

LT. COL. ROGELIO BOAC, LT. COL. FELIPE ANOTADO AND LT. FRANCIS MIRABELLE SAMSON, PETITIONERS, VS. ERLINDA T. CADAPAN AND CONCEPCION E. EMPEÑO, RESPONDENTS.

G.R. Nos. 184461-62. May 31, 2011

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-184461-62/>

CARPIO MORALES, J.:

At 2:00 a.m. of June 26, 2006, armed men abducted Sherlyn Cadapan (Sherlyn), Karen Empeño (Karen) and Manuel Merino (Merino) from a house in San Miguel, Hagonoy, Bulacan. The three were herded onto a jeep bearing license plate RTF 597 that sped towards an undisclosed location.

Having thereafter heard nothing from Sherlyn, Karen and Merino, their respective families scoured nearby police precincts and military camps in the hope of finding them but the same yielded nothing.

On July 17, 2006, spouses Asher and Erlinda Cadapan and Concepcion Empeño filed a petition for habeas corpus[1] before the Court, docketed as G.R. No. 173228, impleading then Generals Romeo Tolentino and Jovito Palparan (Gen. Palparan), Lt. Col. Rogelio Boac (Lt. Col. Boac), Arnel Enriquez and Lt. Francis Mirabelle Samson (Lt. Mirabelle) as respondents. By Resolution of July 19, 2006,[2] the Court issued a writ of habeas corpus, returnable to the Presiding Justice of the Court of Appeals.

The habeas corpus petition was docketed at the appellate court as CA-G.R. SP No. 95303.

By Return of the Writ dated July 21, 2006,[3] the respondents in the habeas corpus petition denied that Sherlyn, Karen and Merino are in the custody of the military. To the Return were attached affidavits from the respondents, except Enriquez, who all attested that they do not know Sherlyn, Karen and Merino; that they had inquired from their subordinates about the reported abduction and disappearance of the three but their inquiry yielded nothing; and that the military does not own nor possess a stainless steel jeep with plate number RTF 597. Also appended to the Return was a certification from the Land Transportation Office (LTO) that plate number RTF 597 had not yet been manufactured as of July 26, 2006.

Trial thereupon ensued at the appellate court.

Witness Wilfredo Ramos, owner of the house where the three were abducted, recounted that on June 26, 2006, while he was inside his house in Hagonoy, he witnessed armed men wearing bonnets abduct Sherlyn and Karen from his house and also abduct Merino on their way out; and that tied and blindfolded, the three were boarded on a jeep and taken towards Iba in Hagonoy.[4]

Witness Alberto Ramirez (Ramirez) recalled that on June 28, 2006, while he was sleeping in his house, he was awakened by Merino who, in the company of a group of unidentified armed men, repaired to his house; that onboard a stainless jeep bearing plate number RTF 597, he (Ramirez) was taken to a place in Mercado, Hagonoy and was asked by one Enriquez if he knew "Sierra," "Tanya," "Vincent" and "Lisa"; and that Enriquez described the appearance of two ladies which matched those of Sherlyn and Karen, whom he was familiar with as the two

had previously slept in his house.[5]

Another witness, Oscar Leuterio, who was himself previously abducted by armed men and detained for five months, testified that when he was detained in Fort Magsaysay in Nueva Ecija, he saw two women fitting the descriptions of Sherlyn and Karen, and also saw Merino, his kumpare.[6]

Lt. Col. Boac, the then commander of Task Force Malolos, a special operations team tasked to neutralize the intelligence network of communists and other armed groups, declared that he conducted an inquiry on the abduction of Sherlyn, Karen and Merino but his subordinates denied knowledge thereof.[7]

While he denied having received any order from Gen. Palparan to investigate the disappearance of Sherlyn, Karen and Merino, his assistance in locating the missing persons was sought by the mayor of Hagonoy.

Major Dominador Dingle, the then division adjutant of the Philippine Army's 7[th] Infantry Division in Fort Magsaysay, denied that a certain Arnel Enriquez is a member of his infantry as in fact his name did not appear in the roster of troops.[8]

Roberto Se, a supervisor of the Equipment, Plate Number and Supply Units of the LTO, denied that his office manufactured and issued a plate number bearing number RTF 597.[9]

On rebuttal, Lt. Mirabelle, Lt. Col. Boac and Gen. Palparan took the witness stand as hostile witnesses.

Lt. Mirabelle testified that she did not receive any report on the abduction of Sherlyn, Karen and Merino nor any order to investigate the matter. And she denied knowing anything about the abduction of Ramirez nor who were Ka Tanya or Ka Lisa.[10]

Gen. Palparan testified that during a debate in a televised program, he mentioned the names of Ka Lisa and Ka Tanya as the ones involved in revolutionary tax activities; and that he ordered Lt. Col. Boac to conduct an investigation on the disappearance of Sherlyn, Karen and Merino.[11] When pressed to elaborate, he stated: "I said that I got the report that it stated that it was Ka Tanya and Ka Lisa that, I mean, that incident happened in Hagonoy, Bulacan was the abduction of Ka Lisa and Ka Tanya, Your Honor, and another one. That was the report coming from the people in the area." [12]

By Decision of March 29, 2007,[13] the Court of Appeals dismissed the habeas corpus petition in this wise:

As Sherlyn Cadapan, Karen Empeño and Manuel Merino are indeed missing, the present petition for habeas corpus is not the appropriate remedy since the main office or function of the habeas corpus is to inquire into the legality of one's detention which presupposes that respondents have actual custody of the persons subject of the petition. The reason therefor is that the courts have limited powers, means and resources to conduct an investigation. x x x.

It being the situation, the proper remedy is not a habeas corpus proceeding but criminal proceedings by initiating criminal suit for abduction or kidnapping as a crime punishable by law. In the case of *Martinez v. Mendoza*, supra, the Supreme Court restated the doctrine that habeas corpus may not be used as a means of obtaining evidence on the whereabouts of a person, or as a means of finding out who has specifically abducted or caused the disappearance of a certain person. (emphasis and underscoring supplied)

Thus the appellate court disposed:

WHEREFORE, the petition for habeas corpus is hereby DISMISSED, there being no strong evidence that the missing persons are in the custody of the respondents.

