



Republic of the Philippines  
**Supreme Court**  
Manila

EN BANC

G.R. No. 189689

**IN THE MATTER OF THE  
PETITION FOR THE ISSUANCE  
OF A WRIT OF AMPARO IN  
FAVOR OF LILIBETH O.  
LADAGA:**

**LILIBETH O. LADAGA,**  
Petitioner,

- versus -

**MAJ. GEN. REYNALDO MAPAGU,**  
COMMANDING GENERAL OF THE  
PHILIPPINE ARMY'S 10<sup>TH</sup>  
INFANTRY DIVISION (ID); **COL.**  
**LYSANDER SUERTE,** CHIEF OF  
STAFF, 10<sup>TH</sup> ID, **LT. COL. KURT A.**  
**DECAPIA,** CHIEF, 10<sup>TH</sup> ID, PUBLIC  
AFFAIRS OFFICE; **COL. OSCAR**  
**LACTAO,** HEAD-TASK FORCE-  
DAVAO; **SR. SUPT. RAMON**  
**APOLINARIO,** DAVAO CITY  
POLICE OFFICE DIRECTOR; AND  
SEVERAL OTHER JOHN DOES,  
Respondents.

X-----X

**IN THE MATTER OF THE  
PETITION FOR THE ISSUANCE  
OF A WRIT OF AMPARO IN  
FAVOR OF ANGELA A. LIBRADO-  
TRINIDAD:**

G.R. No. 189690

**ANGELA A. LIBRADO-  
TRINIDAD,**  
Petitioner,

- versus -

**MAJ. GEN. REYNALDO MAPAGU,**  
COMMANDING GENERAL OF THE  
PHILIPPINE ARMY'S 10<sup>TH</sup> ID; **COL.**  
**LYSANDER SUERTE,** CHIEF OF  
STAFF, 10<sup>TH</sup> ID, **LT. COL. KURT A.**  
**DECAPIA,** CHIEF, 10<sup>TH</sup> ID, PUBLIC  
AFFAIRS OFFICE; **COL. OSCAR**  
**LACTAO,** HEAD-TASK FORCE-  
DAVAO; **SR. SUPT. RAMON**  
**APOLINARIO,** DAVAO CITY  
POLICE OFFICE DIRECTOR; AND  
SEVERAL OTHER JOHN DOES,  
Respondents.

X-----X

**IN THE MATTER OF THE  
PETITION FOR THE ISSUANCE  
OF A WRIT OF AMPARO IN  
FAVOR OF CARLOS ISAGANI T.  
ZARATE:**

**CARLOS ISAGANI T. ZARATE,**  
Petitioner,

- versus -


**MAJ. GEN. REYNALDO MAPAGU,**  
COMMANDING GENERAL OF THE  
PHILIPPINE ARMY'S 10<sup>TH</sup> ID; **COL.**  
**LYSANDER SUERTE,** CHIEF OF  
STAFF, 10<sup>TH</sup> ID, **LT. COL. KURT A.**  
**DECAPIA,** CHIEF, 10<sup>TH</sup> ID, PUBLIC  
AFFAIRS OFFICE; **COL. OSCAR**  
**LACTAO,** HEAD-TASK FORCE-

**G.R. No. 189691**

Present:  
SERENO, *CJ.*  
CARPIO,  
VELASCO, JR.,  
LEONARDO-DE CASTRO,  
BRION,  
PERALTA,  
BERSAMIN,  
DEL CASTILLO,  
ABAD,  
VILLARAMA, JR.,  
PEREZ,  
MENDOZA,  
REYES, and  
PERLAS-BERNABE, *JJ.*

DAVAO; SR. SUPT. RAMON  
APOLINARIO, DAVAO CITY  
POLICE OFFICE DIRECTOR; AND  
SEVERAL OTHER JOHN DOES,  
Respondents.

Promulgated:

November 13, 2012 

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## DECISION

**PERLAS-BERNABE, J.:**

### The Cases

In each of these three (3) consolidated petitions for review, the Court is tasked to evaluate the substantially similar but separately issued Orders of the Regional Trial Court (RTC) of Davao City, Branch 10, dated August 14, 2009<sup>1</sup> in the three (3) writ of *amparo* cases, as well as, the Order dated September 22, 2009<sup>2</sup> denying the joint motion for reconsideration thereof.

### The Facts

Petitioners share the common circumstance of having their names included in what is alleged to be a JCICC “AGILA” 3<sup>rd</sup> Quarter 2007 Order of Battle Validation Result of the Philippine Army's 10<sup>th</sup> Infantry Division

<sup>1</sup> Annex “B” of the Petition, *rollo* (G.R. No. 189689), pp. 50-54; Annex “A” of the Petition, *rollo* (G.R. No. 189690), pp. 49-53; and Annex “A” of the Petition, *rollo* (G.R. No. 189691), pp. 54-57.

<sup>2</sup> Annex “B” of the Petition, *rollo* (G.R. No. 189690), pp. 54-58; and Annex “B” of the Petition, *rollo* (G.R. No. 189691), pp. 58-62.

