BE EXCLUDED.

As to the ambulatory blood pressure monitor reports, the Abarquez panel noted:

The diagnosis of hypertensive heart disease is questionable. Mrs. Marcos has transient (labile) hypertension. In the ambulatory BP monitoring records - there were only 2 transient rises of elevated systolic pressure and 3 episodes of elevated diastolic pressure, 5 episodes of transient systolic BP elevation and 5 episodes of transient elevated diastolic pressure occurred in the 2nd ambulatory recording. The patient did not submit a diary during both occasions when her ambulatory BP recording was performed.

A patient is considered to have sustained hypertension if 30% or more of the recorded blood pressures on ambulatory monitoring are hypertensive levels. The term hypertensive heart disease is used to denote heart involvement due to effects of long standing (chronic) hypertension. There is no evidence in the medical brief to show that there is left ventricular hypertrophy or left ventricular dysfunction. In fact, the previous echocardiogram was reported to be normal.

For this reason the committee questioned the need for petitioner to have biochemical tests abroad. Even without these tests, it noted, Dr. Anastacio had "already been treating her with medicines that are used for hypertension and coronary heart disease."

With respect to Dr. Anastacio's claim that petitioner is in the high-risk group of sudden cardiac death, the committee stated that a history of sudden death in the family alone will not support such a conclusion:

The known direct determinants for sudden cardiac death are: (1) ventricular electrical instability (ventricular arrhythmias), (2) extensive coronary artery narrowing, (3) abnormal left ventricular function, (4) electrocardiographic conduction and repolarization abnormalities.

In the absence of the above factors for sudden cardiac death, the presence of a family history of sudden cardiac death alone cannot stand as a strong argument for a high risk of sudden cardiac death. Even the family history of sudden cardiac death in this case is still questionable since we are not furnished with definite evidence that the said members of the family actually died of sudden death.

In summary, the evidences submitted do not confirm the allegation that Mrs. Marcos is in the high risk group for

sudden cardiac death. (*Italics added*)

The group made the following conclusions and recommendations:

RECOMMENDED TESTS:

1)

Coronary Angiography - to definitely establish the presence or absence of coronary artery obstruction and severity of the disease.

2)

2-D Echo Doppler Echocardiography - to demonstrate the presence of ventricular dysfunction or hypertrophy.

3)

Ambulatory Holter Monitoring - to find out whether serious arrhythmias (irregularities of heart beat) are present or not.

CONCLUSIONS:

1)

The diagnosis of significant coronary heart disease is not confirmed from the brief presented.

2)

Mrs. Marcos has transient elevation of blood pressure which may be reactive to situations but there is no evidence to indicate the presence of hypertensive heart disease.

3)

The tests we have recommended are available in the Philippines. Proper treatment can be given to Mrs. Marcos even in the absence of the suggested biochemical tests. (*Emphasis added*)

4)

The present facilities and expertise in the Philippines are more than adequate to diagnose and treat patients with hypertension and/or coronary heart disease. (*Italics added*)

Dr. Abarquez, Jr. testified on January 26, 1994 on the report of his committee. Dr. Anastacio was present at that hearing, but he did not refute Dr. Abarquez, Jr.'s conclusions. Instead it appears that he performed the tests recommended by the committee, namely:

1) Coronary Angiography - to definitely establish the presence or absence of coronary artery obstruction and severity of the disease.

2) 2-D Echo Doppler Echocardiography - to demonstrate the presence of ventricular dysfunction or hypertrophy.

3) Ambulatory Holter Monitoring - to find out whether serious arrhythmias (irregularities of heart beat) are present or not.

The results, as the Sandiganbayan said in its resolution, were:

Dr. Roberto Anastacio, accused Marcos' attending physician, appears to have subsequently subjected accused Marcos to another set of tests during her latest confinement at the Makati Medical Center, principally the Echo

Doppler Test and the Holter 24-hour monitoring test.

The 2-D Echo Doppler test, which the Committee of Cardiologists recommended was administered on February 1, 1994 (Exhibit "D-Supplemental") and all findings read normal.

Dr. Anastacio said that the handwritten notes of Drs. Dy and Lapitan who had read the results of the Ambulatory Holter Monitor, i.e., an ambulant electrocardiogram, and the readings did not show that there was anything wrong with accused Marcos. In fact, the readings themselves said that the average pulse rate was at 68 beats per minute (from 50 to 134) no blockages, no PVCs, no PACs, no indication of arrhythmia.

It would appear that earlier on January 31, 1994, petitioner had also undergone electrocardiogram tests at the Makati Medical Center in which cardiologists are rotated to do the readings. Dr. Esperanza Cabral found the electrocardiogram results to be "Normal." The results of the echocardiogram were read by another cardiologist, Dr. Adoracion Nambuyan-Abad, and her finding was approved by Dr. Benjamin N. Alimurong. The results were also "Normal."

