

## **EN BANC**

**[ G.R. No. 191805, April 16, 2013 ]**

**IN THE MATTER OF THE PETITION FOR THE WRIT OF AMPARO AND HABEAS DATA IN FAVOR OF NORIEL RODRIGUEZ, NORIEL RODRIGUEZ, PETITIONER, VS. GLORIA MACAPAGAL-ARROYO, GEN. VICTOR S. IBRADO, PDG JESUS AME VERSOZA, LT. GEN. DELFIN BANGIT, MAJ. GEN. NESTOR Z. OCHOA, P/CSUPT. AMETO G. TOLENTINO, P/SSUPT. JUDE W. SANTOS, COL. REMIGIO M. DE VERA, AN OFFICER NAMED MATUTINA, LT. COL. MINA, CALOG, GEORGE PALACPAC UNDER THE NAME "HARRY," ANTONIO CRUZ, ALDWIN "BONG" PASICOLAN AND VINCENT CALLAGAN, RESPONDENTS.**

**[G.R. No. 193160]**

**IN THE MATTER OF THE PETITION FOR THE WRIT OF AMPARO AND HABEAS DATA IN FAVOR OF NORIEL RODRIGUEZ, POLICE DIR. GEN. JESUS A. VERSOZA, P/SSUPT. JUDE W. SANTOS, BGEN. REMEGIO M. DE VERA, 1ST LT. RYAN S. MATUTINA, LT. COL. LAURENCE E. MINA, ANTONIO C. CRUZ, ALDWIN C. PASICOLAN AND VICENTE A. CALLAGAN, PETITIONERS, VS. NORIEL H. RODRIGUEZ, RESPONDENT.**

### **R E S O L U T I O N**

**SERENO, C.J.:**

On 15 November 2011, the Court promulgated its Decision in the present case, the dispositive portion of which reads:

WHEREFORE, we resolve to GRANT the Petition for Partial Review in G.R. No. 191805 and DENY the Petition for Review in G.R. No. 193160. The Decision of the Court of Appeals is hereby AFFIRMED WITH MODIFICATION.

The case is dismissed with respect to respondents former President Gloria Macapagal-Arroyo, P/CSupt. Ameto G. Tolentino, and P/SSupt. Jude W. Santos, Calog, George Palacpac, Antonio Cruz, Aldwin Pasicolan and Vincent Callagan for lack of merit.

This Court directs the Office of the Ombudsman (Ombudsman) and the Department of Justice (DOJ) to take the appropriate action with respect to any possible liability or liabilities, within their respective legal competence, that may have been incurred by respondents Gen. Victor Ibrado, PDG. Jesus Verzosa, Lt. Gen. Delfin Bangit, Maj. Gen. Nestor Ochoa, Brig. Gen. Remegio De Vera, 1st Lt. Ryan Matutina, and Lt. Col.

Laurence Mina. The Ombudsman and the DOJ are ordered to submit to this Court the results of their action within a period of six months from receipt of this Decision.

In the event that herein respondents no longer occupy their respective posts, the directives mandated in this Decision and in the Court of Appeals are enforceable against the incumbent officials holding the relevant positions. Failure to comply with the foregoing shall constitute contempt of court.

SO ORDERED.

After a careful examination of the records, the Court was convinced that the Court of Appeals correctly found sufficient evidence proving that the soldiers of the 17<sup>th</sup> Infantry Battalion, 5<sup>th</sup> Infantry Division of the military abducted petitioner Rodriguez on 6 September 2009, and detained and tortured him until 17 September 2009.

Pursuant to the Decision ordering the Office of the Ombudsman to take further action, Ombudsman Conchita Carpio Morales sent this Court a letter dated 23 May 2012, requesting an additional two-month period, or until 24 July 2012, within which to submit a report. The Ombudsman stated that Noriel Rodriguez (Rodriguez) and his family refused to cooperate with the investigation for security reasons.

