

EN BANC

[G.R. No. 148571, September 24, 2002]

**GOVERNMENT OF THE UNITED STATES OF AMERICA,
REPRESENTED BY THE PHILIPPINE DEPARTMENT OF JUSTICE,
PETITIONER, VS. HON. GUILLERMO G. PURGANAN, MORALES,
AND PRESIDING JUDGE, REGIONAL TRIAL COURT OF MANILA,
BRANCH 42; AND MARK B. JIMENEZ A.K.A. MARIO BATACAN
CRESPO, RESPONDENTS.**

DECISION

PANGANIBAN, J.:

In extradition proceedings, are prospective extraditees entitled to notice and hearing before warrants for their arrest can be issued? Equally important, are they entitled to the right to bail and provisional liberty while the extradition proceedings are pending? In general, the answer to these two novel questions is "No." The explanation of and the reasons for, as well as the exceptions to, this rule are laid out in this Decision.

The Case

Before us is a Petition for Certiorari under Rule 65 of the Rules of Court, seeking to void and set aside the Orders dated May 23, 2001^[1] and July 3, 2001^[2] issued by the Regional Trial Court (RTC) of Manila, Branch 42. ^[3] The first assailed Order set for hearing petitioner's application for the issuance of a warrant for the arrest of Respondent Mark B. Jimenez.

The second challenged Order, on the other hand, directed the issuance of a warrant, but at the same time granted bail to Jimenez. The dispositive portion of the Order reads as follows:

"WHEREFORE, in the light of the foregoing, the [Court] finds probable cause against respondent Mark Jimenez. Accordingly let a Warrant for the arrest of the respondent be issued. Consequently and taking into consideration Section 9, Rule 114 of the Revised Rules of Criminal Procedure, this Court fixes the reasonable amount of bail for respondent's temporary liberty at ONE MILLION PESOS (Php 1,000,000.00), the same to be paid in cash.

"Furthermore respondent is directed to immediately surrender to this Court his passport and the Bureau of Immigration and Deportation is likewise directed to include the name of the respondent in its Hold Departure List."^[4]

Essentially, the Petition prays for the lifting of the bail Order, the cancellation of the bond, and the taking of Jimenez into legal custody.

The Facts

This Petition is really a sequel to GR No. 139465 entitled *Secretary of Justice v. Ralph C. Lantion*.^[5]

Pursuant to the existing RP-US Extradition Treaty,^[6] the United States Government, through diplomatic channels, sent to the Philippine Government Note Verbale No. 0522 dated June 16, 1999, supplemented by Note Nos. 0597, 0720 and 0809 and accompanied by duly authenticated documents requesting the extradition of Mark B. Jimenez, also known as Mario Batacan Crespo. Upon receipt of the Notes and documents, the secretary of foreign affairs (SFA) transmitted them to the secretary of justice (SOJ) for appropriate action, pursuant to Section 5 of Presidential Decree (PD) No. 1069, also known as the Extradition Law.

Upon learning of the request for his extradition, Jimenez sought and was granted a Temporary Restraining Order (TRO) by the RTC of Manila, Branch 25.^[7] The TRO prohibited the Department of Justice (DOJ) from filing with the RTC a petition for his extradition. The validity of the TRO was, however, assailed by the SOJ in a Petition before this Court in the said GR No. 139465. Initially, the Court -- by a vote of 9-6 -- dismissed the Petition. The SOJ was ordered to furnish private respondent copies of the extradition request and its supporting papers and to grant the latter a reasonable period within which to file a comment and supporting evidence.^[8]

Acting on the Motion for Reconsideration filed by the SOJ, this Court issued its October 17, 2000 Resolution.^[9] By an identical vote of 9-6 -- after three justices changed their votes -- it reconsidered and reversed its earlier Decision. It held that private respondent was bereft of the right to notice and hearing during the evaluation stage of the extradition process. This Resolution has become final and executory.

