

## EN BANC

[ G.R. No. 189155, September 07, 2010 ]

**IN THE MATTER OF THE PETITION FOR THE WRIT OF *AMPARO*  
AND THE WRIT OF HABEAS DATA IN FAVOR OF MELISSA C.  
ROXAS, MELISSA C. ROXAS, PETITIONER, VS. GLORIA  
MACAPAGAL-ARROYO, GILBERT TEODORO, GEN. VICTOR S.  
IBRADO, P/DIR. GEN. JESUS AME VERZOSA, LT. GEN. DELFIN N.  
BANGIT, PC/SUPT. LEON NILO A. DELA CRUZ, MAJ. GEN. RALPH  
VILLANUEVA, PS/SUPT. RUDY GAMIDO LACADIN, AND CERTAIN  
PERSONS WHO GO BY THE NAME[S] DEX, RC AND ROSE,  
RESPONDENTS.**

### D E C I S I O N

**PEREZ, J.:**

At bench is a Petition For Review on *Certiorari*<sup>[1]</sup> assailing the Decision<sup>[2]</sup> dated 26 August 2009 of the Court of Appeals in CA-G.R. SP No. 00036-WRA -- a petition that was commenced jointly under the Rules on the Writ of *Amparo* (*Amparo* Rule) and *Habeas Data* (*Habeas Data* Rule). In its decision, the Court of Appeals extended to the petitioner, Melissa C. Roxas, the privilege of the writs of *amparo* and *habeas data* but denied the latter's prayers for an inspection order, production order and return of specified personal belongings. The *fallo* of the decision reads:

**WHEREFORE**, the Petition is PARTIALLY MERITORIOUS. This Court hereby grants Petitioner the privilege of the Writ of Amparo and Habeas Data.

Accordingly, Respondents are enjoined to refrain from distributing or causing the distribution to the public of any records in whatever form, reports, documents or similar papers relative to Petitioner's Melissa C. Roxas, and/or Melissa Roxas; alleged ties to the CPP-NPA or pertinently related to the complained incident. Petitioner's prayers for an inspection order, production order and for the return of the specified personal belongings are denied for lack of merit. Although there is no evidence that Respondents are responsible for the abduction, detention or torture of the Petitioner, said Respondents pursuant to their legally mandated duties are, nonetheless, ordered to continue/complete the investigation of this incident with the end in view of prosecuting those who are responsible. Respondents are also ordered to provide protection to the Petitioner and her family while in the Philippines against any and all forms of harassment, intimidation and coercion as may be relevant to the grant of these reliefs.<sup>[3]</sup>

We begin with the petitioner's allegations.

Petitioner is an American citizen of Filipino descent.<sup>[4]</sup> While in the United States, petitioner enrolled in an exposure program to the Philippines with the group *Bagong Alyansang Makabayan*-United States of America (BAYAN-USA) of which she is a member.<sup>[5]</sup> During the course of her immersion, petitioner toured various provinces and towns of Central Luzon and, in April of 2009, she volunteered to join members of BAYAN-Tarlac<sup>[6]</sup> in conducting an initial health survey in La Paz, Tarlac for a future medical mission.<sup>[7]</sup>

In pursuit of her volunteer work, petitioner brought her passport, wallet with Fifteen Thousand Pesos (P15,000.00) in cash, journal, digital camera with memory card, laptop computer, external hard disk, IPOD,<sup>[8]</sup> wristwatch, sphygmomanometer, stethoscope and medicines.<sup>[9]</sup>

After doing survey work on 19 May 2009, petitioner and her companions, Juanito Carabeo (Carabeo) and John Edward Jandoc (Jandoc), decided to rest in the house of one Mr. Jesus Paolo (Mr. Paolo) in *Sitio* Bagong Sikat, *Barangay* Kapanikian, La Paz, Tarlac.<sup>[10]</sup> At around 1:30 in the afternoon, however, petitioner, her companions and Mr. Paolo were startled by the loud sounds of someone banging at the front door and a voice demanding that they open up.<sup>[11]</sup>

Suddenly, fifteen (15) heavily armed men forcibly opened the door, barged inside and ordered petitioner and her companions to lie on the ground face down.<sup>[12]</sup> The armed men were all in civilian clothes and, with the exception of their leader, were also wearing bonnets to conceal their faces.<sup>[13]</sup>

Petitioner tried to protest the intrusion, but five (5) of the armed men ganged up on her and tied her hands.<sup>[14]</sup> At this juncture, petitioner saw the other armed men herding Carabeo and Jandoc, already blindfolded and taped at their mouths, to a nearby blue van. Petitioner started to shout her name.<sup>[15]</sup> Against her vigorous resistance, the armed men dragged petitioner towards the van--bruising her arms, legs and knees.<sup>[16]</sup> Once inside the van, but before she can be blindfolded, petitioner was able to see the face of one of the armed men sitting beside her.<sup>[17]</sup> The van then sped away.