On 6 January 2012, respondents filed their Motion for Reconsideration,<sup>[1]</sup> arguing that the soldiers belonging to the 17<sup>th</sup> Infantry Battalion, 5<sup>th</sup> Infantry Division of the military cannot be held accountable for authoring the abduction and torture of petitioner. Their arguments revolve solely on the claim that respondents were never specifically mentioned by name as having performed, permitted, condoned, authorized, or allowed the commission of any act or incurrance omission which would violate or threaten with violation the rights to life, liberty, and security of petitioner-respondent and his family.<sup>[2]</sup>

On 18 January 2013, the Ombudsman submitted the Investigation Report, as compliance with the Court's directive to take appropriate action with respect to possible liabilities respondents may have incurred. The exhaustive report detailed the steps taken by the Field Investigation Office (FIO) of the Office of the Ombudsman, concluding that no criminal, civil, or administrative liabilities may be imputed to the respondents. It was reflected therein that the lawyers for the Rodriguezes had manifested to the FIO that the latter are hesitant to appear before them for security reasons, viz:

*Karapatan* (a non-governmental organization that provides legal assistance to victims of human rights violations and their families) could not locate Noriel and Rodel. As of this writing, the Rodriguezes refused to participate in the present fact-finding investigation 'for security reasons.' Atty. Yambot disclosed (through a Manifestation dated March 30, 2012 that despite efforts to convince Noriel to participate in the present proceedings, the latter 'remains unconvinced and unwilling to this date.'

Recent information, however, revealed that Noriel and his family are no longer interested in participating in the present case.

Instead of appearing before this Office for a conference under oath, SPO1 Robert B. Molina submitted an Affidavit dated June 13, 2012 stating that on September 15, 2009, at around 11:00 o'clock in the morning, Wilma H. Rodriguez appeared before the Gonzaga Police Station and requested to enter into the blotter that her son, Noriel, was allegedly missing in Sitio Comunal, Gonzaga, Cagayan. Thereupon, he gathered information relative to Wilma's report "but the community residence failed to reveal anything".<sup>[3]</sup>

The other accounts – specifically that of respondent Antonino C. Cruz, Special Investigator II of the Commission on Human Rights (CHR), as well as the claims of respondents Mina and De Vera that they had disclosed to the CHR that Noriel had become an agent ("asset") of the 17<sup>th</sup> Infantry Battalion – have been thoroughly evaluated and ruled upon in our Decision. The OMB further laments, "If only he (Noriel) could be asked to verify the circumstances under which he executed these subsequent affidavits, his inconsistent claims will finally be settled," and that "(I)f there is one person who can attest on whether detention and torture were indeed committed by any of the Subjects herein, it is Noriel Rodriguez himself, the supposed victim."<sup>[4]</sup>

The purported unwillingness of the petitioner to appear or participate at this stage of the proceedings due to security reasons does not affect the rationale of the writ granted by the CA, as affirmed by this Court. In any case, the issue of the existence of criminal, civil, or administrative liability which may be imputed to the respondents is not the province of amparo proceedings -- rather, the writ serves both preventive and curative roles in addressing the problem of extrajudicial killings and enforced disappearances. It is preventive in that it breaks the expectation of impunity in the commission of these offenses, and it is curative in that it facilitates the subsequent punishment of perpetrators by inevitably leading to subsequent investigation and action.<sup>[5]</sup> In this case then, the thrust of ensuring that investigations are conducted and the rights to life, liberty, and security of the petitioner, remains.

### **We deny the motion for reconsideration.**

The writ of amparo partakes of a summary proceeding that requires only substantial evidence to make the appropriate interim and permanent reliefs available to the petitioner. As explained in the Decision, it is not an action to determine criminal guilt requiring proof beyond reasonable doubt, or liability for damages requiring preponderance of evidence, or even administrative responsibility requiring substantial evidence. The totality of evidence as a standard for the grant of the writ was correctly applied by this Court, as first laid down in *Razon v. Tagitis*:

The fair and proper rule, to our mind, is to ***consider all the pieces of evidence adduced in their totality***, and to consider any evidence otherwise inadmissible under our usual rules to be admissible if it is consistent with the admissible evidence adduced. In other words, ***we reduce our rules to the most basic test of reason*** – i.e., to the