Finding no more legal obstacle, the Government of the United States of America, represented by the Philippine DOJ, filed with the RTC on May 18, 2001, the appropriate Petition for Extradition which was docketed as Extradition Case No. 01192061. The Petition alleged, inter alia, that Jimenez was the subject of an arrest warrant issued by the United States District Court for the Southern District of Florida on April 15, 1999. The warrant had been issued in connection with the following charges in Indictment No. 99-00281 CR-SEITZ: (1) conspiracy to defraud the United States and to commit certain offenses in violation of Title 18 US Code Section 371; (2) tax evasion, in violation of Title 26 US Code Section 7201; (3) wire fraud, in violation of Title 18 US Code Sections 1343 and 2; (4) false statements, in violation of Title 18 US Code Sections 1001 and 2; and (5) illegal campaign contributions, in violation of Title 2 US Code Sections 441b, 441f and 437g(d) and Title 18 US Code Section 2. In order to prevent the flight of Jimenez, the Petition prayed for the issuance of an order for his "immediate arrest" pursuant to Section 6 of PD No. 1069.

Before the RTC could act on the Petition, Respondent Jimenez filed before it an "Urgent Manifestation/Ex-Parte Motion,"^[10] which prayed that petitioner's application for an arrest warrant be set for hearing.

In its assailed May 23, 2001 Order, the RTC granted the Motion of Jimenez and set the case for hearing on June 5, 2001. In that hearing, petitioner manifested its reservations on the procedure adopted by the trial court allowing the accused in an extradition case to be heard prior to the issuance of a warrant of arrest.

After the hearing, the court a quo required the parties to submit their respective memoranda. In his Memorandum, Jimenez sought an alternative prayer: that in case a warrant should issue, he be allowed to post bail in the amount of P100,000.

The alternative prayer of Jimenez was also set for hearing on June 15, 2001. Thereafter, the court below issued its questioned July 3, 2001 Order, directing the issuance of a warrant for his arrest and fixing bail for his temporary liberty at one million pesos in cash.^[11] After he had surrendered his passport and posted the required cash bond, Jimenez was granted provisional liberty via the challenged Order dated July 4, 2001.^[12]

Hence, this Petition.^[13]

Issues

Petitioner presents the following issues for the consideration of this Court:

I.

"The public respondent acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction in adopting a procedure of first hearing a potential extraditee before issuing an arrest warrant under Section 6 of PD No. 1069.

II.

"The public respondent acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction in granting the prayer for bail and in allowing Jimenez to go on provisional liberty because:

- '1. An extradition court has no power to authorize bail, in the absence of any law that provides for such power.
- '2. Section 13, Article III (right to bail clause) of the 1987 Philippine Constitution and Section 4, Rule 114 (Bail) of the Rules of Court, as amended, which [were] relied upon, cannot be used as bases for allowing bail in extradition proceedings.
- '3. The presumption is against bail in extradition proceedings or proceedings leading to extradition.

'4. On the assumption that bail is available in extradition proceedings or proceedings leading to extradition, bail is not a matter of right but only of discretion upon clear showing by the applicant of the existence of special circumstances.

'5. Assuming that bail is a matter of discretion in extradition proceedings, the public respondent received no evidence of 'special circumstances' which may justify release on bail.

'6. The risk that Jimenez will flee is high, and no special circumstance exists that will engender a well-founded belief that he will not flee.

'7. The conditions attached to the grant of bail are ineffectual and do not ensure compliance by the Philippines with its obligations under the RP-US Extradition Treaty.

'8. The Court of Appeals Resolution promulgated on May 10, 2001 in the case entitled 'Eduardo T. Rodriguez et al. vs. The Hon. Presiding Judge, RTC, Branch 17, Manila,' CA-G.R. SP No. 64589, relied upon by the public respondent in granting bail, had been recalled before the issuance of the subject bail orders.'"^[14]

In sum, the substantive questions that this Court will address are: (1) whether Jimenez is entitled to notice and hearing before a warrant for his arrest can be issued, and (2) whether he is entitled to bail and to provisional liberty while the extradition proceedings are pending. Preliminarily, we shall take up the alleged prematurity of the Petition for Certiorari arising from petitioner's failure to file a Motion for Reconsideration in the RTC and to seek relief in the Court of Appeals (CA), instead of in this Court.^[15] We shall also preliminarily discuss five extradition postulates that will guide us in disposing of the substantive issues.

