

## FIRST DIVISION

[ A.M. No. RTJ-99-1510, November 06, 2000 ]

**COMMISSIONER RUFUS B. RODRIGUEZ, COMPLAINANT, VS.  
JUDGE RODOLFO R. BONIFACIO, RTC, BRANCH 151, PASIG CITY,  
RESPONDENT.**

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

**YNARES-SANTIAGO, J.:**

For allegedly granting improvidently a petition for *Habeas Corpus* in Special Proceeding No. 10931<sup>[1]</sup> entitled "*In the Matter of the Petition for Habeas Corpus of Ma Jing,*" respondent was charged in a verified complaint<sup>[2]</sup> with Violation of the Code of Judicial Conduct, Grave Misconduct, Gross Ignorance of the Law, Gross Incompetence, Gross Inefficiency and Knowingly Rendering An Unjust Judgment relative to the above-mentioned case.

The Office of the Court Administrator (OCA) referred the verified complaint to respondent judge for his comment thereon within ten (10) days from notice.

On July 30, 1999, respondent judge filed his comment<sup>[3]</sup> denying the charges against him and prayed for the dismissal of the case against him "for utter lack of merit."<sup>[4]</sup>

The case was subsequently referred to the OCA for evaluation, report and recommendation. In an evaluation report dated September 21, 1999,<sup>[5]</sup> the OCA recommended the dismissal of the administrative complaint against respondent judge for being *sub judice*, pointing out that the issues therein are the same as those pending resolution by the Court of Appeals in CA-G.R. SP No. 53425 entitled "*Rufus B. Rodriguez v. Hon. Rodolfo R. Bonifacio, et al.*"

The Court of Appeals subsequently promulgated a Decision in CA-G.R. SP No. 53425 dated May 4, 2000<sup>[6]</sup> setting aside for lack of legal basis the assailed Order of respondent Judge dated June 24, 1999 which found herein complainant guilty of indirect contempt.

In the meantime, in a Resolution dated November 24, 1999,<sup>[7]</sup> the Court resolved to: 1.] docket the case as a regular administrative proceeding; and 2.] refer the case to Court of Appeals Associate Justice Conchita Carpio-Morales for investigation, report and recommendation within ninety (90) days from notice.

In compliance with the foregoing directive, Justice Morales submitted a Report summarizing the factual antecedents of the case thus:

On May 7, 1999 at about 11 p.m., the National Bureau of Investigation (NBI) in coordination with the Department of Labor and Employment (DOLE) and the Bureau of Immigration (BI) conducted simultaneous raids at the Royal Flame Club, Space World and Narcissus Club which are all located in Ermita, Manila as a result of which 20 female Chinese nationals were caught "in the act of entertaining customers and guests."

No Alien Employment Permits or Alien Employment Registration Certificates having been presented by these nationals, they were turned over to the BI for custody and verification of their alien status. They were thereupon confined at the BI Detention Center at Camp Bagong Diwa, Taguig, Metro Manila on May 8, 1999.

On May 17, 1999, Chinese National Ma Jing, one of the 20 apprehended Chinese, filed a petition for habeas corpus at the Pasig Regional Trial Court (RTC) which was raffled to Branch 151 thereof.

The caption of the petition did not name any respondent but it alleged as follows:

x x x  
x

x x

x x x

2. On or about 07 May 1999 at about 10:00 o'clock in the evening, petitioner, a temporary visitor in the Philippines from the People's Republic of China, was taken from a nightclub (Royal Flame) in Metro Manila by individuals who represented themselves as Agents of the National Bureau of Investigation (NBI), Bureau of Immigration and Deportation (BID) and/or Department of Labor and Employment (DOLE) and since then confined, restrained and deprived her of her liberty and [is] now confined at the BID Detention Center, Camp Bagong Diwa, Taguig, Metro Manila.

3. In spite of the fact that petitioner has been confined from then on, to date, no formal complaint or accusation for any specific offenses has been filed against her nor any judicial writ or order for her commitment has at any time been issued so far.

4. According to reliable information, the petitioner is now being unlawfully detained and deprived of her liberty by the **Warden and/or Chief of the BID Detention Center**, at Camp Bagong Diwa, Bicutan, Tagig, Metro Manila at the behest of the **Chief of a special operation unit of the NBI** combined with BID and DOLE **agents** and whose office is at NBI, NBI Bldg., Taft Ave., Manila. (emphasis and underscoring supplied)

Acting Presiding Judge Rodolfo Bonifacio of Branch 151 of the Pasig RTC issued a writ.

On May 21, 1999, Atty. Rommel J. de Leon, Technical Assistant, Commissioner's Office, BI, submitted a RETURN OF THE WRIT alleging, *inter alia*:

x x x

x x

x

x x x

4. That an investigation was conducted by Special Prosecutor Ramoncito L. Tolentino by (*sic*) the Bureau of Immigration;

5. That during the said investigation the subject foreign nationals including the petitioner failed to produce any travel documents while the National Bureau of Investigation showed their Affidavit of Arrest, pictures taken at Royal Flame Club and other evidences in support of their claim, copy of said Affidavit of Arrest and pictures are attached hereto as Annexes B and C respectively;

6. That on May 13, 1999, Special Prosecutor Ramon L. Tolentino issued a Charge Sheet charging said alien for violation of Section 37 (a) [7] of the Philippine Immigration Act of 1940, as amended, a copy of the charge sheet is attached hereto as Annex D;

7. That during the hearing at the Bureau of Immigration on May 20, 1999, the Counsel for petitioner and a certain Willy Ang manifested that the petitioner together with her companion are going to submit [an] application for Voluntary Deportation;

8. That based on the foregoing premises it is crystal clear that the petitioner is lawfully detained by the Bureau of Immigration; and

9. That *moreso (sic)*, if ever the petitioner would submit an application for Voluntary Deportation as manifested by his Counsel Atty. San Pedro and their representative Mr. Willy Ang this petition would already be moot and academic.