Although Dr. Anastacio subsequently conducted another electrocardiogram test on petitioner and found the existence of myocardial infarction, as the Sandiganbayan noted, Dr. Anastacio's finding was not read or concurred in by another cardiologist, contrary to the procedure followed at the Makati Medical Center.[10] It is, therefore, also questionable.

The evidence submitted to it, according to the Abarquez committee, "[did] not confirm the allegation that Mrs. Marcos is in the high risk group of sudden cardiac death." Perhaps the best proof that she is not in the group is the fact that she ran in the last election for a seat in the House of Representatives and won. It may be assumed that she waged an arduous political campaign but apparently is none the worse for it.

Considering the foregoing we cannot say that respondent court trifled with petitioner's constitutionally guaranteed rights to life, health and liberty. What petitioner denounces as the "unusual and unorthodox conduct of the trial" by the court's Presiding Justice owed more, it would seem, from the latter's robust and rather active personality rather than to any ill motive or hostility he entertained toward petitioner, the latter's counsel or her witnesses. It is a matter of record that on three different occasions, petitioner had been permitted to travel abroad. But her later conviction in two cases dictated the need for greater caution. To be sure, the conviction is not yet final in view of a motion for reconsideration filed by petitioner. But a person's right to travel is subject to the usual constraints imposed by the very necessity of safeguarding the system of justice. In such cases, whether the accused should be permitted to leave the jurisdiction for humanitarian reasons is a matter of the court's sound discretion.

The active intervention of respondent Presiding Justice in the trial of the case was justified by the fact that the subject with which the court was dealing was a highly technical one and he wanted to clarify for himself a number of medical questions. That a judge has the power -- if not indeed a duty -- to do this is the teaching of *People v. Obngayan*: [11]

There are obviously certain rights inherent to the trier of facts due to the nature of (a judge's) function. Among these is the right to question a witness with a view to satisfying his mind upon a material point which presents itself during the trial and as to the credibility of such witness.

This Court quoted the following from Justice Labrador's opinion in *Ventura v. Judge Yatco*: [12]

While judges should as much as possible refrain from showing partiality to one party and hostility to another, it does not mean that a trial judge should keep mum throughout the trial and allow parties to ask the questions that they desire, on issues which they think are the important issues, when the former are improper and the latter,

immaterial. If trials are to be expedited, judges must take a leading part therein, by directing counsel to submit the evidence on the facts in dispute by asking clarifying questions, and by showing an interest in a fast and fair trial. Judges are not mere referees like those of a boxing bout, only to watch and decide the results of a game; they should have as much interest as counsel in the orderly and expeditious presentation of evidence, calling attention of counsel to points at issue that are overlooked, directing them to ask the question that would elicit the facts on the issues involved, clarifying ambiguous remarks by witnesses, etc. Unless they take an active part in trials in the above form and manner, and allow counsel to ask questions whether pertinent or impertinent, material or immaterial, the speedy administration of justice which is the aim of the Government and of the people cannot be attained. Counsel should, therefore, not resent any interest that the judge takes in the conduct of the trial, they should be glad that a trial judge takes such interest and help in the determination of truth.

The active participation of respondent court in examining petitioner's witnesses in this case merely indicated the court's deep concern with the truth of petitioner's medical condition.

What perhaps should have been done was for petitioner to request an examination of her medical condition by a joint team of cardiologists and other medical experts instead of having the findings of her physician reviewed by other specialists. A joint investigation will have the advantage of not being unduly adversarial since the purpose is the common objective of arriving at a consensus among the experts.

It is not late for the petitioner to ask for this. She can file another motion before the Sandiganbayan. This observation is made because after the petition in this case had been filed, petitioner filed a motion for leave to travel, this time on the ground that she is suffering from a difficult type of glaucoma which threatens to make her blind. Her motion is supported by a medical certificate of Dr. Manuel B. Agulto, ophthalmologist and glaucoma expert, who recommends that petitioner see Dr. Richard J. Simmons of Boston, Massachusetts, and avail herself of his "internationally renowned expertise and recognized authority in this particularly difficult glaucoma type." [13] Dr. Agulto's certificate states:

This certifies that above patient has been treated by the undersigned since 1980 for Low Tension Glaucoma which was initially diagnosed by Richard J. Simmons, M.D. of Harvard Medical School and New England Glaucoma Research Foundation of Boston, Massachusetts.

Since then the patient has been monitored closely to prevent irreversible visual field and acuity loss. Lately we have noted a progression of her visual field changes.

