

EN BANC

[A.M. No. RTJ-17-2494 (FORMERLY A.M. No. 16-11-03-SC), January 26, 2021]

RE: MOTU PROPRIO FACT-FINDING INVESTIGATION ON THE ISSUANCE OF SEARCH WARRANT AND OTHER PENDING INCIDENTS IN THE CASE OF THE DECEASED MAYOR ROLANDO ESPINOSA, SR.

[A.M. No. RTJ-19-2557 (FORMERLY OCA IPI No. 18-4897-RTJ), January 26, 2021]

CONFUSED CITIZENS OF REGION 8, COMPLAINANTS, VS. HON. CARLOS O. ARGUELLES, PRESIDING JUDGE, REGIONAL TRIAL COURT (RTC), BAYBAY, LEYTE, BRANCH 14, HON. JANET M. CABALONA, PRESIDING JUDGE, RTC, CALBIGA, SAMAR, BRANCH 33, HON. TARCELO A. SABARRE, JR., PRESIDING JUDGE, RTC, BASEY, SAMAR, BRANCH 30, RESPONDENTS.

D E C I S I O N

PER CURIAM:

Before this Court are two consolidated administrative cases against respondents, Hon. Carlos O. Arguelles (Judge Arguelles), Presiding Judge of the Regional Trial Court (RTC) of Baybay, Leyte, Branch 14; Hon. Janet M. Cabalona (Judge Cabalona), Presiding Judge of the RTC of Calbiga, Samar, Branch 33; and Hon. Tarcelo A. Sabarre, Jr. (Judge Sabarre), Presiding Judge of the RTC of Basey, Samar, Branch 30. A.M. No. RTJ-17-2494 pertains to the *motu proprio* fact-finding investigation of the Court on the issuance of search warrants and other pending incidents in the case of deceased Mayor Rolando Espinosa, Sr. (Espinosa, Sr.). A.M. No. RTJ-19-2557 refers to the Anonymous Letter from Confused Citizens of Region 8 on alleged improper conduct of the respondents and the Criminal Investigation and Detection Group of Region 8 (CIDG - Region 8).

Facts of the Case

Two criminal cases^[1] were filed before the RTC of Baybay, Leyte, Branch 14 against deceased Espinosa, Sr., and his son Roland "Kerwin" Espinosa for violation of Section 28 of R.A. No. (R.A.) 10591^[2] and against Espinosa Sr. alone for violation of Section 11, Article II, R.A. 9165.^[3] On October 6, 2016, Espinosa, Sr. filed a Notice of Entry of Appearance with concomitant Very Urgent Motion of Transfer Detention^[4] (Urgent Motion) seeking his transfer from the Sub-Provincial Jail of Baybay, Leyte to Albuera Police Station, Albuera, Leyte, for security reasons. He alleged that:

He continuously fear (*sic*) for his life after receiving threats, especially when it has become public that he has implicated personalities linked to

the drug trade of his son and co-accused Roland Espinosa.

Every minute that he stays at the Leyte Sub-Provincial Jail, he becomes very vulnerable and poses as an easy target from (*sic*) unknown elements which wanted him dead or other imminent danger that may likely occur now that he is on his own.

Although the accused does not doubt the capacity of the personnel of the BJMP to keep him safe, however (*sic*) it is also undeniable that the accused is not the only one that these personnel will look out for.^[5]

On October 12, 2016, Judge Arguelles heard the motion during the scheduled arraignment. The prosecution filed its opposition.^[6] To give Espinosa, Sr. time to substantiate his position, Judge Arguelles set the motion for another hearing on October 19, 2016. During said hearing, Judge Arguelles ordered an ocular inspection to be conducted on October 26, 2016. ^[7]

After the ocular inspection, Judge Arguelles conducted another clarificatory hearing. During the hearing, the court was confronted with differing opinions about the security of Espinosa Sr. in the detention facility. The sub-provincial warden expressed doubts on their ability to keep him safe due to the insufficiency of guards and firearms.^[8] Meanwhile, Provincial Warden Homobono Bardillon manifested that Espinosa Sr. is safe at the Sub-Provincial Jail of Baybay.^[9] He reported that additional personnel from the Philippine Army and the Philippine National Police (PNP) had been detailed to augment the security force and CCTV cameras would also be installed.^[10] The prosecution filed an *Ex-Parte* Counter-Manifestation to the Very Urgent Motion to Transfer of Detention^[11] (*Ex-Parte* Counter-Manifestation), pointing out that Albuera Police Station is not a detention facility and that it is the Sub-Provincial Jail which has custodial responsibility over Espinosa Sr.^[12] On October 26, 2016, the Urgent Motion was submitted for resolution.^[13]

On November 4, 2016, pending resolution of both the Urgent Motion and its *Ex-Parte* Counter-Manifestation, elements of the CIDG - Region 8, led by Police Chief Inspector Leo D. Laraga (PCI Laraga), Team Leader of Northern Leyte CIDG Group 8 (NLCIDG-CIDG8), PNP-CIDG, applied for two search warrants^[14] before the RTC of Basey, Samar, Branch 30 before Judge Sabarre to search Cell Nos. 1 and 2 of the Sub-Provincial Jail of Baybay, Leyte, where Espinosa Sr. and his co-accused Raul Yap (Yap) were detained.^[15]