The Court's Ruling

The Petition is meritorious.

Preliminary Matters

Alleged Prematurity of Present Petition

Petitioner submits the following justifications for not filing a Motion for Reconsideration in the Extradition Court: "(1) the issues were fully considered by such court after requiring the parties to submit their respective memoranda and position papers on the matter and thus, the filing of a reconsideration motion would serve no useful purpose; (2) the assailed orders are a patent nullity, absent factual and legal basis therefor; and (3) the need for relief is extremely urgent, as the passage of sufficient time would give Jimenez ample opportunity to escape and avoid extradition; and (4) the issues raised are purely of law."^[16]

For resorting directly to this Court instead of the CA, petitioner submits the following reasons: "(1) even if the petition is lodged with the Court of Appeals and such appellate court takes cognizance of the issues and decides them, the parties would still bring the matter to this Honorable Court to have the issues resolved once and for all [and] to have a binding precedent that all lower courts ought to follow; (2) the Honorable Court of Appeals had in one case^[17] ruled on the issue by disallowing

bail but the court below refused to recognize the decision as a judicial guide and all other courts might likewise adopt the same attitude of refusal; and (3) there are pending issues on bail both in the extradition courts and the Court of Appeals, which, unless guided by the decision that this Honorable Court will render in this case, would resolve to grant bail in favor of the potential extraditees and would give them opportunity to flee and thus, cause adverse effect on the ability of the Philippines to comply with its obligations under existing extradition treaties.”^[18]

As a general rule, a petition for certiorari before a higher court will not prosper unless the inferior court has been given, through a motion for reconsideration, a chance to correct the errors imputed to it. This rule, though, has certain exceptions: (1) when the issue raised is purely of law, (2) when public interest is involved, or (3) in case of urgency.^[19] As a fourth exception, the Court has also ruled that the filing of a motion for reconsideration before availment of the remedy of certiorari is not a sine qua non, when the questions raised are the same as those that have already been squarely argued and exhaustively passed upon by the lower court.^[20] Aside from being of this nature, the issues in the present case also involve pure questions of law that are of public interest. Hence, a motion for reconsideration may be dispensed with.

Likewise, this Court has allowed a direct invocation of its original jurisdiction to issue writs of certiorari when there are special and important reasons therefor.^[21] In *Fortich v. Corona*^[22] we stated:

“[T]he Supreme Court has the full discretionary power to take cognizance of the petition filed directly [before] it if compelling reasons, or the nature and importance of the issues raised, warrant. This has been the judicial policy to be observed and which has been reiterated in subsequent cases, namely: *Uy vs. Contreras, et. al.*, *Torres vs. Arranz, Bercero vs. De Guzman*, and, *Advincula vs. Legaspi, et. al.* As we have further stated in *Cuaresma*:

‘x x x. A direct invocation of the Supreme Court’s original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is established policy. x x x.’

“Pursuant to said judicial policy, we resolve to take primary jurisdiction over the present petition in the interest of speedy justice and to avoid future litigations so as to promptly put an end to the present controversy which, as correctly observed by petitioners, has sparked national interest because of the magnitude of the problem created by the issuance of the assailed resolution. Moreover, x x x requiring the petitioners to file their petition first with the Court of Appeals would only result in a waste of time and money.

“That the Court has the power to set aside its own rules in the higher interests of justice is well-entrenched in our jurisprudence. We reiterate what we said in *Piczon vs. Court of Appeals*:^[23]

‘Be it remembered that rules of procedure are but mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided. Time and again, this Court has suspended its own rules and