Latest pertinent clinical findings (as of April 19, 1994) include the following:

Corrected Vision: 20/20, Jaeger 1

Automated Visual Field: positive paracentral depression, both eyes (April 11, 1994, copies of result appended)

Tensions: (Diurnal Range) 13-15mm Hg, right eye

13-16mm Hg, left eye

Disc: Cupping of 0.6-0.7, both eyes

Remarks:

We suggest that the patient see her primary eye physician in Boston so as to avail herself of his internationally renowned expertise and recognized authority in this particularly difficult glaucoma type.

Considering the irreversible nature of glaucoma blindness and the documented progression of her field changes plus the additional and strong clinical evidence of the unrelenting course of visual loss as was recently

documented in a younger brother and patient, Alfredo T. Romualdez, who was recently declared legally blind from the same familial glaucoma, we urge Mrs. Marcos who is much older and therefore at greater risk, to consult immediately Dr. Simmons so as to delay if not prevent the onset of very real and absolute blindness.

This motion should be addressed to the Sandiganbayan not only because whether petitioner should be allowed to leave the country is its primary concern but also because the determination of petitioner's eye condition is a question of fact to be made in the first instance by the Sandiganbayan. The court should order a joint examination of petitioner's eye condition and resolve her motion accordingly.

WHEREFORE, the petition is DISMISSED without prejudice to the filing of another motion for leave to travel abroad, should petitioner still desire, based on her heart condition. In such an event the determination of her medical condition should be made by a joint panel of medical specialists recommended by both the accused and the prosecution.

Petitioner's motion for leave to travel for medical treatment of her alleged failing eyesight is hereby referred to the Sandiganbayan with directive to the latter to appoint a joint panel of eye specialists as outlined above.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Puno, and Francisco, JJ., concur.

[1] For violation of §3(h) of the Anti Graft and Corrupt Practices Act (R.A. No. 3019).

[2] The letter, dated January 4, 1994, reads in full:

This is further to my conversation with you over the telephone this afternoon with respect to the need of the Sandiganbayan for expert opinion on coronary medicine.

At this time Mrs. Imelda R. Marcos is requesting permission from this Court to travel abroad for medical reasons, through a motion dated December 24, 1993, copy of which is enclosed herewith together with correspondence and technical data in support thereof. Normally, requests for travel such as this would be granted as a matter of course. Considering, however, that Mrs. Marcos has been convicted in two cases (although the decision thereon is not yet final), the Court must respond with greater caution, and, therefore, with a greater need for information and expert advise.

Mrs. Marcos will present her evidence in justification of her request on January 7, 1994 at 2:00 p.m. The Court would certainly want independent verification of the facts and professional opinion presented at that time.

Our primary concern on the basis of the motion filed with us together with its annexes are the following general areas of inquiry:

Is her present condition life threatening? If so, to what extent?

What are the "sophisticated biochemical tests" necessary (not merely desirable), if any are needed at all, to ascertain and remedy her condition?

Are these tests available here?

Is the present level of expertise in the Philippines adequate to respond to her condition?

The answers to the above questions will lead us to determine whether or not it is necessary (not merely desirable) and urgent for her to travel abroad, whether to the People's Republic of China, the United States and/or to Europe.

Your comment either personally or through a referral to competent specialists In the Heart Center will be appreciated.

Should you feel the need for it, you may call me at the following telephone numbers: 481-333; 475-387.

[3] Through Prosecutor Erdulfo O. Querubin.

[4] Composed of Dr. Ramon F. Abarquez, Jr., chairman, Dr. Homobono B. Calleja and Dr. Romeo A. Divinagracia, members.

[5] The examination was conducted by a new team of doctors composed of Dr. Teresita S. de Gula and Dr. Ivan N. Viliespin, pulmonologists, Dr. Avenilo P. Aventura, cardiovascular surgeon, and Dr. Santos-Jose G. Abad, cardiologist.

[6] Speaker Jose de Venecla, Speaker Protempore Raul Daza, and Majority Floor Leader Ronaldo Zamora and Congressmen Antonio Abaya, Jose Aspiras, Luz Bakunawa, Benjamin Bautista, Ellas Bulut, Samuel Dangwa, Renato Diaz, Ali Dimaporo, Salvador Escudero III, Arnulfo Fuentebella, Nur Jafaar, Edgar Lara, Simeon Maguindanao, Roger Mercado, Victor Ortega, Pedro Pancho, Amadeo Perez, Mariano Tajon, Asani Tammang, Alberto Veioso, and Dominador Venegas.

[7] See *Manotoc v. Intermediate Appellate Court*, 142 SCRA 149 (1986); *Silverio v. Court of Appeals*, 195 SCRA 260 (1991).

[8] Lack of blood supply in a tissue or organ.

[9] Petition, Annex J.

[10] Resolution, p. 17.

[11] 55 SCRA 465, 471 (1974).

[12] 105 Phil. 287, 294 (1959).

[13] Annex B-1, Petition.

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