The Court, however, further resolves to refer the case to the Commission on Human Rights, the National Bureau of Investigation and the Philippine National Police for separate investigations and appropriate actions

as may be warranted by their findings and to furnish the Court with their separate reports on the outcome of their investigations and the actions taken thereon.

Let copies of this decision be furnished the Commission on Human Rights, the National Bureau of Investigation and the Philippine National Police for their appropriate actions.

SO ORDERED. (emphasis and underscoring supplied)

Petitioners in CA-G.R. SP No. 95303 moved for a reconsideration of the appellate court's decision. They also moved to present newly discovered evidence consisting of the testimonies of Adoracion Paulino, Sherlyn's mother-in-law who was allegedly threatened by soldiers; and Raymond Manalo who allegedly met Sherlyn, Karen and Merino in the course of his detention at a military camp.

During the pendency of the motion for reconsideration in CA-G.R. SP No. 95303, Erlinda Cadapan and Concepcion Empeño filed before this Court a Petition for Writ of Amparo^[14] With Prayers for Inspection of Place and Production of Documents dated October 24, 2007, docketed as G.R. No. 179994. The petition impleaded the same respondents in the habeas corpus petition, with the addition of then President Gloria Macapagal-Arroyo, then Armed Forces of the Phil. (AFP) Chief of Staff Hermogenes Esperon Jr., then Phil. National Police (PNP) Chief Gen. Avelino Razon (Gen. Razon), Lt. Col. Felipe Anotado (Lt. Col. Anotado) and Donald Caigas.

Then President Arroyo was eventually dropped as respondent in light of her immunity from suit while in office.

Petitioners in G.R. No. 179994 also prayed that they be allowed to inspect the detention areas of the following places:

- 7th Infantry Division at Fort Magsaysay, Laur, Nueva Ecija
- 24th Infantry Battalion at Limay, Bataan
- Army Detachment inside Valmocina Farm, Pinaod, San Ildefonso, Bulacan
- Camp Tecson, San Miguel, Bulacan
- The Resthouse of Donald Caigas alias Allan or Alvin of the 24th Infantry Battalion at Barangay Banog, Bolinao, Pangasinan
- 56th Infantry Battalion Headquarters at Iba, Hagonoy, Bulacan
- Army Detachment at Barangay Mercado, Hagonoy, Bulacan
- Beach House [at] Iba, Zambales used as a safehouse with a retired military personnel as a caretaker;

By Resolution of October 25, 2007, the Court issued in G.R. No. 179994 a writ of amparo returnable to the Special Former Eleventh Division of the appellate court, and ordered the consolidation of the amparo petition with the pending habeas corpus petition.

Docketed as CA-G.R. SP No. 002, respondents in the amparo case, through the Solicitor General, filed their Return of the Writ on November 6, 2007.^[15] In the Return, Gen. Palparan, Lt. Col. Boac and Lt. Mirabelle reiterated their earlier narrations in the habeas corpus case.

Gen. Hermogenes Esperon Jr. stated in the Return that he immediately caused to investigate and verify the identities of the missing persons and was aware of the earlier decision of the appellate court ordering the police, the Commission on Human Rights and the National Bureau of Investigation to take further action on the matter.^[16]

Lt. Col. Felipe Anotado, the then battalion commander of the 24th Infantry Battalion based in Balanga City, Bataan, denied any involvement in the abduction. While the 24th Infantry Battalion detachment was reported to be a detention site of the missing persons, Lt. Col. Anotado claimed that he found no untoward incident when he visited said detachment. He also claimed that there was no report of the death of Merino per his inquiry with the local police.[17]

Police Director General Avelino Razon narrated that he ordered the compilation of pertinent records, papers and other documents of the PNP on the abduction of the three, and that the police exhausted all possible actions available under the circumstances.[18]

In addition to the witnesses already presented in the habeas corpus case, petitioners called on Adoracion Paulino and Raymond Manalo to testify during the trial.

Adoracion Paulino recalled that her daughter-in-law Sherlyn showed up at home on April 11, 2007, accompanied by two men and three women whom she believed were soldiers. She averred that she did not report the incident to the police nor inform Sherlyn's mother about the visit.[19]

Raymond Manalo (Manalo) claimed that he met the three abducted persons when he was illegally detained by military men in Camp Tecson in San Miguel, Bulacan. His group was later taken to a camp in Limay, Bataan. He recalled that Lt. Col. Anotado was the one who interrogated him while in detention.[20]

In his Sinumpaang Salaysay,[21] Manalo recounted:

x x x x

59. Saan ka dinala mula sa Sapang?

Pagkalipas ng humigit kumulang 3 buwan sa Sapang, dinala ako sa Camp Tecson sa ilalim ng 24th IB.

x x x x

Sa loob ng barracks ko nakilala si Sherlyn Cadapan, isang estudyante ng UP.

Ipinapalinis din sa akin ang loob ng barracks. Sa isang kwarto sa loob ng barracks, may nakita akong babae na nakakadena[.] Noong una, pinagbawalan akong makipag-usap sa kanya. Sa ikatlo o ikaapat na araw, nakausap ko yung babaeng nagngangalang Sherlyn. Binigyan ko siya ng pagkain. Sinabi niya sa akin na dinukot si[ya] sa Hagonoy, Bulacan at matindi ang tortyur na dinaranas niya. Sabi niya gusto niyang umuwi at makasama ang kanyang magulang. Umiiyak siya. Sabi niya sa akin ang buong pangalan niya ay Sherlyn Cadapan, mula sa Laguna. Sa araw tinatanggal ang kanyang kadena at inuutusan si Sherlyn na maglaba.

x x x x.

61. Sino ang mga nakilala mo sa Camp Tecson?

Dito sa Camp Tecson naming nakilala si 'Allan Alvin' (maya-maya nalaman naming na siya pala si Donald Caigas), ng 24th IB, na tinatawag na 'master' o 'commander' ng kanyang mga tauhan.