(10<sup>th</sup> ID),<sup>3</sup> which is a list containing the names of organizations and personalities in Southern Mindanao, particularly Davao City, supposedly connected to the Communist Party of the Philippines (CPP) and its military arm, the New People's Army (NPA). They perceive that by the inclusion of their names in the said Order of Battle (OB List), they become easy targets of unexplained disappearances or extralegal killings – a real threat to their life, liberty and security.

The petitioner in G.R. No. 189689, ATTY. LILIBETH O. LADAGA (Atty. Ladaga), first came to know of the existence of the OB List from an undisclosed source on May 21, 2009. This was after the PowerPoint presentation made public by Bayan Muna Party-List Representative Satur Ocampo (Representative Ocampo) on May 18, 2009 during the conclusion of the International Solidarity Mission (ISM) conducted by various organizations. The following entries bearing specific reference to her person were reflected therein:

7. ON 12 NOV 07, MEETING AT SHIMRIC BEACH RESORT, TALOMO, DC PRESIDED BY ATTY LILIBETH LADAGA – SEC GEN, UNION OF PEOPLE'S LAWYER MOVEMENT (UPLM) AND KELLY DELGADO–SEC GEN, KARAPATAN:

- PRESENTED THE NATL GOAL/THEME WHICH STATES THAT “THE STAGE IS SET, TIME TO UNITE AGAINST ARROYO, STEP UP PROTESTS AND ARMED OFFENSIVE.”

- DISCUSSED THE FOLLOWING ISSUES WHICH WILL BE CAPITALIZED ON THEIR PLANNED ACTIVITIES ON 30 NOV 07:

*ISSUES:*

1. OUTREACH PROGRAMS/ MEDICAL MISSION IN RURAL AREAS;
2. OUT OF SCHOOL YOUTH

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<sup>3</sup> Annex “J” of the Petition, *rollo* (G.R. No. 189689), pp. 120-125; Annex “A” of Annex “E” of the Petition, *rollo* (G.R. No. 189690), pp. 86-89 and 204-237; and Annex “E” of Annex “E” of the Petition, *rollo* (G.R. No. 189691), pp. 106-139.

- RECRUITMENT;
3. P125 DAILY WAGE HIKE OR P3,000  
ACROSS THE BOARD HIKE;
  4. SCRAP ANTI-TERRORISM BILL;
  5. OIL DE-REGULATION LAW;
  6. ANTI-LARGE SCALE MINING;
  7. CORRUPTION AND ANTI-POVERTY/ZTE  
ISSUES AND BRIBERY;
  8. ANTI-POLITICAL AND EXTRA JUDICIAL  
KILLINGS;
  9. CARP ISSUES AND LAND DISPUTES;  
AND
  10. LATEST GLORIETA BOMBING

*COMPOSITION:* CIVIC, RELIGIOUS,  
TRANSPORT, LABOR AND PEASANT, YOUTH  
SECTOR, PROGRESSIVE GROUPS, BUSINESS  
SECTOR, ANTI-PGMA, BLACK AND WHITE  
MOVEMENT AND ANTI-POVERTY  
MOVEMENT.

*ULTIMATE GOAL:* TRY TO OUST PGMA ON  
30 NOV 07<sup>4</sup>

In her Affidavit,<sup>5</sup> Atty. Ladaga substantiated the threats against her life, liberty and security by narrating that since 2007, suspicious-looking persons have been visiting her Davao City law office during her absence, posing either as members of the military or falsely claiming to be clients inquiring on the status of their cases. These incidents were attested to by her law office partner, Atty. Michael P. Pito, through an Affidavit<sup>6</sup> dated June 16, 2009.

On the other hand, the petitioner in G.R. No. 189690, Davao City Councilor ATTY. ANGELA LIBRADO-TRINIDAD (Atty. Librado-Trinidad), delivered a Privilege Speech<sup>7</sup> before the members of the

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<sup>4</sup> Annex "J" of the Petition, *rollo* (G.R. No. 189689), p. 123.

<sup>5</sup> Annex "M" of the Petition, *id.* at 128-129.

<sup>6</sup> Annex "N" of the Petition, *id.* at 130-131.

<sup>7</sup> Annex "C" of Annex "E" of the Petition, *rollo* (G.R. No. 189690), p. 96.

*Sangguniang Panglungsod* of Davao City on May 19, 2009 to demand the removal of her name from said OB List. Subsequently, the Davao City Council ordered a formal investigation into the existence of the alleged OB List. The Commission on Human Rights (CHR), for its part, announced the conduct of its own investigation into the matter, having been presented a copy of the PowerPoint presentation during its public hearing in Davao City on May 22, 2009.

According to her, in the course of the performance of her duties and functions as a lawyer, as a member of the *Sangguniang Panglungsod* of Davao, as well as, of Bayan Muna, she has not committed any act against national security that would justify the inclusion of her name in the said OB List. In her Affidavit,<sup>8</sup> she recounted that sometime in May 2008, two suspicious-looking men on a motorcycle tailed her vehicle as she went about her day going to different places. She also recalled that on June 23, 2008, while she was away from home, three unidentified men tried to barge into their house and later left on board a plate-less, stainless “owner type-vehicle.” Both incidents were duly reported to the police.<sup>9</sup>

Meanwhile, the petitioner in G.R. No. 189691, current Secretary General of the Union of Peoples' Lawyers in Mindanao (UPLM) and Davao City Coordinator of the Free Legal Assistance Group (FLAG), ATTY. CARLOS ISAGANI T. ZARATE (Atty. Zarate), was informed sometime in May 2009 that his name was also among those included in the OB List made public by Representative Ocampo at a forum concerning human rights violations in Southern Mindanao. In Atty. Zarate's petition,<sup>10</sup> he alleged that:

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<sup>8</sup> Annex “B” of Annex “E” of the Petition, id. at 90-93.

