

EN BANC

[G.R. No. 230324, September 19, 2017]

**LORIE MARIE TOMAS CALLO, PETITIONER, VS. COMMISSIONER
JAIME H. MORENTE, BUREAU OF IMMIGRATION, OIC
ASSOCIATES COMMISSIONERS, BUREAU OF IMMIGRATION, AND
BRIAN ALAS, BUREAU OF IMMIGRATION, RESPONDENTS.**

D E C I S I O N

CARPIO, ACTING C.J.: **

The Case

This is a petition for a writ of *amparo* (with Prayer to Issue Interim Reliefs of Immediate Release of Danielle Tan Parker from Detention) under A.M. No. 07-9-12-SC (The Rule on the Writ of *Amparo*). Petitioner Lorie Marie Tomas Callo (Callo) seeks the immediate release of Danielle Tan Parker from the Immigration Detention Facility, Camp Bagong Diwa in Bicutan, Taguig City.

The Facts

Danielle Tan Parker (Parker) is a holder of Philippine Passport No. XX5678508 issued by the Department of Foreign Affairs (DFA) on 5 March 2010 and valid until 4 March 2015.

On 15 January 2013, Parker was charged for deportation for being an undesirable, undocumented, and overstaying alien, in violation of Section 37(a)(7) of the Philippine Immigration Act of 1940, as amended, in relation to Rule XVI, Office Memorandum No. ADD-01-004. It was alleged that Danielle Nopuente was a fugitive from justice in the United States of America with an outstanding arrest warrant issued against her. Subsequently, on 24 January 2013, a Summary Deportation Order (SDO) was issued against *Danielle Nopuente*, also known as *Isabelita Nopuente* and *Danielle Tan Parker*, upon verification that she arrived in the Philippines on 23 March 2011 under the Balikbayan Program, with an authorized stay of a period of one year. Parker was not in the list of approved applications of the DFA for dual citizenship and her American Passport had been revoked by the United States Department of State. Thus, she was considered an undocumented, undesirable, and overstaying alien, in violation of the Philippine Immigration Act of 1940.

On 5 June 2014, pursuant to the SDO issued by the Bureau of Immigration, Parker was arrested in Tagaytay City on the premise that Danielle Nopuente and Danielle Tan Parker are one and the same person. She was then taken to the Immigration Detention Facility in Bicutan, Taguig City. She is still currently detained in the Immigration Detention Facility as the deportation was not carried out due to the fact that Parker is charged with falsification and use of falsified documents before Branch

4, Municipal Trial Court in Cities, Davao City.

On 12 September 2014, Parker, as petitioner, filed a Petition for *Habeas Corpus* before Branch 266, Regional Trial Court (RTC) of Pasig City. The Bureau of Immigration was able to produce the body of Parker before the RTC. The Bureau of Immigration then alleged that as the SDO had become final and executory, it served as the legal authority to detain Parker. The Bureau of Immigration also argued that Parker cannot be released or deported without the final disposition of her pending criminal case in Davao City.

The RTC dismissed the petition, finding that the detention of Parker was legal.^[1] Parker then appealed the case to the Court of Appeals (CA). The CA affirmed the RTC and found that Parker failed to prove that she was a Filipino citizen to warrant judicial intervention through *habeas corpus*.^[2] The CA gave weight to the Certification dated 20 June 2015 issued by the Office of the Consular Affairs of the DFA that there is "no available data" regarding any record/information from the year 1990 onwards of Philippine Passport No. XX5678508. Parker no longer appealed the denial of the issuance of the writ of *habeas corpus* and the decision of the CA became final and executory on 5 January 2016.^[3]

On 23 March 2017, Callo filed this petition for a writ of *amparo* with prayer to issue Interim Reliefs of Immediate Release of Danielle Tan Parker from Detention. Callo argues that Parker is a natural-born Filipino citizen and thus, there is no reason for her to be detained by the Bureau of Immigration.

The Issue

The only issue in this case is whether or not the right to life, liberty, and security of Parker is threatened by the respondents to warrant the issuance of the writ of *amparo* and subsequently the award of the interim reliefs.

The Ruling of the Court

The petition has no merit.

Callo seeks the issuance of the writ of *amparo* and the interim reliefs available under A.M. No. 07-9-12-SC for the immediate release of Parker. Callo alleges that Parker is a natural-born Filipino citizen and thus should not have been detained by the Bureau of Immigration. Moreover, Callo alleges that the life of Parker is endangered in the detention center; and thus, a writ of *amparo* with the interim reliefs prayed for should be issued by this Court.

We disagree.

The protective writ of *amparo* is a judicial remedy to expeditiously provide relief to violations of a person's constitutional right to life, liberty, and security, and more specifically, to address the problem of extralegal killings and enforced disappearances or threats thereof. Section 1 of A.M. No. 07-9-12-SC provides:

Sec. 1. Petition. - The petition for a writ of *amparo* is a remedy available to any person whose right to life, liberty and security is violated or

threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.

The writ shall cover **extralegal killings** and **enforced disappearances** or **threats** thereof. (Emphasis supplied)

It is clear from the above-quoted provision that the writ of *amparo* covers extralegal killings and enforced disappearances or threats thereof.^[4] Enforced disappearance is defined under Republic Act (RA) No. 9851,^[5] Section 3(g) of which provides:

(g) "Enforced or involuntary disappearance of persons" means the arrest, detention, or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing from the protection of the law for a prolonged period of time.

This Court also had the opportunity to define extralegal killings and enforced disappearance:

Extralegal killings are killings committed without due process of law, without legal safeguards or judicial proceedings. On the other hand, enforced disappearance has been defined by the Court as the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.^[6]

In *Navia v. Pardico*,^[7] this Court clarified that with the enactment of RA No. 9851, the Rule on the Writ of Amparo is now a procedural law anchored, not only on the constitutional right to life, liberty, and security, but also on a concrete statutory definition of "enforced or involuntary disappearance." Further, elements constituting enforced disappearance as defined under RA No. 9851 were clearly laid down by this Court, *viz*:

- (a) that there be an arrest, detention, abduction or any form of deprivation of liberty;
- (b) that it be carried out by, or with the authorization, support or acquiescence of, the State or a political organization;
- (c) that it be followed by the State or political organization's refusal to acknowledge or give information on the fate or whereabouts of the person subject of the *amparo* petition; and,
- (d) that the intention for such refusal is to remove subject person from the protection of the law for a prolonged period of time.^[8]

It is clear that the elements of enforced disappearance are not attendant in this case. There is also no threat of such enforced disappearance. While there is indeed a detention carried out by the State through the Bureau of Immigration, the third and fourth elements are not present. There is no refusal to acknowledge the deprivation of freedom or refusal to give information on the whereabouts of Parker because as