

EN BANC

[G.R. No. 191805, November 15, 2011]

IN THE MATTER OF THE PETITION FOR THE WRIT OF AMPARO AND HABEAS DATA IN FAVOR OF NORIEL H. RODRIGUEZ, NORIEL H. 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 H. 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.

DECISION

SERENO, J.:

Before this Court are two consolidated cases, namely, (1) Petition for Partial Review on Certiorari dated 20 April 2010 (G.R. No. 191805), and (2) Petition for Review on Certiorari dated 19 August 2010 (G.R. No. 193160).^[1] Both Petitions assail the 12 April 2010 Decision of the Court of Appeals, the dispositive portion of which reads:

WHEREFORE, the petition for writ of amparo and writ of habeas data is **GRANTED**.

Respondents Gen. Victor S. Ibrado, Lt. Gen. Delfin Bangit, Maj. Gen. Nestor Z. Ochoa, PCSupt. Ameto G. Tolentino, PSSupt. Jude W. Santos, Col. Remigio M. De Vera, Lt. Col. Laurence E. Mina and 1Lt. Ryan S. Matutina, or their replacements in their official posts if they have already vacated the same, are ORDERED to furnish this Court within five (5) days from notice of this decision, official or unofficial reports pertaining to petitioner – covering but not limited to intelligence reports, operation reports and provost marshal reports prior to, during and subsequent to September 6, 2009 – made by the 5th Infantry Division, Philippine Army, its branches and subsidiaries, including the 17th Infantry Battalion,

Philippine Army.

The above-named respondents are also **DIRECTED** to refrain from using the said reports in any transaction or operation of the military. Necessarily, the afore-named respondents are **ORDERED** to expunge from the records of the military all documents having any reference to petitioner.

Likewise, the afore-named respondents, as well as respondents Police Director General Jesus Ame Versoza, Antonio Cruz, Aldwin Pasicolan and Vicente Callagan are **DIRECTED** to ensure that no further violation of petitioner's rights to life, liberty and security is committed against the latter or any member of his family.

The petition is **DISMISSED** with respect to President Gloria Macapagal-Arroyo on account of her presidential immunity from suit. Similarly, the petition is **DISMISSED** with respect to respondents Calog and George Palacpac or Harry for lack of merit.

Petitioner's prayer for issuance of a temporary protection order and inspection order is **DENIED**.

Noriel Rodriguez (Rodriguez) is petitioner in G.R. No. 191805 and respondent in G.R. No. 193160. He is a member of *Alyansa Dagiti Mannalon Iti Cagayan (Kagimungan)*, a peasant organization affiliated with *Kilusang Magbubukid ng Pilipinas (KMP)*.

On the other hand, Gloria Macapagal-Arroyo (former President Arroyo), Police Director General (PDG.) Jesus A. Verzosa, Police Senior Superintendent (P/SSupt.) Jude W. Santos, Brigadier General (Brig. Gen.) Remegio M. De Vera, First Lieutenant (1st Lt.) Ryan S. Matutina, Lieutenant Colonel (Lt. Col.) Laurence E. Mina, Antonio C. Cruz (Cruz), Aldwin C. Pasicolan (Pasicolan) and Vicente A. Callagan (Callagan) are respondents in G.R. No. 191805 and petitioners in G.R. No. 193160. At the time the events relevant to the present Petitions occurred, former President Arroyo was the President of the Philippines. PDG. Verzosa, P/SSupt. Santos, Brig. Gen. De Vera, 1st Lt. Matutina and Lt. Col. Mina were officers of the Philippine National Police (PNP). Cruz, Pasicolan and Callagan were Special Investigators of the Commission on Human Rights (CHR) in Region II.