<sup>9</sup> Annex “B-1” of Annex “E” of the Petition, id. at 94.

<sup>10</sup> Petition for the Writ of *Amparo*, Annex “E” of the Petition, *rollo* (G.R. No. 189691), pp. 89-98.

5. On May 19, 2009, during a press conference marking the conclusion of an **International Solidarity Mission** (ISM) – attended by both local and international delegates and organized to investigate alleged human rights violations in Southern Mindanao by state's forces – Bayan Muna Party-list Representative Satur Ocampo revealed the existence of a “**watch list**,” officially known in military parlance as “**Order of Battle**” prepared by the intelligence arm of Philippine Army's 10<sup>th</sup> ID, headed by respondent Maj. Gen. Reynaldo Mapagu. x x x;

6. The said “**Order of Battle**” was contained in a [PowerPoint] presentation marked “**SECRET**” and captioned “**3<sup>rd</sup> Quarter 2007 OB Validation Result**”; it was supposedly prepared by the “**JCICC ‘Agila’**” under the [O]ffice of the Assistant Chief of Staff for Intelligence of the 10<sup>th</sup> Infantry Division of the Philippine Army. It also mentioned a certain “**JTICC ‘LAWIN’**” with the following as members: **Task Force Davao – Chairman; Team Leader, SPOT11-3, MIG11, ISAFP, NISU-Davao, NISG-EM, PN, 305<sup>th</sup> AISS, PAF, TL, ISU 11, PA, S2, RCDG, PA; M2, DCPO; NICA XI; S2, 104<sup>th</sup> DRC, PA, and, WACOM-Researcher/Analyst MIG11, ISAFP[;]**

7. The said [PowerPoint] presentation (which Representative Ocampo said was “leaked” by a “conscientious soldier”), revealed the names of organizations and personalities in Southern Mindanao, particularly Davao City, supposedly “connected” to the Communist Party of the Philippines (CPP) and its military arm, the New People's Army (NPA);

8. The name of the herein petitioner was listed in the categories of “**human rights**” and “**Broad Alliance**” x x x;<sup>11</sup> (Emphasis in the original)

Asserting that the inclusion of his name in the OB List was due to his advocacies as a public interest or human rights lawyer, Atty. Zarate vehemently and categorically denied that he was fronting for, or connected with, the CPP-NPA.<sup>12</sup>

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<sup>11</sup> Id. at 91-92.

<sup>12</sup> Id. at 94.

In fine, petitioners were one in asserting that the OB List is really a military hit-list as allegedly shown by the fact that there have already been three victims of extrajudicial killing whose violent deaths can be linked directly to the OB List, to wit: Celso B. Pojas, who was assassinated in May 2008<sup>13</sup> purportedly because he was Secretary General of the Farmers Association of Davao City<sup>14</sup> and Spokesperson of the Kilusang Magbubukid sa Pilipinas (KMP),<sup>15</sup> which organizations were identified as communist fronts in the subject OB List; Lodenio S. Monzon, who was a victim of a shooting incident in April 2009<sup>16</sup> due to his supposed connection to the known activist party-list group Bayan Muna<sup>17</sup> as Coordinator in the Municipality of Boston, Davao Oriental; and Dr. Rogelio Peñera, who was shot to death in June 2009 allegedly because he was a member of RX Against Erap (RAGE),<sup>18</sup> a sectoral group also identified in the OB List.

Petitioners further alleged that respondents' inconsistent statements and obvious prevarication sufficiently prove their authorship of the subject OB List. Supposedly sourced from their own Press Releases,<sup>19</sup> respondents have been quoted in several newspapers as saying: 1) that the "10<sup>th</sup> ID has its Order of Battle, and, it is not for public consumption"; 2) that the Order of Battle "requires thorough confirmation and validation from different law enforcement agencies, and from various sectors and stakeholders who are the ones providing the information about the people and organizations that may in one way or the other, wittingly or unwittingly, become involved in

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<sup>13</sup> Annex "K" of the Petition, *rollo* (G.R. No. 189689), p. 126; Exhibits "B" and "B-1" of Annex "J" of the Petition, *rollo* (G.R. No. 189690), pp. 238-239; and Exhibits "B" and "B-1" of Annex "J" of the Petition, *rollo* (G.R. No. 189691), pp. 272-273.

<sup>14</sup> See Exhibits "A-8," "A-10-A," and "A-10-B," *rollo* (G.R. No. 189690), pp. 212 and 214.

<sup>15</sup> *Id.* at 212.

<sup>16</sup> Annex "L" of the Petition, *rollo* (G.R. No. 189689), p. 127; Exhibits "C" and "C-1" of Annex "J" of the Petition, *rollo* (G.R. No. 189690), pp. 240-241; and Exhibits "C" and "C-1" of Annex "J" of the Petition, *rollo* (G.R. No. 189691), pp. 274-275.