After about an hour of traveling, the van stopped.<sup>[18]</sup> Petitioner, Carabeo and Jandoc were ordered to alight.<sup>[19]</sup> After she was informed that she is being detained for being a member of the Communist Party of the Philippines-New People's Army (CPP-NPA), petitioner was separated from her companions and was escorted to a room that she believed was a jail cell from the sound of its metal doors.<sup>[20]</sup> From there, she could hear the sounds of gunfire, the noise of planes taking off and landing and some construction bustle.<sup>[21]</sup> She inferred that she was taken to the military camp of Fort Magsaysay in Laur, Nueva Ecija.<sup>[22]</sup>

What followed was five (5) straight days of interrogation coupled with torture.<sup>[23]</sup> The thrust of the interrogations was to convince petitioner to abandon her

communist beliefs in favor of returning to "the fold."<sup>[24]</sup> The torture, on the other hand, consisted of taunting, choking, boxing and suffocating the petitioner.<sup>[25]</sup>

Throughout the entirety of her ordeal, petitioner was made to suffer in blindfolds even in her sleep.<sup>[26]</sup> Petitioner was only relieved of her blindfolds when she was allowed to take a bath, during which she became acquainted with a woman named "Rose" who bathed her.<sup>[27]</sup> There were also a few times when she cheated her blindfold and was able to peek at her surroundings.<sup>[28]</sup>

Despite being deprived of sight, however, petitioner was still able to learn the names of three of her interrogators who introduced themselves to her as "Dex," "James" and "RC."<sup>[29]</sup> "RC" even told petitioner that those who tortured her came from the "*Special Operations Group*," and that she was abducted because her name is included in the "*Order of Battle*."<sup>[30]</sup>

On 25 May 2009, petitioner was finally released and returned to her uncle's house in Quezon City.<sup>[31]</sup> Before being released, however, the abductors gave petitioner a cellular phone with a SIM<sup>[32]</sup> card, a slip of paper containing an e-mail address with password,<sup>[33]</sup> a plastic bag containing biscuits and books,<sup>[34]</sup> the handcuffs used on her, a blouse and a pair of shoes.<sup>[35]</sup> Petitioner was also sternly warned not to report the incident to the group *Karapatan* or something untoward will happen to her and her family.<sup>[36]</sup>

Sometime after her release, petitioner continued to receive calls from RC *via* the cellular phone given to her.<sup>[37]</sup> Out of apprehension that she was being monitored and also fearing for the safety of her family, petitioner threw away the cellular phone with a SIM card.

Seeking sanctuary against the threat of future harm as well as the suppression of any existing government files or records linking her to the communist movement, petitioner filed a *Petition for the Writs of Amparo and Habeas Data* before this Court on 1 June 2009.<sup>[38]</sup> Petitioner impleaded public officials occupying the uppermost echelons of the military and police hierarchy as respondents, on the belief that it was government agents who were behind her abduction and torture. Petitioner likewise included in her suit "Rose," "Dex" and "RC."<sup>[39]</sup>

The *Amparo* and *Habeas Data* petition prays that: (1) respondents be enjoined from harming or even approaching petitioner and her family; (2) an order be issued allowing the inspection of detention areas in the 7<sup>th</sup> Infantry Division, Fort Magsaysay, Laur, Nueva Ecija; (3) respondents be ordered to produce documents relating to any report on the case of petitioner including, but not limited to, intelligence report and operation reports of the 7<sup>th</sup> Infantry Division, the Special Operations Group of the Armed Forces of the Philippines (AFP) and its subsidiaries or branch/es prior to, during and subsequent to 19 May 2009; (4) respondents be ordered to expunge from the records of the respondents any document pertinent or connected to Melissa C. Roxas, Melissa Roxas or any name which sounds the same; and (5) respondents be ordered to return to petitioner her journal, digital camera with memory card, laptop computer, external hard disk, IPOD, wristwatch,

sphygmomanometer, stethoscope, medicines and her P15,000.00 cash.<sup>[40]</sup>

In a Resolution dated 9 June 2009, this Court issued the desired writs and referred the case to the Court of Appeals for hearing, reception of evidence and appropriate action.<sup>[41]</sup> The Resolution also directed the respondents to file their verified written return.<sup>[42]</sup>

On 18 June 2009, the Office of the Solicitor General (OSG), filed a *Return of the Writs*<sup>[43]</sup> on behalf of the public officials impleaded as respondents.

We now turn to the defenses interposed by the public respondents.