Antecedent Facts

Rodriguez claims that the military tagged KMP as an enemy of the State under the Oplan Bantay Laya, making its members targets of extrajudicial killings and enforced disappearances.^[2]

On 6 September 2009, at 5:00 p.m., Rodriguez had just reached Barangay Tapel, Cagayan onboard a tricycle driven by Hermie Antonio Carlos (Carlos), when four men forcibly took him and forced him into a car. Inside the vehicle were several men in civilian clothes, one of whom was holding a .45 caliber pistol. Subsequently, three more persons arrived, and one of them carried a gun at his side. Two men boarded the car, while the others rode on the tricycle.^[3]

The men tied the hands of Rodriguez, ordered him to lie on his stomach, sat on his back and started punching him. The car travelled towards the direction of Sta. Teresita-Mission and moved around the area until about 2:00 a.m. During the drive, the men forced Rodriguez to confess to being a member of the New People's Army (NPA), but he remained silent. The car then entered a place that appeared to be a military camp. There were soldiers all over the area, and there was a banner with the word "Bravo" written on it. Rodriguez later on learned that the camp belonged to the 17th Infantry Battalion of the Philippine Army.^[4]

Rodriguez was brought to a canteen, where six men confronted him, ordering him to confess to his membership in the NPA. Due to his exhaustion, he unintentionally fell asleep. As a result, the men hit him on the head to wake him up. After the interrogation, two of the men guarded him, but did not allow him to sleep.^[5]

In the morning of 7 September 2009, the men tied the hands of Rodriguez, blindfolded him and made him board a vehicle. While they were in transit, the soldiers repeatedly hit him in the head and threatened to kill him. When the car stopped after about ten minutes, the soldiers brought him to a room, removed his blindfold, and forced him to confess to being a member of the NPA. During the interrogation, the soldiers repeatedly hit him on the head. Thereafter, he was detained inside the room for the entire day. The soldiers tied his stomach to a *papag*, and gave him rice and viand. Fearing that the food might be poisoned, he refused to eat anything. He slept on the *papag* while being tied to it at the waist.^[6]

On 8 September 2009, the men forced Rodriguez into a vehicle, which brought them to Bugey and Mission. While passing houses along the way, the men asked him if his contacts lived in those houses. When he failed to answer, a soldier pointed a gun to his head and threatened to kill him and his family. Because he remained silent, the soldiers beat him and tied him up. The vehicle returned to the military camp at past 1:00 p.m., where he was again subjected to tactical interrogation about the location of an NPA camp and his alleged NPA comrades. He suffered incessant mauling every time he failed to answer.^[7]

At dawn on 9 September 2009, soldiers armed with rifles took Rodriguez and made him their guide on their way to an NPA camp in Birao. Accompanying them was a man named Harry, who, according to the soldiers, was an NPA member who had surrendered to the military. Harry pointed to Rodriguez and called him a member of the NPA. He also heard Harry tell the soldiers that the latter knew the area well and was acquainted with a man named Elvis. The soldiers loaded Rodriguez into a military truck and drove to Tabbak, Bugey. While he was walking with the soldiers, he noticed a soldier with the name tag "Matutina," who appeared to be an official because the other soldiers addressed him as "sir."^[8]

Upon reaching Birao on foot, the soldiers looked for and was able to locate a certain Elvis and told him that Rodriguez had identified his whereabouts location. The soldiers forced Rodriguez to convince Elvis to disclose the location of the NPA camp. They brought the two to the mountains, where both were threatened with death. When the soldiers punched Elvis, Rodriguez told them that he would reveal the location of the NPA camp if they let Elvis go home. They finally released Elvis around 3:00 p.m. that day. The soldiers and Rodriguez spent the next three nights in the

mountains.^[9]

On 12 September 2009, the soldiers again hit Rodriguez and forced him to identify the location of the NPA camp. He was blindfolded and warned to get ready because they would beat him up again in the military camp. Upon arrival therein, they brought him to the same room where he had first been detained, and two soldiers mauled him again. They repeatedly punched and kicked him. In the afternoon, they let him rest and gave him an Alaxan tablet. Thereafter, he fell asleep due to over-fatigue and extreme body pain. The soldiers, however, hit him again. After giving him a pen and a piece of paper, they ordered him to write down his request for rice from the people. When he refused, the soldiers maltreated him once more.^[10]

On 13 September 2009, the soldiers forced Rodriguez to sign documents declaring that he had surrendered in an encounter in Cumao, and

that the soldiers did not shoot him because he became a military asset in May. When he refused to sign the document, he received another beating. Thus, he was compelled to sign, but did so using a different signature to show that he was merely coerced.^[11]