<sup>17</sup> See Exhibits "A-5" and "A-9-A," *rollo* (G.R. No. 189690), pp. 209 and 213.

<sup>18</sup> See Exhibits "A-19" and "A-21-B," *id.* at 223 and 225.

<sup>19</sup> Dated May 19 and 26, 2009. Annexes "D-12" & "D" of Annex "E" of the Petition, *rollo* (G.R. No. 189690), pp. 115-118; and Annexes "K" and "L" of the Petition, *rollo* (G.R. No. 189691), pp. 146-149.

the CPP's grand design"; 3) that an "order of battle does not target individuals; it is mainly an assessment of the general threat to national security"; 4) that Representative Ocampo "utilized the material to disrupt the ongoing government efforts in the area by raising issues and propaganda against the military"; 5) that "[t]he public viewing of the "falsified" document of the OB was a deliberate act of Representative Ocampo x x x to mar the image of the military forces, gain media mileage and regain the support of the masses and local executives"; 6) that Representative Ocampo "'twisted' the data and insinuated names as targets of the AFP/10ID when in fact these are targets (for infiltration) by the CPP/NPA"; and 7) that this "attempt of the CPP to attribute human rights violations to the Philippine government is a cover to mask their record of killing people." According to petitioners, there is no question that these Press Releases came from the 10<sup>th</sup> ID. Its source email address, dpao10id@yahoo.com, has been identified by regular correspondent of the *Philippine Daily Inquirer* Jeffrey Tupas as the same one used by respondent Lt. Col. Decapia in sending to him previous official press statements of the 10<sup>th</sup> ID, including the Press Release entitled, "CPP/NPA demoralized, ISM on the rescue."<sup>20</sup>

On June 16, 2009, petitioners separately filed before the RTC a Petition for the Issuance of a Writ of *Amparo* with Application for a Production Order,<sup>21</sup> docketed as Special Proceeding Nos. 004-09,<sup>22</sup> 005-09<sup>23</sup>

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<sup>20</sup> Affidavit of Jeffrey Tupas dated July 24, 2009, *rollo* (G.R. No. 189690), p. 199.

<sup>21</sup> Annex "D" of the Petition, *rollo* (G.R. No. 189689), pp. 66-75; Annex "E" of the Petition, *rollo* (G.R. No. 189690), pp. 78-85; and Annex "E" of the Petition, *rollo* (G.R. No. 189691), pp. 89-96.

<sup>22</sup> "In the Matter of the Petition for the Issuance of a Writ of Amparo in Favor of Carlos Isagani T. Zarate: Carlos Isagani T. Zarate v. Maj. Gen. Reynaldo Mapagu, Commanding General of the Philippine Army's 10<sup>th</sup> Infantry Division (ID); Lt. Col. Kurt A. Decapia, Chief, 10<sup>th</sup> ID, Public Affairs Office; Col. Oscar Lactao, Head Task Force-Davao; Sr. Supt. Ramon Apolinario, Davao City Police Office Director; and several other John Does." *Rollo* (G.R. No. 189691), p. 89.

<sup>23</sup> "In the Matter of the Petition for the Issuance of a Writ of Amparo in Favor of Angela A. Librado: Angela A. Librado v. Maj. Gen. Reynaldo Mapagu, Commanding General of the Philippine Army's 10<sup>th</sup> Infantry Division (ID); Lt. Col. Kurt A. Decapia, Chief, 10<sup>th</sup> ID, Public Affairs Office; Col. Oscar Lactao, Head Task Force-Davao; Sr. Supt. Ramon Apolinario, Davao City Police Office Director; and several other John Does." *Rollo* (G.R. No. 189690), p. 78.

and 006-09.<sup>24</sup> On June 22, 2009, the RTC issued separate Writs of *Amparo*<sup>25</sup> in each of the three (3) cases, directing respondents to file a verified written return within seventy-two (72) hours and setting the case for summary hearing on June 29, 2009.

In their Returns,<sup>26</sup> respondents denied authorship of the document being adverted to and distributed by Representative Ocampo to the media. They claimed that petitioners miserably failed to show, by substantial evidence, that they were responsible for the alleged threats perceived by petitioners. Instead, they asserted that petitioners' allegations are based solely on hearsay, speculation, beliefs, impression and feelings, which are insufficient to warrant the issuance of the writ and, ultimately, the grant of the privilege of the writ of *amparo*.

In her Reply,<sup>27</sup> Atty. Librado-Trinidad averred that the present petition substantially conformed with the requirements of the *Amparo* Rule, as it alleged ultimate facts on the participation of respondents in the preparation of the OB List, which naturally requires utmost secrecy. The petition likewise alleged how the inclusion of their names in the said OB List substantiates the threat of becoming easy targets of unexplained disappearances and extrajudicial killings. On the other hand, Attys. Zarate and Ladaga commonly asserted<sup>28</sup> that the totality of the events, which

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<sup>24</sup> "In the Matter of the Petition for the Issuance of a Writ of Amparo in favor of Lilibeth O. Ladaga: Lilibeth O. Ladaga v. Maj. Gen. Reynaldo Mapagu, Lt. Col. Kurt A. Decapia, Col. Oscar Lactao, Sr. Supt. Ramon Apolinario, and John Does." *Rollo* (G.R. No. 189689), p. 66.