After conducting a hearing on the petition for *habeas corpus*, Judge Bonifacio, by Order of May 27, 1999, held:

x x x

x x

x

x x x

Upon due inquiry, the Court finds that the petitioner is not really an undocumented alien as she has a valid PROC passport No. 1437777 and Visa No. 1201 issued by the Philippine Embassy on March 18, 1999. Her stay in the Philippines has been duly extended up to June 30, 1999 under

O.R. No. M 7922945. The Charge Sheet, however, remains as a mere accusation, i.e. that petitioner is a mere suspect, working as a Guest Relation Officer at the Royal Flame Club without securing the necessary working permit/visa from the Bureau of Immigration. She was not notified though of the charges against her nor was she afforded due process. No commitment order was issued by the Commissioner of Immigration or any competent authority to justify her continued detention.

x x x  
x

x x  
x x x

In *Dramayo*, the Supreme Court has ruled categorically that accusation is not synonymous with guilt. The strongest suspicion must not be permitted to sway judgment (*People vs. Austria*, 195 SCRA 700). The illegal arrest of petitioner without warrant of arrest or seizure on 07 May 1999 and arbitrary detention, to date, is not remedied by the supposed filing in a Charge Sheet dated 13 May 1999 but assumably filed only on 14 May 1999. Petitioner had been detained without any valid charge from 07 May 1999 to 14 May 1999. The filing of the Charge Sheet did not (*sic*) the illegal detention of the petitioner. xxx

Accordingly the said Order of May 27, 1999 disposed:

IN THE LIGHT OF THE FOREGOING, the Court finds no cogent reason to hold petitioner under continued detention so that Ma Jing's immediate release is hereby ordered, unless otherwise held on a different case and/or valid judicial process.

The following day, May 28, 1999 "respondent Bureau of Immigration ... by counsel Atty. Rommel J. de Leon, Technical Assistant, Commissioner's Office" filed a Motion for Reconsideration of the May 27, 1999 [Order].

On May 31, 1999, Ma Jing not having been released from detention, filed a "Motion to Declare Parties Guilty of Contempt" naming BI Commissioner Rufus B. Rodriguez, Atty. de Leon, BI Detention Center Warden Enrico R. Paner and BI employees Mar Novales and Richie Galvadores as contemnors.

By Order of June 15, 1999, Judge Bonifacio denied the BI's Motion for Reconsideration of the Order of May 27, 1999 and directed BI Commissioner Rodriguez and his co-respondents in the Motion to hold them in contempt of court for failure to obey the Order of May 27, 1999.

In the same Order of June 15, 1999, Judge Bonifacio ordered Commissioner Rodriguez and co-respondents to immediately release Ma Jing in accordance with his May 27, 1999 Order.

Also on June 15, 1999, the BI issued a summary deportation order to Ma

Jing who refused to receive it.

The following day or on June 16, 1999, the BI filed at Branch 151 of the RTC Pasig a Notice of Appeal (to the Court of Appeals) of the May 27, 1999 Order and the June 15, 1999 Order.

On June 18, 1999, Commissioner Rodriguez and his co-respondents, in compliance with the show cause order, filed an Explanation dated June 17, 1999 stating, *inter alia*, that they were never ordered in the May 17, 1999 Order to release Ma Jing; that except for Commissioner Rodriguez, the other respondents had no authority to release Ma Jing from the Detention Center; "that the contempt proceedings in the case at bar was not initiated by the Court *motu proprio*, hence, the indirect contempt should be commenced by a verified petition and not by merely filing a Motion as was done in the instant case," following Sec. 4 of Rule 71 of the 1997 Rules of Civil Procedure which they therein quoted; and that the Motion for Reconsideration of the May 17, 1999 Order stayed the execution thereof as did the Notice of Appeal (filed on June 17, 1999) of the same order.

In the meantime, the other Chinese nationals' petitions for voluntary deportation were, by separate orders, granted by the BI.

By June 24, 1999, Judge Bonifacio found Commissioner Rodriguez and co-respondents guilty of indirect contempt and ordered their arrest and detention at the Pasig City jail until they have complied with the Order dated May 27, 1999 in the light of the following disquisition:

xxx proceedings in *habeas corpus* are separate and distinct from any deportation proceedings taking place at the Bureau of Immigration and Deportation. They (*habeas corpus* proceedings) rarely, if ever, touch the merits of the deportation case and require no pronouncement with respect thereto.

In its May 27, 1999 Order, this Court ordered the immediate release of petitioner Ma Jing, principally upon the following reasons: (i) the petitioner was unlawfully arrested without any warrant of arrest and, thereafter, arbitrarily detained, in disregard of her rights, even as an alien, to due process of law; and (ii) a warrant of arrest issued by the Commissioner of the Bureau of Immigration, to be valid, must be for the sole purpose of executing a final order of deportation.

x x x  
x

x x  
x x x

1. It is not correct to say that the May 27, 1999 Order should not be obeyed because it did not specifically direct Hon. Rufus D (*sic*) Rodriguez, P/Supt. Angelito O. Tan, Mar Navales and Richie Galvadores as the persons who should obey the said Order.