

## **EN BANC**

**[ A.M. No. 97-2-12-MTC, August 21, 1997 ]**

### **RE: ISSUANCE OF SUBPOENA TO PRISONER NICANOR DE GUZMAN, JR.**

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

#### **KAPUNAN, J.:**

In the wake of media reports that ex-Congressman Nicanor de Guzman, Jr. of Nueva Ecija, presently detained in the National Bilibid Prison on a life sentence, celebrated his birthday in his hometown in Nueva Ecija on January 16, 17 and 18, 1997, it was ascertained that in an Order dated November 27, 1996, Acting Presiding Judge Geminiano A. Eduardo of the Municipal Trial Court of San Leonardo, Nueva Ecija directed the issuance of a subpoena in LRC File No. 9-96 entitled "Petition for the Issuance of Second Owner's Duplicate Copy of TCT No. NT-185476 of the Register of Deeds of Nueva Ecija, Nicanor de Guzman, Jr., petitioner," requiring the latter to appear at the said Court for hearing on January 16, 1997 at 8:30 in the morning.

As soon as the MTC Judge signed the order, Clerk of Court II Juana F. Edades issued a subpoena to petitioner with a First Indorsement, dated December 5, 1996, forwarding it to the National Bilibid Prisons, Muntinlupa City.

In a letter dated January 6, 1997 addressed to the Clerk of Court, MTC of San Leonardo, Nueva Ecija, which was received on January 10, 1997, Penal Superintendent Juanito S. Leopando of the Bureau of Prisons gave the information that "prisoner Nicanor de Guzman is a life term, hence permission from the Supreme Court must be secured first to enable this office to bring prisoner de Guzman before the Honorable Court in compliance with Administrative Circular No. 6 dated December 5, 1977 of the Honorable Chief Justice of the Supreme Court."

Administrative Circular No. 6 dated December 6, 1977 provides that:

x x x pursuant to Administrative Circular No. 2 dated December 2, 1976, no prisoner sentenced to death or life imprisonment or detained upon legal process for the commission of any offense punishable by death or life imprisonment conferred in NBP is allowed to be brought outside of the said penal institution for appearance or attendance in any court except when the Supreme Court authorizes the Judge, upon proper application, to effect the transfer of the said prisoner. In addition, the said Circular directs every judge in Metro Manila and the Provinces of Rizal, Bulacan, Cavite and Laguna who requires the appearance or attendance of any of the aforesaid prisoners confined in the New Bilibid Prisons in any judicial proceedings to conduct such proceeding within the premises of the said penal institution.

In a letter, dated January 21, 1991, the Office of the Court Administrator thereby directed Acting Presiding Judge Geminiano A. Eduardo and Clerk of Court Juana F. Edades to explain why no disciplinary action should be taken against them for issuing said subpoena without authority from the Supreme Court in violation of the aforementioned circular.

In his letter explanation, Judge Eduardo stated:

1. That I admits (sic) that a certain Nicanor de Guzman, Jr. was subpoenad (sic) by the Municipal Trial Court of San Leonardo, Nueva Ecija on December 5, 1996 to appear for hearing on January 16, 1997, at 8:30 in the morning in connection with LRC Case No. 9-96.

2. That the said subpoena was issued by the Clerk of Court in compliance with the order of the Court dated November 27, 1996.

3. That as soon as the undersigned had signed the said order dated November 27, 1996, the Clerk of Court Juana F. Edades issue (sic) a subpoena to the petitioner Nicanor de Guzman Jr. a resident of San Vicente Homes, Gapan, Nueva Ecija without knowing that the said Nicanor de Guzman Jr. is the same Nicanor de Guzman Jr. a life termmer presently detained at the New Bilibid Prison, Muntinglupa (sic) City. Hence, it is on this atmosphere that the subpoena was issued.

4. That the undersigned was only appointed Municipal Trial Court Judge in May 1983 and administrative Circular Nos. 2 and 6 was (sic) issued in 1977 and therefore admits that we have no copy of the said circulars on file in our Office, otherwise if I knew that the person to be subpoenad is life termmer Nicanor de Guzman and I have the copy of the said circular I would have instructed my Clerk of Court to desist from issuing a subpoena.

5. That at present the undersigned has been acting as Presiding Judge of the towns of San Leonardo and Peñaranda, Nueva Ecija and special cases in Gapan, Nueva Ecija aside from his permanent assignment at General Tinio, Nueva Ecija, and because of pressure of work I have no more time to verify the real identity of the person to be subpoenaed as in this particular incident.

6. That the undersigned knew only on January 10, 1997 when we received a letter dated January 6, 1997 from the Penal Superintendent IV Juanito Leopando with the information that Nicanor de Guzman, Jr. a life termmer confined at the New Bilibid Prison and consequently a request must first be filed with the Honorable Supreme Court to enable them to bring Nicanor de Guzman, Jr. before the Court on January 16, 1997, at 8:30 in the morning.

Verily, the said Nicanor de Guzman Jr. was brought out from his detention cell not on the strength of the subpoena issued by the Clerk of Court of the Municipal Trial Court of San Leonardo, Nueva Ecija, but by another subpoena issued on January 14 and 15, 1997 by another Agency of the government over which the undersigned has no jurisdiction.

7. That the presence of Nicanor de Guzman Jr. a life termmer is necessary in LRC Case No. 9-96 especially in the identification and marking of the documentary exhibits.