Pagkalipas ng 2 araw matapos dalhin si Reynaldo sa Camp Tecson dumating sina Karen Empeño at Manuel Merino na mga bihag din. Inilagay si Karen at Manuel sa kwarto ni 'Allan[.]' Kami naman ni Reynaldo ay nasa katabing kwarto, kasama si Sherlyn.

x x x x

62. x x x x

Kaming mga lalake (ako, si Reynaldo at si Manuel) ay ginawang utusan, habang sina Sherlyn at Karen ay

ginawang labandera.

Si Sherlyn ang pinahirapan nina Mickey, Donald at Billy. Sabi ni Sherlyn sa akin na siya'y ginahasa.

x x x x

63. x x x x

x x x x

Kaming lima (ako, si Reynaldo, si Sherlyn, si Karen at si [Merino]) ang dinala sa Limay. Sinakay ako, si Reynaldo, si Sherlyn at si [Merino] sa isang stainless na jeep. Si Karen ay isinakay sa itim na sasakyan ni Donald Caigas. x x x x

x x x x

66. Saan pa kayo dinala mula sa Limay, Bataan?

Mula sa Limay, kaming 5 (ako, si Reynaldo, si Sherlyn, Si Karen at si Manuel) ay dinala sa isang safehouse sa Zambales, tabi ng dagat. x x x x (underscoring supplied; italics and emphasis in the original)

On rebuttal, Lt. Col. Anotado and Col. Eduardo Boyles Davalan were called to the witness stand.

Lt. Col. Anotado denied seeing or meeting Manalo. He posited that Manalo recognized him because he was very active in conducting lectures in Bataan and even appeared on television regarding an incident involving the 24[th] Infantry Battalion. He contended that it was impossible for Manalo, Sherlyn, Karen and Merino to be detained in the Limay detachment which had no detention area.

Col. Eduardo Boyles Davalan, the then chief of staff of the First Scout Ranger Regiment in Camp Tecson, testified that the camp is not a detention facility, nor does it conduct military operations as it only serves as a training facility for scout rangers. He averred that his regiment does not have any command relation with either the 7[th] Infantry Division or the 24[th] Infantry Battalion.[22]

By Decision of September 17, 2008,[23] the appellate court granted the Motion for Reconsideration in CA-G.R. SP No. 95303 (the habeas corpus case) and ordered the immediate release of Sherlyn, Karen and Merino in CA-G.R. SP No. 00002 (the amparo case). Thus it disposed:

WHEREFORE, in CA-G.R. SP NO. 95303 (Habeas Corpus case), the Motion for Reconsideration is GRANTED.

Accordingly, in both CA-G.R. SP NO. 95303 (Habeas Corpus case) and in CA-G.R. SP NO. 00002 (Amparo case), the respondents are thereby ordered to immediately RELEASE, or cause the release, from detention the persons of Sher[lyn] Cadapan, Karen Empeño and Manuel Merino.

Respondent Director General Avelino Razon is hereby ordered to resume [the] PNP's unfinished investigation so that the truth will be fully ascertained and appropriate charges filed against those truly responsible.

SO ORDERED.

In reconsidering its earlier Decision in the habeas corpus case, the appellate court relied heavily on the testimony of Manalo in this wise:

With the additional testimony of Raymond Manalo, the petitioners have been able to convincingly prove the fact of their detention by some elements in the military. His testimony is a first hand account that military and civilian personnel under the 7[th] Infantry Division were responsible for the abduction of Sherlyn Cadapan, Karen Empeño and Manuel Merino. He also confirmed the claim of Oscar Leuterio that the latter was detained

in Fort Magsaysay. It was there where he (Leuterio) saw Manuel Merino.

His testimony that Leuterio saw Manuel Merino in Fort Magsaysay may be hearsay but not with respect to his meeting with, and talking to, the three desaparecidos. His testimony on those points was no hearsay. Raymond Manalo saw the three with his very own eyes as they were detained and tortured together. In fact, he claimed to be a witness to the burning of Manuel Merino. In the absence of confirmatory proof, however, the Court will presume that he is still alive.

The testimony of Raymond Manalo can no longer be ignored and brushed aside. His narration and those of the earlier witnesses, taken together, constitute more than substantial evidence warranting an order that the three be released from detention if they are not being held for a lawful cause. They may be moved from place to place but still they are considered under detention and custody of the respondents.

His testimony was clear, consistent and convincing. x x x.

x x x x

The additional testimonies of Lt. Col. Felipe Anotado and Col. Eduardo Boyles Davalan were of no help either. Again, their averments were the same negative ones which cannot prevail over those of Raymond Manalo. Indeed, Camp Tecson has been utilized as a training camp for army scout rangers. Even Raymond Manalo noticed it but the camp's use for purposes other than training cannot be discounted.

x x x x

In view of the foregoing, there is now a clear and credible evidence that the three missing persons, [Sherlyn, Karen and Merino], are being detained in military camps and bases under the 7[th] Infantry Division. Being not held for a lawful cause, they should be immediately released from detention. (*italic in the original; emphasis and underscoring supplied*)

Meanwhile, in the amparo case, the appellate court deemed it a superfluity to issue any inspection order or production order in light of the release order. As it earlier ruled in the habeas corpus case, it found that the three detainees' right to life, liberty and security was being violated, hence, the need to immediately release them, or cause their release. The appellate court went on to direct the PNP to proceed further with its investigation since there were enough leads as indicated in the records to ascertain the truth and file the appropriate charges against those responsible for the abduction and detention of the three.

Lt. Col. Rogelio Boac, et al. challenged before this Court, via petition for review, the September 17, 2008 Decision of the appellate court. This was docketed as G.R. Nos. 184461-62, the first above-captioned case-subject of the present Decision.

Erlinda Cadapan and Concepcion Empeño, on the other hand, filed their own petition for review also challenging the same September 17, 2008 Decision of the appellate court only insofar as the amparo aspect is concerned. Their petition, docketed as G.R. No. 179994, was redocketed as G.R. No. 184495, the second above-captioned case.