<sup>25</sup> Annex "E" of the Petition, *rollo* (G.R. No. 189689), pp. 76-77; Annex "F" of the Petition, *rollo* (G.R. No. 189690), pp. 119-120; and Annex "F" of the Petition, *rollo* (G.R. No. 189691), pp. 157-158.

<sup>26</sup> Annex "G" of the Petition, *rollo* (G.R. No. 189689), pp. 78-107; Annex "H" of the Petition, *rollo* (G.R. No. 189690), pp. 123-171; Annex "H" of the Petition, *rollo* (G.R. No. 189691), pp. 161-203.

<sup>27</sup> Annex "I" of the Petition, *rollo* (G.R. No. 189690), pp. 172-179.

<sup>28</sup> Annex "H" of the Petition, *rollo* (G.R. No. 189689), pp. 108-119; and Annex "I" of the Petition, *rollo* (G.R. No. 189691), pp. 205-214.

consists of respondents' virtual admission to the media of the existence of the OB List, as well as, the fact that known victims of past extrajudicial killings have been likewise labeled as communist fronts in similar orders of battle, more than satisfies the standard required to prove that petitioners' life, liberty and security are at risk.

During the scheduled summary hearing on June 22, 2009, Representative Ocampo's oral testimony on the circumstances surrounding his obtention of the alleged military document was dispensed with and, instead, the Affidavit<sup>29</sup> he executed on June 30, 2009 was presented in the hearing held on July 1, 2009 to form part of the documentary exhibits of petitioners.<sup>30</sup>

After submission of the parties' respective Position Papers,<sup>31</sup> the RTC issued on August 14, 2009 the three separate but similarly-worded Orders finding no substantial evidence to show that the perceived threat to petitioners' life, liberty and security was attributable to the unlawful act or omission of the respondents, thus disposing of each of the three cases in this wise:

Prescinding therefrom, and in x x x light of all the pieces of evidence presented, this Court is of the considered views [sic] that petitioner failed to prove, by substantial evidence, that indeed, (her/his) perceived threat to (her/his) life, liberty and security is attributable to the unlawful act or omission of the respondents. Accordingly, this Court has no other recourse but to deny the instant petition.

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<sup>29</sup> Annex "Q" of the Petition, *rollo* (G.R. No. 189689), pp. 133-136; Exhibits "R" to "R-3" of Annex "J" of the Petition, *rollo* (G.R. No. 189690), pp. 263-266; and Exhibits "R" to "R-3" of Annex "J" of the Petition, *rollo* (G.R. No. 189691), pp. 297-300.

<sup>30</sup> RTC Order dated August 14, 2009. *Rollo* (G.R. No. 189689), p. 52; *rollo* (G.R. No. 189690), p. 50; and *rollo* (G.R. No. 189691), p. 55.

<sup>31</sup> Annex "5" of the Petition, *rollo* (G.R. No. 189689), pp. 238-263, Annex "J" of the Petition, *rollo* (G.R. No. 189690), pp. 180-272; and Annex "J" of the Petition, *rollo* (G.R. No. 189691), pp. 215-302.

WHEREFORE, the privilege of the Writ is hereby denied.

SO ORDERED.<sup>32</sup>

The RTC rejected the sworn statement of Representative Ocampo for being hearsay, holding that with no direct or personal knowledge of the authenticity of the subject OB List, even an oral testimony from him on the circumstances surrounding its obtention through a “conscientious soldier” would still be of no probative weight. It likewise found that the violent deaths of Celso Pojas, Lodenio Monzon and Dr. Rogelio Peñera, and other incidents of threat have no direct relation at all to the existence of the present OB List.

In their Joint Motion for Reconsideration,<sup>33</sup> petitioners argued that the existence and veracity of the OB List had already been confirmed by respondents themselves through their statements to the media, hence, respondents' personal authorship thereof need not be proven by substantial evidence, as it is, after all, “not the crux of the issue.” Petitioners explicated that since respondents were being impleaded as the responsible officers of the 10<sup>th</sup> ID – the military unit that supposedly prepared the OB List PowerPoint presentation, their general denials on the existence of the OB List without taking serious steps to find the persons actually responsible for the threat could not discharge respondents from the standard of diligence required of them under the *Amparo* Rule.

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<sup>32</sup> *Rollo* (G.R. No. 189689), pp. 53-54; *rollo* (G.R. No. 189690), pp. 52-53; and *rollo* (G.R. No. 189691), p. 57.

<sup>33</sup> Annex “C” of the Petition, *rollo* (G.R. No. 189689), pp. 55-65; Annex “C” of the Petition, *rollo* (G.R. No. 189690), pp. 59-70; and Annex “C” of the Petition, *rollo* (G.R. No. 189691), pp. 63-74.