The public respondents label petitioner's alleged abduction and torture as "stage managed."<sup>[44]</sup> In support of their accusation, the public respondents principally rely on the statement of Mr. Paolo, as contained in the *Special Report*<sup>[45]</sup> of the La Paz Police Station. In the *Special Report*, Mr. Paolo disclosed that, prior to the purported abduction, petitioner and her companions instructed him and his two sons to avoid leaving the house.<sup>[46]</sup> From this statement, the public respondents drew the distinct possibility that, except for those already inside Mr. Paolo's house, nobody else has any way of knowing where petitioner and her companions were at the time they were supposedly abducted.<sup>[47]</sup> This can only mean, the public respondents concluded, that if ever there was any "abduction" it must necessarily have been planned by, or done with the consent of, the petitioner and her companions themselves.<sup>[48]</sup>

Public respondents also cited the *Medical Certificate*<sup>[49]</sup> of the petitioner, as actually belying her claims that she was subjected to serious torture for five (5) days. The public respondents noted that while the petitioner alleges that she was choked and boxed by her abductors--inflictions that could have easily produced remarkable bruises--her *Medical Certificate* only shows abrasions in her wrists and knee caps.<sup>[50]</sup>

For the public respondents, the above anomalies put in question the very authenticity of petitioner's alleged abduction and torture, more so any military or police involvement therein. Hence, public respondents conclude that the claims of abduction and torture was no more than a charade fabricated by the petitioner to put the government in bad light, and at the same time, bring great media mileage to her and the group that she represents.<sup>[51]</sup>

Nevertheless, even assuming the abduction and torture to be genuine, the public respondents insist on the dismissal of the *Amparo* and *Habeas Data* petition based on the following grounds: (a) as against respondent President Gloria Macapagal-Arroyo, in particular, because of her immunity from suit,<sup>[52]</sup> and (b) as against all of the public respondents, in general, in view of the absence of any specific allegation in the petition that they had participated in, or at least authorized, the commission of such atrocities.<sup>[53]</sup>

Finally, the public respondents posit that they had not been remiss in their duty to ascertain the truth behind the allegations of the petitioner.<sup>[54]</sup> In both the police

and military arms of the government machinery, inquiries were set-up in the following manner:

### *Police Action*

Police authorities first learned of the purported abduction around 4:30 o'clock in the afternoon of 19 May 2009, when *Barangay* Captain Michael M. Manuel came to the La Paz Municipal Police Station to report the presence of heavily armed men somewhere in *Barangay* Kapanikian.<sup>[55]</sup> Acting on the report, the police station launched an initial investigation.<sup>[56]</sup>

The initial investigation revolved around the statement of Mr. Paolo, who informed the investigators of an abduction incident involving three (3) persons--later identified as petitioner Melissa Roxas, Juanito Carabeo and John Edward Jandoc--who were all staying in his house.<sup>[57]</sup> Mr. Paolo disclosed that the abduction occurred around 1:30 o'clock in the afternoon, and was perpetrated by about eight (8) heavily armed men who forced their way inside his house.<sup>[58]</sup> Other witnesses to the abduction also confirmed that the armed men used a dark blue van with an unknown plate number and two (2) Honda XRM motorcycles with no plate numbers.<sup>[59]</sup>

At 5:00 o'clock in the afternoon of 19 May 2009, the investigators sent a Flash Message to the different police stations surrounding La Paz, Tarlac, in an effort to track and locate the van and motorcycles of the suspects. Unfortunately, the effort yielded negative results.<sup>[60]</sup>

On 20 May 2009, the results of the initial investigation were included in a *Special Report*<sup>[61]</sup> that was transmitted to the Tarlac Police Provincial Office, headed by public respondent P/S Supt. Rudy Lacadin (Supt. Lacadin). Public respondent Supt. Lacadin, in turn, informed the Regional Police Office of Region 3 about the abduction.<sup>[62]</sup> Follow-up investigations were, at the same time, pursued.<sup>[63]</sup>

On 26 May 2009, public respondent PC/Supt. Leon Nilo Dela Cruz, as Director of the Regional Police Office for Region 3, caused the creation of Special Investigation Task Group--CAROJAN (Task Group CAROJAN) to conduct an in-depth investigation on the abduction of the petitioner, Carabeo and Jandoc.<sup>[64]</sup>

Task Group CAROJAN started its inquiry by making a series of background examinations on the victims of the purported abduction, in order to reveal the motive behind the abduction and, ultimately, the identity of the perpetrators.<sup>[65]</sup> Task Group CAROJAN also maintained liaisons with *Karapatan* and the Alliance for Advancement of People's Rights--organizations trusted by petitioner--in the hopes of obtaining the latter's participation in the ongoing investigations.<sup>[66]</sup> Unfortunately, the letters sent by the investigators requesting for the availability of the petitioner for inquiries were left unheeded.<sup>[67]</sup>

The progress of the investigations conducted by Task Group CAROJAN had been detailed in the reports<sup>[68]</sup> that it submitted to public respondent General Jesus Ame Verzosa, the Chief of the Philippine National Police. However, as of their latest