By Resolution of June 15, 2010, the Court ordered the consolidation of G.R. No. 184495 with G.R. Nos. 1844461-62.[24]

Meanwhile, Erlinda Cadapan and Concepcion Empeño filed before the appellate court a Motion to Cite Respondents in Contempt of Court for failure of the respondents in the amparo and habeas corpus cases to comply with the directive of the appellate court to immediately release the three missing persons. By Resolution of March 5, 2009,[25] the appellate court denied the motion, ratiocinating thus:

While the Court, in the dispositive portion, ordered the respondents "to immediately RELEASE, or cause the release, from detention the persons of Sherlyn Cadapan, Karen Empeño and Manuel Merino," the decision is not ipso facto executory. The use of the term "immediately" does not mean that that it is automatically executory. There is nothing in the Rule on the Writ of Amparo which states that a decision rendered is immediately executory. x x x.

Neither did the decision become final and executory considering that both parties questioned the Decision/Resolution before the Supreme Court. x x x.

Besides, the Court has no basis. The petitioners did not file a motion for execution pending appeal under Section 2 of Rule 39. There being no motion, the Court could not have issued, and did not issue, a writ of execution. x x x. (underscoring supplied)

Via a petition for certiorari filed on March 30, 2009 before this Court, Erlinda Cadapan and Concepcion Empeño challenged the appellate court's March 5, 2009 Resolution denying their motion to cite respondents in contempt. The petition was docketed as G.R. No. 187109, the last above-captioned case subject of the present Decision.

Only Lt. Col. Anotado and Lt. Mirabelle remained of the original respondents in the amparo and habeas corpus cases as the other respondents had retired from government service.[26] The AFP has denied that Arnel Enriquez was a member of the Philippine Army.[27] The whereabouts of Donald Caigas remain unknown.[28]

In G.R. Nos. 184461-62, petitioners posit as follows:

I

...THE COURT OF APPEALS GROSSLY MISAPPRECIATED THE VALUE OF THE TESTIMONY OF RAYMOND MANALO.

II

THE PETITION[S] FOR HABEAS CORPUS AND WRIT OF AMPARO SHOULD BE DISMISSED BECAUSE RESPONDENTS FAILED TO PROVE BY THE REQUIRED QUANTUM OF EVIDENCE THAT PETITIONERS HAVE SHERLYN CADAPAN, KAREN EMPEÑO AND MANUEL MERINO ARE IN THEIR CUSTODY.

III

PETITIONERS' DENIALS PER SE SHOULD NOT HAVE BEEN TAKEN AGAINST THEM BECAUSE THEY DID NOT REALLY HAVE ANY INVOLVEMENT IN THE ALLEGED ABDUCTION; MOREOVER, THE SUPPOSED INCONSISTENCIES IN THEIR TESTIMONIES ARE ON POINTS IRRELEVANT TO THE PETITION.

IV

THE DISPOSITIVE PORTION OF THE ASSAILED DECISION IS VAGUE AND INCONGRUENT WITH THE FINDINGS OF THE COURT OF APPEALS.

V

THE COURT OF APPEALS IGNORED AND FAILED TO RULE UPON THE FATAL PROCEDURAL INFIRMITIES IN THE PETITION FOR WRIT OF AMPARO.[29]

In G.R. No. 184495, petitioners posit as follows:

- The Court of Appeals erred in not granting the Interim Relief for Inspection of Places;

- The Court of Appeals erred in not granting the Interim Relief for Production of Documents;
- The Court of Appeals erred in not finding that the Police Director Gen. Avelino Razon did not make extraordinary diligence in investigating the enforced disappearance of the aggrieved parties...
- The Court of Appeals erred in not finding that this was not the command coming from the highest echelon of powers of the Armed Forces of the Philippines, Philippine Army and the Seventh Infantry Division of the Philippine Army to enforcibly disappear [sic] the aggrieved parties...
- The Court of Appeals erred in dropping President Gloria Macapagal Arroyo as party respondent in this case;
- The Court of Appeals erred in not finding that President Gloria Macapagal Arroyo had command responsibility in the enforced disappearance and continued detention of the three aggrieved parties...
- The Court of Appeals erred in not finding that the Armed Forces Chief of Staff then Hermogenes Esperon and the Present Chief of Staff as having command responsibility in the enforced disappearance and continued detention of the three aggrieved parties...[30]

In G.R. No. 187109, petitioners raise the following issues:

- [1] Whether... the decision in the Court of Appeals has become final and executory[.]
- [2] Whether...there is a need to file a motion for execution in a Habeas Corpus decision or in an Amparo decision[.]
- [3] Whether...an appeal can stay the decision of a Habeas Corpus [case] [or] an Amparo case[.][31]

Essentially, the consolidated petitions present three primary issues, viz: a) whether the testimony of Raymond Manalo is credible; b) whether the chief of the AFP, the commanding general of the Philippine Army, as well as the heads of the concerned units had command responsibility over the abduction and detention of Sherlyn, Karen and Merino; and c) whether there is a need to file a motion for execution to cause the release of the aggrieved parties.

G.R. Nos. 184461-62

Petitioners Lt. Col. Boac, et al. contend that the appellate court erred in giving full credence to the testimony of Manalo who could not even accurately describe the structures of Camp Tecson where he claimed to have been detained along with Sherlyn, Karen and Merino. They underscore that Camp Tecson is not under the jurisdiction of the 24th Infantry Battalion and that Manalo's testimony is incredible and full of inconsistencies.[32]

In *Secretary of National Defense v. Manalo*,[33] an original petition for Prohibition, Injunction and Temporary Restraining Order which was treated as a petition under the Amparo Rule, said Rule having taken effect during the pendency of the petition, the Court ruled on the truthfulness and veracity of the personal account of Manalo which included his encounter with Sherlyn, Kara and Merino while on detention. Thus it held:

We affirm the factual findings of the appellate court, largely based on respondent Raymond Manalo's affidavit and testimony, viz:

x x x.