The RTC, however, rejected petitioners' arguments in the September 22, 2009 Order, hence, these petitions for review on certiorari raising the following issues:

- I. THE TRIAL COURT ERRED IN RULING THAT PETITIONER FAILED TO ADDUCE SUBSTANTIAL EVIDENCE TO WARRANT THE GRANT OF THE PRIVILEGE OF THE WRIT, I.E., PROTECTION;**
- II. THE TRIAL COURT ERRED IN FAILING TO CONSIDER THAT THE RESPONDENTS LIKewise FAILED TO DISCHARGE THE DILIGENCE REQUIRED BY THE AMPARO RULES BY THEIR SWEEPING AND GENERAL DENIALS; AND**
- III. THE TRIAL COURT ERRED IN APPRECIATING THE NATURE AND CONCEPT OF THE PRIVILEGE OF THE WRIT.<sup>34</sup>**

Commenting on the petitions, respondents argue<sup>35</sup> that the purported OB List could not have come from the military because it does not have the “distinctive marks and security classifications” of military documents. They quickly defend the correctness of the RTC's denial of the privilege of the writ and the interim relief of a protection order as petitioners have not presented any adequate and competent evidence, much less substantial evidence, to establish that public respondents are threatening to violate their rights to life, liberty and security or that, at the very least, were involved in the preparation of the OB List.

**We deny the petitions.**

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<sup>34</sup> *Rollo* (G.R. No.189689), pp. 34-44; *rollo* (G.R. No. 189690), pp. 25-42; and *rollo* (G.R. No. 189691), pp. 31-47.

<sup>35</sup> *Rollo* (G.R. No. 189689), pp. 167-263; *rollo* (G.R. No. 189690), pp. 281-389; and *rollo* G.R. No. 189691), pp. 312-400.

The writ of *amparo* was promulgated by the Court pursuant to its rule-making powers in response to the alarming rise in the number of cases of enforced disappearances and extrajudicial killings.<sup>36</sup> It plays the preventive role of breaking the expectation of impunity in the commission of extralegal killings and enforced disappearances, as well as the curative role of facilitating the subsequent punishment of the perpetrators.<sup>37</sup> In *Tapuz v. Del Rosario*,<sup>38</sup> the Court has previously held that the writ of *amparo* is an extraordinary remedy intended to address violations of, or threats to, the rights to life, liberty or security and that, being a remedy of extraordinary character, it is not one to issue on amorphous or uncertain grounds but only upon reasonable certainty. Hence, every petition for the issuance of the writ is required to be supported by justifying allegations of fact on the following matters:

- (a) The personal circumstances of the petitioner;
- (b) The name and personal circumstances of the respondent responsible for the threat, act or omission, or, if the name is unknown or uncertain, the respondent may be described by an assumed appellation;
- (c) The right to life, liberty and security of the aggrieved party violated or threatened with violation by an unlawful act or omission of the respondent, and how such threat or violation is committed with the attendant circumstances detailed in supporting affidavits;
- (d) The investigation conducted, if any, specifying the names, personal circumstances, and addresses of the investigating authority or individuals, as well as the manner and conduct of the investigation, together with any report;
- (e) The actions and recourses taken by the petitioner to determine the fate or whereabouts of the aggrieved party and the identity of the person responsible for the threat, act or omission; and
- (f) The relief prayed for. The petition may include a general prayer for other just and equitable reliefs.<sup>39</sup> (Underscoring supplied)

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<sup>36</sup> *Secretary of National Defense v. Manalo*, G.R. No. 180906, October 7, 2008, 568 SCRA 1, 38.

<sup>37</sup> *Id.* at 43.

<sup>38</sup> G.R. No. 182484, June 17, 2008, 554 SCRA 768, 784.

<sup>39</sup> Rule on the Writ of *Amparo*, SEC. 5.

The sole and common issue presented in these petitions is whether the totality of evidence satisfies the degree of proof required under the *Amparo* Rule. Sections 17 and 18 of the Rule on the Writ of *Amparo* provide as follows:

SEC. 17. *Burden of Proof and Standard of Diligence Required.* – The parties shall establish their claims by **substantial evidence**.

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SEC. 18. *Judgment.* – The court shall render judgment within ten (10) days from the time the petition is submitted for decision. If the allegations in the petition are proven by **substantial evidence**, the court shall grant the privilege of the writ and such reliefs as may be proper and appropriate; otherwise, the privilege shall be denied. (Emphasis supplied)

Substantial evidence is that amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion. It is more than a mere imputation of wrongdoing or violation that would warrant a finding of liability against the person charged.<sup>40</sup> The summary nature of *amparo* proceedings, as well as, the use of substantial evidence as standard of proof shows the intent of the framers of the rule to address situations of enforced disappearance and extrajudicial killings, or threats thereof, with what is akin to administrative proceedings.<sup>41</sup>

Suitable to, and consistent with this incipiently unique and informal treatment of *amparo* cases, the Court eventually recognized the evidentiary difficulties that beset *amparo* petitioners, arising as they normally would from the fact that the State itself, through its own agents, is involved in the enforced disappearance or extrajudicial killing that it is supposedly tasked

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<sup>40</sup> *Rubrico v. Macapagal-Arroyo*, G.R. No. 183871, February 18, 2010, 613 SCRA 233, 256.