The Application for Search Warrant^[16] against Espinosa Sr. was for violation of R.A. 10591^[17] wherein it was alleged that despite being an inmate, Espinosa, Sr. "has in his possession an unlicensed firearm x x x (one caliber .45 pistol and magazine assembly and several rounds of live ammunitions) x x x kept and concealed particularly under his pillow in his bedside inside Cell No. 1, Baybay Sub-Provincial Jail, Baybay City, Leyte."^[18] The Application for Search Warrant^[19] against Yap was for violation of R.A. 9165^[20] and states that Yap has in his possession "several grams of Illegal Drugs and paraphernalia kept and concealed particularly under his pillow in his bed inside his cell at Cell No. 2, Baybay Sub-Provincial Jail."^[21]

At around 1:08 p.m. of November 4, 2016, after hearing the applicant and his witnesses and propounding searching questions, Judge Sabarre issued Search

Warrant No. 2016-11-20^[22] against Espinosa, Sr. for one unit caliber .45 pistol and Search Warrant No. 2016-11-19^[23] against Yap for an undetermined quantity of *shabu* to be served at the Sub-Provincial Jail in Baybay, Leyte.

At around 4:10 a.m. of November 5, 2016, the search warrants were served by elements of the CIDG - Region 8 in the premises of the Sub Provincial Jail in Baybay, Leyte. PCI Laraga reported that during the implementation of the search warrant against Espinosa at Cell No. 1, "respondent fired upon the raiding team that (*sic*) resulted to (*sic*) a firefight causing his untimely death."^[24] Items seized "during the conduct of the crime scene by the SOCO" include "one (1) unit firearm with serial number 288282-0 (chamber loaded) with six (6) live ammos, six (6) fired cartridge cases, two (2) deformed bullets, one (1) fragmented bullet, a transparent cellophane containing suspected *shabu*, and other paraphernalia."^[25]

During the implementation of the search warrant against Yap, PCI Laraga alleged that Yap was not present in Cell No. 2. One of the jail guards told the team that Yap was transferred to Cell No. 7. The team then proceeded to Cell No. 7 to fetch Yap "in order to implement the search in Cell No. 2, but during the confrontation, respondent fired upon the raiding team that resulted to a firefight causing his untimely death."^[26] The search conducted inside the cell of Yap yielded, among others, 15 pieces of heat sealed cellophane containing suspected *shabu*, 27 pieces of heat-sealed cellophane containing suspected marijuana, other paraphernalia, "one unit .45 caliber (chamber loaded with empty shell) with six live ammos with serial no. 418572, two fired bullets, two deformed bullets and five empty shells."^[27]

In the course of the service of the two search warrants, the occupants of the cells, Espinosa Sr. and Yap, were killed under circumstances that are not yet clear.

On November 8, 2016, the Court *motu proprio* resolved to direct the Office of the Court Administrator (OCA) to conduct an independent investigation on the following specific matters: (1) the necessity for and the circumstances surrounding the issuance of search warrants directed against persons already under the custody of a government detention facility, including the existence of any compelling reason by the RTC of Basey, Leyte to entertain the application for the search warrants under Section 2, Rule 126 of the Rules of Court (Rules), and the procedure undertaken by the CIDG - Region 8; and (2) the reasons behind the failure to immediately resolve the motion of the deceased Espinosa, Sr. for the transfer of his place of detention. The OCA was directed to determine the respective participation and liability, if any, of Judge Sabarre and Judge Arguelles, and any possible connection between the failure to resolve the deceased Espinosa, Sr.'s motion for transfer of detention, the application and service of search warrants, the procedure for service of such warrants, and the ensuing deaths of Espinosa Sr. and Yap.^[28]

In the course of the OCA investigation, it received two anonymous letters from Concerned Citizens of Tacloban City, one dated November 10, 2016,^[29] and the other November 13, 2016.^[30] The letter dated November 10, 2016 touched on the possibility that Judge Sabarre issued the search warrants as a *quid pro quo* to the police. It was narrated that the police previously threatened a young boy to desist from filing a criminal complaint for seduction against Judge Sabarre.^[31]

The second letter dated November 13, 2016 alleged that Judge Cabalona issued Search Warrant No. 2016-074^[32] to the same Police Supt. Marvin Wynn Marcos (P.Supt Marcos) who was able to enter and conduct a search inside the Abuyog Penal Colony, and shot to death one Allan Alvarez y Enriquez @ Igay^[33] Alvarez, a prisoner serving a final judgment of imprisonment on August 11, 2016.^[34] It was reported that during the implementation of the warrant, Alvarez threw a hand grenade and pulled out a handgun to the raiding team prompting the latter to fire upon the former causing his instantaneous death.^[35]