We reject the claim of petitioners that respondent Raymond Manalo's statements were not corroborated by other independent and credible pieces of evidence. Raymond's affidavit and testimony were corroborated by the affidavit of respondent Reynaldo Manalo. The testimony and medical reports prepared by forensic specialist Dr. Molino, and the pictures of the scars left by the physical injuries inflicted on respondents, also corroborate respondents' accounts of the torture they endured while in detention. Respondent Raymond

Manalo's familiarity with the facilities in Fort Magsaysay such as the "DTU," as shown in his testimony and confirmed by Lt. Col. Jimenez to be the "Division Training Unit," firms up respondents' story that they were detained for some time in said military facility. (citations omitted; emphasis and underscoring supplied)

On Manalo's having allegedly encountered Sherlyn, Karen and Merino while on detention, the Court in the immediately cited case synthesized his tale as follows:

The next day, Raymond's chains were removed and he was ordered to clean outside the barracks. It was then he learned that he was in a detachment of the Rangers. There were many soldiers, hundreds of them were training. He was also ordered to clean inside the barracks. In one of the rooms therein, he met Sherlyn Cadapan from Laguna. She told him that she was a student of the University of the Philippines and was abducted in Hagonoy, Bulacan. She confided that she had been subjected to severe torture and raped. She was crying and longing to go home and be with her parents. During the day, her chains were removed and she was made to do the laundry.

After a week, Reynaldo was also brought to Camp Tecson. Two days from his arrival, two other captives, Karen Empeño and Manuel Merino, arrived. Karen and Manuel were put in the room with "Allan" whose name they later came to know as Donald Caigas, called "master" or "commander" by his men in the 24th Infantry Battalion. Raymond and Reynaldo were put in the adjoining room. At times, Raymond and Reynaldo were threatened, and Reynaldo was beaten up. In the daytime, their chains were removed, but were put back on at night. They were threatened that if they escaped, their families would all be killed.

On or about October 6, 2006, Hilario arrived in Camp Tecson. He told the detainees that they should be thankful they were still alive and should continue along their "renewed life." Before the hearing of November 6 or 8, 2006, respondents were brought to their parents to instruct them not to attend the hearing. However, their parents had already left for Manila. Respondents were brought back to Camp Tecson. They stayed in that camp from September 2006 to November 2006, and Raymond was instructed to continue using the name "Oscar" and holding himself out as a military trainee. He got acquainted with soldiers of the 24th Infantry Battalion whose names and descriptions he stated in his affidavit.

On November 22, 2006, respondents, along with Sherlyn, Karen, and Manuel, were transferred to a camp of the 24th Infantry Battalion in Limay, Bataan. There were many huts in the camp. They stayed in that camp until May 8, 2007. Some soldiers of the battalion stayed with them. While there, battalion soldiers whom Raymond knew as "Mar" and "Billy" beat him up and hit him in the stomach with their guns. Sherlyn and Karen also suffered enormous torture in the camp. They were all made to clean, cook, and help in raising livestock.

Raymond recalled that when "Operation Lubog" was launched, Caigas and some other soldiers brought him and Manuel with them to take and kill all sympathizers of the NPA. They were brought to Barangay Bayan-bayanan, Bataan where he witnessed the killing of an old man doing kaingin. The soldiers said he was killed because he had a son who was a member of the NPA and he coddled NPA members in his house. Another time, in another "Operation Lubog," Raymond was brought to Barangay Orion in a house where NPA men stayed. When they arrived, only the old man of the house who was sick was there. They spared him and killed only his son right before Raymond's eyes.

From Limay, Raymond, Reynaldo, Sherlyn, Karen, and Manuel were transferred to Zambales, in a safehouse near the sea. Caigas and some of his men stayed with them. A retired army soldier was in charge of the house. Like in Limay, the five detainees were made to do errands and chores. They stayed in Zambales from May 8 or 9, 2007 until June 2007.

In June 2007, Caigas brought the five back to the camp in Limay. Raymond, Reynaldo, and Manuel were tasked to bring food to detainees brought to the camp. Raymond narrated what he witnessed and experienced in the camp, viz:

x x x x.[34] (emphasis and underscoring supplied)

The Court takes judicial notice of its Decision in the just cited *Secretary of National Defense v. Manalo*[35] which assessed the account of Manalo to be a candid and forthright narrative of his and his brother Reynaldo's abduction by the military in 2006; and of the corroborative testimonies, in the same case, of Manalo's brother Reynaldo and a forensic specialist, as well as Manalo's graphic description of the detention area. There is thus no compelling reason for the Court, in the present case, to disturb its appreciation in Manalo's testimony. The outright denial of petitioners Lt. Col. Boac, et al. thus crumbles.

Petitioners go on to point out that the assailed Decision of the appellate court is "vague and incongruent with [its] findings" for, so they contend, while the appellate court referred to the perpetrators as "misguided and self-righteous civilian and military elements of the 7[th] Infantry Division," it failed to identify who these perpetrators are. Moreover, petitioners assert that Donald Caigas and Arnel Enriquez are not members of the AFP. They furthermore point out that their co-petitioners Generals Esperon, Tolentino and Palparan have already retired from the service and thus have no more control of any military camp or base in the country.[36]

There is nothing vague and/or incongruent about the categorical order of the appellate court for petitioners to release Sherlyn, Karen and Merino. In its discourse, the appellate court merely referred to "a few misguided self-righteous people who resort to the extrajudicial process of neutralizing those who disagree with the country's democratic system of government." Nowhere did it specifically refer to the members of the 7[th] Infantry Division as the "misguided self-righteous" ones.

Petitioners finally point out that the parents of Sherlyn and Karen do not have the requisite standing to file the amparo petition on behalf of Merino. They call attention to the fact that in the amparo petition, the parents of Sherlyn and Karen merely indicated that they were "concerned with Manuel Merino" as basis for filing the petition on his behalf.[37]

Section 2 of the Rule on the Writ of Amparo[38] provides:

The petition may be filed by the aggrieved party or by any qualified person or entity in the following order:

- (a) Any member of the immediate family, namely: the spouse, children and parents of the aggrieved party;
- (b) Any ascendant, descendant or collateral relative of the aggrieved party within the fourth civil degree of consanguinity or affinity, in default of those mentioned in the preceding paragraph; or
- (c) Any concerned citizen, organization, association or institution, if there is no known member of the immediate family or relative of the aggrieved party.