<sup>41</sup> *Razon, Jr. v. Tagitis*, G.R. No. 182498, December 3, 2009, 606 SCRA 598, 687.

by law to investigate. Thus, in *Razon, Jr. v. Tagitis*, the Court laid down a new standard of relaxed admissibility of evidence to enable *amparo* petitioners to meet the required amount of proof showing the State's direct or indirect involvement in the purported violations and found it a fair and proper rule in *amparo* cases **“to consider all the pieces of evidence adduced in their totality”** and **“to consider any evidence otherwise inadmissible under our usual rules to be admissible if it is consistent with the admissible evidence adduced.”**<sup>42</sup> Put simply, evidence is not to be rejected outright because it is inadmissible under the rules for as long as it satisfies **“the most basic test of reason – *i.e.*, relevance of the evidence to the issue at hand and its consistency with all other pieces of adduced evidence.”**<sup>43</sup>

This measure of flexibility in the admissibility of evidence, however, does not do away with the requirement of substantial evidence in showing the State's involvement in the enforced disappearance, extrajudicial killing or threats thereof. It merely permits, in the absence of hard-to-produce direct evidence, a closer look at the relevance and significance of every available evidence,<sup>44</sup> including those that are, strictly speaking, hearsay where the circumstances of the case so require, and allows the consideration of the evidence adduced in terms of their consistency with the totality of the evidence.<sup>45</sup>

As emphasized by Justice Arturo D. Brion (Justice Brion) during the deliberations on this case, in cases of enforced disappearance, the evidence

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<sup>42</sup> Id. at 692.

<sup>43</sup> Id.

<sup>44</sup> Id. at 703.

<sup>45</sup> Id. at 695.

that would directly establish a violation of the right to life, liberty and security is indubitably in the State's possession. The same is not equally true in cases where the *amparo* petitioner alleges (as in this case) a threatened violation of his/her rights since **the facts, circumstances and the link between these that create an actual threat to his/her life are measurably within the ability of the *amparo* petitioner to prove.** These include, among others, the alleged documented human rights violations by the military in Mindanao; documentary and/or testimonial evidence on the military's counter-insurgency operations; corroborative evidence to support the allegations on the presence of suspicious men; and presumptive evidence linking the deaths of Celso Pojas, Ludenio Monzon and Dr. Rogelio Peñera to their political affiliation and the similarity of their situation to those of petitioners. A mere inclusion of one's name in the OB List, without more, does not suffice to discharge the burden to establish actual threat to one's right to life, liberty and security by substantial evidence.

The statement of Representative Ocampo that the respondents are the real source of the OB List is unquestionably hearsay evidence because, except for the fact that he himself received the OB List from an unnamed source merely described as "a conscientious soldier," he had no personal knowledge concerning its preparation. But even if the Court were to apply the appropriate measure of flexibility in the instant cases by admitting the hearsay testimony of Representative Ocampo, a consideration of this piece of evidence to the totality of those adduced, namely, the Press Releases issued by the 10<sup>th</sup> ID admitting the existence of a military-prepared Order of Battle, the affidavits of petitioners attesting to the threatening visits and tailing of their vehicles by menacing strangers, as well as the violent deaths of alleged militant personalities, leads to the conclusion that the threat to petitioners' security has not be adequately proven.

Petitioners sought to prove that the inclusion of their names in the OB List presented a real threat to their security by attributing the violent deaths of known activists Celso Pojas, Lodenio Monzon and Dr. Rogelio Peñera to the inclusion of the latter's names or the names of their militant organizations in the subject OB List. Petitioner Atty. Librado-Trinidad even attributed the alleged tailing of her vehicle by motorcycle-riding men and the attempted entry by suspicious men into her home to the inclusion of her name in the OB List. The RTC, however, correctly dismissed both arguments, holding that the existence of the OB List could not be directly associated with the menacing behavior of suspicious men or the violent deaths of certain personalities, thus:

“Anent petitioner's revelation that sometime in 2008, a number of unidentified men attempted to forcibly enter the premises of her dwelling and that at one occasion, the vehicle she was riding was tailed by motorcycle-riding men, the same could not led [sic] to the conclusion that indeed, those incidents were related to the existence of the “OB List.” There appears not even an iota of evidence upon which the same assumption can be anchored on.<sup>46</sup>

This Court likewise sees no direct relation between the violent deaths of Celso Pojas, Ludenio Monzon and Dr. Rogelio Peñera and the subject “OB List.” There is no evidence pointing to the claim that they were killed because their names or the organizations they were involved in were mentioned in the same “OB List.” More importantly, there is no official finding by the proper authorities that their deaths were precipitated by their involvement in organizations sympathetic to, or connected with, the Communist Party of the Philippines, or its military arm, the New People's Army. Lastly, and more telling, the existence of the subject “OB List” has not been adequately proven, as discussed heretofore, hence, reference to the same finds no basis.”<sup>47</sup>

The Court holds that the imputed pattern of targeting militants for execution by way of systematically identifying and listing them in an Order

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<sup>46</sup> *Rollo* (G.R. No. 189690), p. 51.

<sup>47</sup> *Rollo* (G.R. No. 189689), p. 52; and *rollo* (G.R. No. 189691), p. 56.

of Battle cannot be inferred simply from the Press Releases admitting the existence of a military document known as an Order of Battle and the fact that activists Celso Pojas, Lodenio Monzon and Dr. Rogelio Peñera have become supposed victims of extralegal killings. The adduced evidence tends to bear strongly against the proposition because, except for Celso Pojas, the names of the supposed victims of extrajudicial killings are manifestly absent in the subject OB List and the supposed connection of the victims to the militant groups explicitly identified in the OB List is nothing short of nebulous.