The soldiers showed Rodriguez photographs of different persons and asked him if he knew the men appearing therein. When he told them that he did not recognize the individuals on the photos, the soldiers instructed him to write down the name of his school and organization, but he declined. The soldiers then wrote something on the paper, making it appear that he was the one who had written it, and forced him to sign the document. The soldiers took photographs of him while he was signing. Afterwards, the soldiers forced him down, held his hands, and sat on his feet. He did not only receive another beating, but was also electrocuted. The torture lasted for about an hour.^[12]

At 11:00 p.m. on 15 September 2009, the soldiers brought Rodriguez to a military operation in the mountains, where he saw Matutina again. They all spent the night there.^[13]

In the morning of 16 September 2009, the soldiers and Rodriguez started their descent. When they stopped, the soldiers took his photograph and asked him to name the location of the NPA camp. Thereafter, they all returned to the military camp. The soldiers asked him to take a bath and wear a white polo shirt handed to him. He was then brought to the Enrile Medical Center, where Dr. Juliet Ramil (Dr. Ramil) examined him.^[14] When the doctor asked him why he had bruises and contusions, he lied and told her that he sustained them when he slipped, as he noticed a soldier observing him. Dr. Ramil's medical certificate indicated that he suffered from four hematomas in the epigastric area, chest and sternum.^[15]

Back at the camp, the soldiers let Rodriguez eat with several military officials and took pictures of him while he was eating with them. They also asked him to point to a map in front of him and again took his photograph. Later, they told him that he would finally see his mother. ^[16]

Rodriguez was brought to another military camp, where he was ordered to sign a

piece of paper stating that he was a surrenderee and was never beaten up. Scared and desperate to end his ordeal, he signed the paper and was warned not to report anything to the media.^[17]

Around 6:00 a.m. on 17 September 2009, the soldiers instructed petitioner to take a bath. They gave him a pair of jeans and perfume. While he was having breakfast, the two soldiers guarding him repeatedly reminded him not to disclose to the media his experience in the camp and to say instead that he had surrendered to the military.^[18]

At 9:00 a.m. on the same day, the mother and the brother of Rodriguez arrived surrounded by several men. His mother, Wilma Rodriguez (Wilma), talked to Lt. Col. Mina. Rodriguez heard one of the soldiers tell Wilma that he had surrendered to the military and had long been its asset. His brother, Rodel Rodriguez (Rodel), informed him that the men accompanying them were from the CHR, namely, Pasicolan, Cruz and Callagan. Upon seeing Rodriguez, Cruz instructed him to lift up his shirt, and one of the CHR employees took photographs of his bruises.^[19]

A soldier tried to convince Wilma to let Rodriguez stay in the camp for another two weeks to supposedly prevent the NPA from taking revenge on him. Respondent Calog also approached Rodriguez and Rodel and asked them to become military assets. Rodel refused and insisted that they take Rodriguez home to Manila. Again, the soldiers reminded them to refrain from facing the media. The soldiers also told them that the latter will be taken to the Tuguegarao Airport and guarded until they reached home.^[20]

Rodriguez and his family missed their flight. Subsequently, the soldiers accompanied them to the CHR office, where Rodriguez was made to sign an affidavit stating that he was neither abducted nor tortured. Afraid and desperate to return home, he was forced to sign the document. Cruz advised him not to file a case against his abductors because they had already freed him. The CHR personnel then led him and his family to the CHR Toyota Tamaraw FX service vehicle. He noticed that a vehicle with soldiers on board followed them.^[21]

The Tamaraw FX pulled over and respondent 1st Lt. Matutina boarded the vehicle. Upon reaching a mall in Isabela, Rodriguez, his family, Callagan, 1st Lt. Matutina and two other soldiers transferred to an orange Toyota Revo with plate number WTG 579. Upon reaching the boundary of Nueva Ecija and Nueva Viscaya, 1st Lt. Matutina alighted and called Rodriguez to a diner. A certain Alan approached Rodriguez and handed him a cellphone with a SIM card. The latter and his family then left and resumed their journey back home.^[22]

Rodriguez reached his house in Sta. Ana, Manila at 3:00 a.m. on 18 September 2010. Callagan and two soldiers went inside the house, and took photographs and a video footage thereof. The soldiers explained that the photos and videos would serve as evidence of the fact that Rodriguez and his family were able to arrive home safely. Despite Rodriguez's efforts to confront the soldiers about their acts, they still continued and only left thirty minutes later.^[23]

On 19 September 2009, Dr. Reginaldo Pamugas, a physician trained by the