Indeed, the parents of Sherlyn and Karen failed to allege that there were no known members of the immediate family or relatives of Merino. The exclusive and successive order mandated by the above-quoted provision must be followed. The order of priority is not without reason--"to prevent the indiscriminate and groundless filing of petitions for amparo which may even prejudice the right to life, liberty or security of the aggrieved party." [39]

The Court notes that the parents of Sherlyn and Karen also filed the petition for habeas corpus on Merino's behalf. No objection was raised therein for, in a habeas corpus proceeding, any person may apply for the writ on behalf of the aggrieved party.[40]

It is thus only with respect to the amparo petition that the parents of Sherlyn and Karen are precluded from filing the application on Merino's behalf as they are not authorized parties under the Rule.

G.R. No. 184495

Preliminarily, the Court finds the appellate court's dismissal of the petitions against then President Arroyo well-taken, owing to her immunity from suit at the time the habeas corpus and amparo petitions were filed.[41]

Settled is the doctrine that the President, during his tenure of office or actual incumbency, may not be sued in any civil or criminal case, and there is no need to provide for it in the Constitution or law. It will degrade the dignity of the high office of the President, the Head of State, if he can be dragged into court litigations while serving as such. Furthermore, it is important that he be freed from any form of harassment, hindrance or distraction to enable him to fully attend to the performance of his official duties and functions. Unlike the legislative and judicial branch, only one constitutes the executive branch and anything which impairs his usefulness in the discharge of the many great and important duties imposed upon him by the Constitution necessarily impairs the operation of the Government. x x x [42]

Parenthetically, the petitions are bereft of any allegation that then President Arroyo permitted, condoned or performed any wrongdoing against the three missing persons.

On the issue of whether a military commander may be held liable for the acts of his subordinates in an amparo proceeding, a brief discussion of the concept of command responsibility and its application insofar as amparo cases already decided by the Court is in order.

Rubrico v. Macapagal Arroyo[43] expounded on the concept of command responsibility as follows:

The evolution of the command responsibility doctrine finds its context in the development of laws of war and armed combats. According to Fr. Bernas, "command responsibility," in its simplest terms, means the "responsibility of commanders for crimes committed by subordinate members of the armed forces or other persons subject to their control in international wars or domestic conflict." In this sense, command responsibility is properly a form of criminal complicity. The Hague Conventions of 1907 adopted the doctrine of command responsibility, foreshadowing the present-day precept of holding a superior accountable for the atrocities committed by his subordinates should he be remiss in his duty of control over them. As then formulated, command responsibility is "an omission mode of individual criminal liability," whereby the superior is made responsible for crimes committed by his subordinates for failing to prevent or punish the perpetrators (as opposed to crimes he ordered). (citations omitted; emphasis in the original; underscoring supplied)[44]

It bears stressing that command responsibility is properly a form of criminal complicity,[45] and thus a substantive rule that points to criminal or administrative liability.

An amparo proceeding is not criminal in nature nor does it ascertain the criminal liability of individuals or entities involved. Neither does it partake of a civil or administrative suit.[46] Rather, it is a remedial measure designed to direct specified courses of action to government agencies to safeguard the constitutional right to life, liberty and security of aggrieved individuals.[47]

Thus Razon Jr. v. Tagitis [48] enlightens:

[An amparo proceeding] does nor determine guilt nor pinpoint criminal culpability for the disappearance [threats thereof or extrajudicial killings]; it determines responsibility, or at least accountability, for the enforced disappearance...for purposes of imposing the appropriate remedies to address the disappearance...[49] (emphasis and underscoring supplied)

Further, Tagitis defines what constitutes "responsibility" and "accountability," viz:

x x x. Responsibility refers to the extent the actors have been established by substantial evidence to have participated in whatever way, by action or omission, in an enforced disappearance, as a measure of the remedies this Court shall craft, among them, the directive to file the appropriate criminal and civil cases

against the responsible parties in the proper courts. Accountability, on the other hand, refers to the measure of remedies that should be addressed to those who exhibited involvement in the enforced disappearance without bringing the level of their complicity to the level of responsibility defined above; or who are imputed with knowledge relating to the enforced disappearance and who carry the burden of disclosure; or those who carry, but have failed to discharge, the burden of extraordinary diligence in the investigation of the enforced disappearance. In all these cases, the issuance of the Writ of Amparo is justified by our primary goal of addressing the disappearance, so that the life of the victim is preserved and his liberty and security are restored.[50] (emphasis in the original; underscoring supplied)

Rubrico categorically denies the application of command responsibility in amparo cases to determine criminal liability.[51] The Court maintains its adherence to this pronouncement as far as amparo cases are concerned.

Rubrico, however, recognizes a preliminary yet limited application of command responsibility in amparo cases to instances of determining the responsible or accountable individuals or entities that are duty-bound to abate any transgression on the life, liberty or security of the aggrieved party.

If command responsibility were to be invoked and applied to these proceedings, it should, at most, be only to determine the author who, at the first instance, is accountable for, and has the duty to address, the disappearance and harassments complained of, so as to enable the Court to devise remedial measures that may be appropriate under the premises to protect rights covered by the writ of amparo. As intimated earlier, however, the determination should not be pursued to fix criminal liability on respondents preparatory to criminal prosecution, or as a prelude to administrative disciplinary proceedings under existing administrative issuances, if there be any.[52] (emphasis and underscoring supplied)

In other words, command responsibility may be loosely applied in amparo cases in order to identify those accountable individuals that have the power to effectively implement whatever processes an amparo court would issue.[53] In such application, the amparo court does not impute criminal responsibility but merely pinpoint the superiors it considers to be in the best position to protect the rights of the aggrieved party.

Such identification of the responsible and accountable superiors may well be a preliminary determination of criminal liability which, of course, is still subject to further investigation by the appropriate government agency.