Incidentally, Judge Cabalona also issued Search Warrant No. 2016-089^[36] against Fernando Balagbis y Mejia @ Entoy (Balagbis) who was detained at Baybay City Jail. Balagbis died after he allegedly fired upon the members of the implementing team.^[37] The letter dated November 13, 2016 suggested that Samar RTC judges are very friendly with the CIDG of Region VIII because Judge Cabalona's husband was a PNP Superintendent.^[38]

On March 16, 2017, Judge Arguelles issued two Warrants of Arrest^[39] against 15 members of the CIDG - Region 8 headed by PSupt. Marcos for the killing of Espinosa Sr. and Yap. They have been charged of murder before Branch 14 of the RTC of Baybay, Leyte. On March 21, 2017, Judge Arguelles issued a commitment order directing that the 15 members of the CIDG - Region 8 be detained at the CIDG - Region 8 office and compound located in the port area of Tacloban City. The order was based on the assessment of SJO4 Lourdes Noveda, wardress of the City Jail of Baybay City, that the Bureau of Jail Management and Penology (BJMP) of Baybay City is incapable of accommodating the 19 accused as the facility is 300% overcrowded.^[40]

Report of the Office of the Court Administrator dated December 5, 2016

In a Report^[41] submitted by the OCA on December 5, 2016, Court Administrator Jose Midas P. Marquez made the following recommendations:

WHEREFORE, in view of the foregoing, it is hereby respectfully recommended that Judges Tarcelo A. Sabarre, Jr., of Br. 30, RTC, Basey, Samar, and Janet M. Cabalona of Br. 33, RTC, Calbiga, Samar, be fined in the amount of TEN THOUSAND PESOS (P 10,000.00) each, with a WARNING that a repetition of the same or similar act shall be dealt with more severely, while Judge Carlos O. Arguelles of Br. 14, RTC, Baybay, Leyte, be REMINDED to be more circumspect in resolving pending matters before his court.^[42]

The OCA found that there was no deliberate intent to delay the resolution of the Urgent Motion of Espinosa, Sr. For the OCA, at most, Judge Arguelles should only be reminded to be more circumspect in resolving 'very urgent' motions.^[43]

With regard to the search warrants Judge Sabarre and Judge Cabalona respectively issued, the OCA considered that in cases involving a drug lord, mere allegation that the accused has wide and vast connections from different agencies of the government, or has relatives, henchmen, and friends who can influence and compromise the application and implementation of the search warrant, may be

considered s compelling reason to permit the application in any court within the judicial region where the warrant shall be enforced.^[44]

The OCA also opined that the issuance of search warrants to search jail facilities of the government can be considered as gross ignorance of the law for which judges can be held liable. The OCA stated that if there is indeed collusion between the detainees and the jail guards, the police officers should have first exhausted all administrative remedies by going to the superiors of the jail guards such as the Secretary of the Department of Interior and Local Government and the Secretary of Justice.^[45]

In a Minute Resolution^[46] dated January 24, 2017, the case was referred to Associate Justice Gabriel T. Ingles for investigation, report, and recommendation within 90 days from receipt of the records.^[47]

Incidentally, while the case was under investigation, the Department of Justice (DOJ) Panel of Prosecutors issued a Resolution^[48] dated March 2, 2017 in the case of *National Bureau of Investigation Eastern Visayas Regional Qfice (NBI EVRO), et al. v. PSUPT Marvin Wynn Marcos, et al.* The panel of prosecutors recommended the filing of the appropriate administrative complaint against Judge Sabarre for issuing Search Warrant Nos. 2016-11-20 and 2016-11-19.^[49]

In Committee Report No. 46^[50] of the Senate dated March 7, 2017, the Committee on Public Order and Dangerous Drugs and the Committee on Justice and Human Rights which were investigating the controversy made the following pronouncements and recommendations:

Let us be reminded that the public hearings conducted by the Committees do not in any way intend to overstep the authority and jurisdiction of our courts in the determination of the ESPINOSA and YAP case. However, as co-equal branch, may we request the Judiciary to expedite the determination as to the propriety and liabilities or sanctions, if any, of the following:

1. **JUDGE CARLOS ARGUELLES**, for his failure to act upon the motion of **MAYOR ESPINOSA** to be transferred to a safer prison facility, notwithstanding the fact that the deceased has expressed his intention to fully cooperate with the government and provide vital information relevant and of value to the Administration's war against illegal drugs;
2. **JUDGE TARCELO SABARRE, JR.** of RTC Branch 30 Basey, Samar for issuing search warrants upon persons detained in a government detention facility located outside his Court's jurisdiction;
3. **JUDGE JANET CABALONA** of RTC Branch 33, Calbiga, Samar, also for issuing search warrants upon persons detained in a government detention facility located outside her Court's jurisdiction.

Moreover, the Supreme Court should remind lower courts to exercise caution in issuing search warrants. Strict adherence to the policy that 'judges should personally examine the applicant and the witnesses he may produce,' with underlying emphasis on the words 'personally examine', should be observed. In the instant case, there is no need to