Relatedly, the legislature came up with Republic Act No. 9851[54] (RA 9851) to include command responsibility as a form of criminal complicity in crimes against international humanitarian law, genocide and other crimes.[55] RA 9851 is thus the substantive law that definitively imputes criminal liability to those superiors who, despite their position, still fail to take all necessary and reasonable measures within their power to prevent or repress the commission of illegal acts or to submit these matters to the competent authorities for investigation and prosecution.

The Court finds that the appellate court erred when it did not specifically name the respondents that it found to be responsible for the abduction and continued detention of Sherlyn, Karen and Merino. For, from the records, it appears that the responsible and accountable individuals are Lt. Col. Anotado, Lt. Mirabelle, Gen. Palparan, Lt. Col. Boac, Arnel Enriquez and Donald Caigas. They should thus be made to comply with the September 17, 2008 Decision of the appellate court to IMMEDIATELY RELEASE Sherlyn, Karen and Merino.

The petitions against Generals Esperon, Razon and Tolentino should be dismissed for lack of merit as there is no showing that they were even remotely accountable and responsible for the abduction and continued detention of Sherlyn, Karen and Merino.

G.R. No. 187109.

Contrary to the ruling of the appellate court, there is no need to file a motion for execution for an amparo or

habeas corpus decision. Since the right to life, liberty and security of a person is at stake, the proceedings should not be delayed and execution of any decision thereon must be expedited as soon as possible since any form of delay, even for a day, may jeopardize the very rights that these writs seek to immediately protect.

The Solicitor General's argument that the Rules of Court supplement the Rule on the Writ of Amparo is misplaced. The Rules of Court only find suppletory application in an amparo proceeding if the Rules strengthen, rather than weaken, the procedural efficacy of the writ. As it is, the Rule dispenses with dilatory motions in view of the urgency in securing the life, liberty or security of the aggrieved party. Suffice it to state that a motion for execution is inconsistent with the extraordinary and expeditious remedy being offered by an amparo proceeding.

In fine, the appellate court erred in ruling that its directive to immediately release Sherlyn, Karen and Merino was not automatically executory. For that would defeat the very purpose of having summary proceedings^[56] in amparo petitions. Summary proceedings, it bears emphasis, are immediately executory without prejudice to further appeals that may be taken therefrom.^[57]

WHEREFORE, in light of the foregoing discussions, the Court renders the following judgment:

1. The Petitions in G.R. Nos. 184461-62 and G.R. No. 184495 are DISMISSED. The Decision of the Court of Appeals dated September 17, 2008 is AFFIRMED with modification in that respondents in G.R. No. 184495, namely Lt. Col. Felipe Anotado, Lt. Francis Mirabelle Samson, Gen. Jovito Palparan, Lt. Col. Rogelio Boac, Arnel Enriquez and Donald Caigas are ordered to immediately release Sherlyn Cadapan, Karen Empeño and Manuel Merino from detention.

The petitions against Generals Esperon, Razon and Tolentino are DISMISSED.

2. The petition in G.R. No. 187109 is GRANTED. The named respondents are directed to forthwith comply with the September 17, 2008 Decision of the appellate court. Owing to the retirement and/or reassignment to other places of assignment of some of the respondents herein and in G.R. No. 184495, the incumbent commanding general of the 7th Infantry Division and the incumbent battalion commander of the 24th Infantry Battalion, both of the Philippine Army, are enjoined to fully ensure the release of Sherlyn Cadapan, Karen Empeño and Manuel Merino from detention.

Respondents Lt. Col. Felipe Anotado, Lt. Francis Mirabelle Samson, Gen. Jovito Palparan, Lt. Col. Rogelio Boac, Arnel Enriquez and Donald Caigas shall remain personally impleaded in the petitions to answer for any responsibilities and/or accountabilities they may have incurred during their incumbencies.

Let copies of this Decision and the records of these cases be furnished the Department of Justice (DOJ), the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP) for further investigation to determine the respective criminal and administrative liabilities of respondents.

All the present petitions are REMANDED to the Court of Appeals for appropriate action, directed at monitoring of the DOJ, PNP and AFP investigations and the validation of their results.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Villarama, and Perez, JJ., concur.

Del Castillo, J., on official Leave.

Mendoza and Abad, JJ., no part.

[1] Entitled IN THE MATTER OF THE PETITION FOR HABEAS CORPUS OF SHERLYN T. CADAPAN, KAREN E. EMPEÑO AND MANUEL MERINO, represented by SPS. ERLINDA T. AND ASHER P. CADAPAN, and CONCEPCION E. EMPEÑO.

[2] Per Memorandum dated January 5, 2011 by Atty. Enriqueta Vidal; Vide: rollo (G.R. No. 184461-62) p. 685.

[3] Rollo (G.R. Nos. 184461-62), pp. 130-137.

[4] Per findings of facts of the Court of Appeals; Vide: rollo (G.R. Nos. 184461-62), p. 79.

[5] Id. at 80.

[6] Id. at 84.

[7] Rollo (G.R. No. 184495), p. 231-234; Return of the Writ, p. 15.

[8] Per findings of fact of the CA; Vide: rollo (G.R. Nos. 184461-62), p. 81 citing Transcript of Stenographic Notes (TSN), August 15, 2006, pp. 22-23.

[9] Rollo (G.R. No. 184495), p. 40.

[10] Per findings of the CA; rollo (G.R. Nos. 184461-62) pp. 81-82).

[11] As earlier stated, Lt. Col. Boac denied having received any order from Gen. Palparan to this effect.

[12] Id. at 83.

[13] Rollo (G.R. No. 184495), pp. 188-209. Penned by Associate Justice Jose Catral Mendoza (now a member of the Court) with Associate Justices Monina Arevalo Zenarosa and Sesinando E. Villon concurring.

[14] Rollo (G.R. No. 184461-62), pp. 163-171.

[15] Rollo (G.R. No. 184461-62), pp. 172-206.

[16] Ibid.

[17] Ibid.

[18] Ibid.

[19] Per findings of the CA; Vide: rollo (G.R. Nos. 184461-62) p. 90 citing TSN, November 21, 2007, p. 33.

[20] Id. at 89-90.

[21] Id. at 99-102.

[22] Rollo (G.R. No. 184461-62), pp. 251-252.

[23] Rollo (G.R. No. 184461-62), pp. 77-109. Penned by Associate Justice Jose Catral Mendoza (now a member of the Court) with Associate Justices Monina Arevalo Zenarosa and Sesinando E. Villon concurring.

[24] Rollo (G.R. No. 184461-62), p. 533.

[25] Rollo (G.R. No. 187109), pp. 12-15.

[26] Per Certification from the Philippine Army dated August 13, 2009, respondents Generals Hermogenes Esperon Jr., Romeo Tolentino, Jovito Palparan and Lt. Col. Rogelio Boac have retired from the service. Likewise, the Court takes judicial notice of the fact that PNP Director General Avelino Razon has retired from the service as

well. Vide: Rollo (G.R. No. 184461-62), p. 417.

[27] Per Certification dated August 13, 2009 issued by Col. Eduardo Andes, Adjutant General of the Philippine Army. See also rollo (G.R. Nos. 184461-62), p. 683.

[28] Notices sent by the Court to the stated address of Donald Caigas have been returned. No other address has been furnished to the Court.

[29] Rollo (G.R. Nos. 184461-62), pp. 25-26.

[30] Rollo (G.R. No. 184495), pp. 7-8.

[31] Rollo (G.R. No. 187109), p.6.

[32] Rollo (G.R. No. 184461-62), pp. 27-37.

[33] G.R. No. 180906, October 7, 2008, 568 SCRA 1.

[34] Id. at 21-23.

[35] In *Baguio v. Teofila L. Vda. De Jalagat, et al.*, [149 Phil. 436, 440 (1971)], the Court ruled that... "courts have also taken judicial notice of previous cases to determine...whether or not a previous ruling is applicable to the case under consideration."

[36] Rollo (G.R. No. 184461-62), pp. 60-64.

[37] Rollo (G.R. No. 184461-62), p. 164.

[38] A.M. No. 07-9-12-SC which took effect on October 24, 2007.

[39] Annotation to the Writ of Amparo, p. 51. Visit also http://sc.judiciary.gov.ph/Annotation_amparo.pdf.

[40] Section 3 of Rule 102 of the Rules of Court provides that "Application for the writ [of habeas corpus] shall be by petition signed and verified either by the party for whose relief it is intended, or by some person on his behalf, and shall set forth x x x."

[41] *David v. Macapagal-Arroyo*, G.R. No. 171396, 489 SCRA 160 (2006).

[42] Id. at 224-225.

[43] G.R. No. 183871, 613 SCRA 233 (2010).

[44] Id. at 251.

[45] *Rubrico v. Macapagal Arroyo*, supra at 251, citing *Bernas, Command Responsibility*, February 5, 2007

[46] Annotation to the Writ of Amparo, p. 65.

[47] Section 1 of the Rule on the Writ of Amparo.

[48] G.R. No. 182498, 606 SCRA 598 (2009).

[49] Id. at 253.

[50] Supra note 48 at 620-621.

[51] In *Rubrico*, the Court ruled that "x x x. Still, it would be inappropriate to apply to these [amparo] proceedings the doctrine of command responsibility...as a form of criminal complicity through omission, for individual

respondents' criminal liability, if there be any, is beyond the reach of amparo. x x x." Vide also *Roxas v. Macapagal Arroyo*, G.R. No. 189155, September 7, 2010.

[52] *Id.* at 254.

[53] In *Rubrico, J. Morales*, in her Separate Opinion, initially expounded on this limited application of command responsibility in amparo cases, to wit: That proceedings under the Rule on the Writ of Amparo do not determine criminal, civil or administrative liability should not abate the applicability of the doctrine of command responsibility. Taking *Secretary of National Defense v. Manalo* and *Razon v. Tagitis* in proper context, they do not preclude the application of the doctrine of command responsibility to Amparo cases.

Manalo was actually emphatic on the importance of the right to security of person and its contemporary signification as a guarantee of protection of one's rights by the government. It further stated that protection includes conducting effective investigations, organization of the government apparatus to extend protection to victims of extralegal killings or enforced disappearances, or threats thereof, and/or their families, and bringing offenders to the bar of justice.

Tagitis, on the other hand, cannot be more categorical on the application, at least in principle, of the doctrine of command responsibility:

Given their mandates, the PNP and PNP-CIDG officials and members were the ones who were remiss in their duties when the government completely failed to exercise the extraordinary diligence that the Amparo Rule requires. We hold these organizations accountable through their incumbent Chiefs who, under this Decision, shall carry the personal responsibility of seeing to it that extraordinary diligence, in the manner the Amparo Rule requires, is applied in addressing the enforced disappearance of Tagitis. (emphasis and underscoring in the original)

[54] An Act Defining and Penalizing Crimes Against International Humanitarian Law, Genocide and Other Crimes Against Humanity, Organizing Jurisdiction, Designating Special Courts, and for Related Purposes. Approved on July 27, 2009.

[55] Section 10 of RA 9851 states that: Responsibility of Superiors. - In addition to other grounds of criminal responsibility for crimes defined and penalized under this Act, a superior shall be criminally responsible as a principal for such crimes committed by subordinates under his/her effective command and control, or effective authority and control as the case may be, as a result of his/her failure to properly exercise control over such subordinates, where:

(a) That superior either knew or, owing to the circumstances at the time, should have known that the subordinates were committing or about to commit such crimes;

(b) That superior failed to take all necessary and reasonable measures within his/her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

[56] Section 13 of the Rule on the Writ of Amparo provides that: "[t]he hearing on the petition shall be summary. x x x."

[57] In Section 21 of the Revised Rule on Summary Procedure, it is provided that: "x x x. The decision of the Regional Trial Court in civil cases governed by this Rule, including forcible entry and unlawful detainer, shall be immediately executory, without prejudice to a further appeal that may be taken therefrom. Section 10 of Rule 70 shall be deemed repealed."

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.