Moreover, while respondents may have admitted through various statements to the media that the military has its own Order of Battle, such an admission is not equivalent to proof that the subject OB List, which was publicly disclosed by Representative Ocampo by way of a PowerPoint presentation, is one and the same with the Order of Battle that the military has in its keeping. And, assuming that the Press Releases do amount to an admission not only of the existence but also the authenticity of the subject OB List, the inclusion of petitioners' names therein does not, by itself, constitute an actual threat to their rights to life, liberty and security as to warrant the issuance of a writ of *amparo*.

In the case of *Secretary of National Defense v. Manalo*,<sup>48</sup> the Court ruled that a person's right to security is, in one sense, "freedom from fear" and that any threat to the rights to life, liberty or security is an actionable wrong. The term "any threat," however, cannot be taken to mean every conceivable threat in the mind that may cause one to fear for his life, liberty or security. The Court explicated therein that "[f]ear is a state of mind, a reaction; threat is a stimulus, a cause of action. Fear caused by the same

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<sup>48</sup> Supra note 36, at 52 and 54.

stimulus can range from being baseless to well-founded as people react differently. The degree of fear can vary from one person to another with the variation of the prolificacy of their imagination, strength of character or past experience with the stimulus.” Certainly, given the uniqueness of individual psychological mindsets, perceptions of what is fearful will necessarily vary from one person to another.

The alleged threat to herein petitioners' rights to life, liberty and security must be actual, and not merely one of supposition or with the likelihood of happening. And, when the evidence adduced establishes the threat to be existent, as opposed to a potential one, then, it goes without saying that the threshold requirement of substantial evidence in *amparo* proceedings has also been met. Thus, in the words of Justice Brion, in the context of the *Amparo* rule, only **actual threats**, as may be established from all the facts and circumstances of the case, can qualify as a violation that may be addressed under the Rule on the Writ of *Amparo*.

Petitioners cannot assert that the inclusion of their names in the OB List is as real a threat as that which brought ultimate harm to victims Celso Pojas, Lodenio Monzon and Dr. Rogelio Peñera without corroborative evidence from which it can be presumed that the suspicious deaths of these three people were, in fact, on account of their militant affiliations or that their violent fates had been actually planned out by the military through its Order of Battle.

The Court may be more yielding to the use of circumstantial or indirect evidence and logical inferences, but substantial evidence is still the

rule to warrant a finding that the State has violated, is violating, or is threatening to violate, *amparo* petitioners' right to life, liberty or security. No substantial evidence of an actual threat to petitioners' life, liberty and security has been shown to exist in this case. For, even if the existence of the OB List or, indeed, the inclusion of petitioners' names therein, can be properly inferred from the totality of the evidence presented, still, no link has been sufficiently established to relate the subject OB List either to the threatening visits received by petitioners from unknown men or to the violent deaths of the three (3) mentioned personalities and other known activists, which could strongly suggest that, by some identifiable pattern of military involvement, the inclusion of one's name in an Order of Battle would eventually result to enforced disappearance and murder of those persons tagged therein as militants.

Emphasizing the extraordinary character of the *amparo* remedy, the Court ruled in the cases of *Roxas* and *Razon, Jr.* that an *amparo* petitioner's failure to establish by substantial evidence the involvement of government forces in the alleged violation of rights is never a hindrance for the Court to order the conduct of further investigation where it appears that the government did not observe extraordinary diligence in the performance of its duty to investigate the complained abduction and torture or enforced disappearance. The Court directed further investigation in the case of *Roxas* because the modest efforts of police investigators were effectively putting petitioner's right to security in danger with the delay in identifying and apprehending her abductors. In *Razon, Jr.*, the Court found it necessary to explicitly order the military and police officials to pursue with extraordinary diligence the investigation into the abduction and disappearance of a known activist because not only did the police investigators conduct an incomplete and one-sided investigation but they blamed their ineffectiveness to the

reluctance and unwillingness of the relatives to cooperate with the authorities. In both of these cases, the incidents of abduction and torture were undisputed and they provided the evidentiary support for the finding that the right to security was violated and the necessity for further investigation into such violation. Unlike *Roxas* and *Razon, Jr.*, however, the present petitions do not involve actual cases of abduction or disappearance that can be the basis of an investigation. Petitioners would insist that respondents be investigated and directed to produce the Order of Battle that they have admitted to be in their safekeeping and justify the inclusion of petitioners' names therein. However, without substantial evidence of an actual threat to petitioners' rights to life, liberty and security that consists more than just the inclusion of their names in an OB List, an order for further investigation into, or production of, the military's Order of Battle, would have no concrete basis.

**WHEREFORE**, premises considered, the petitions are hereby **DENIED**. The assailed Orders dated August 14, 2009 and September 22, 2009 of the Regional Trial Court of Davao City, Branch 10, are **AFFIRMED**.

**SO ORDERED.**

**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

**MARIA LOURDES P. A. SERENO**  
Chief Justice

**ANTONIO T. CARPIO**  
Associate Justice

**PRESBITERO J. VELASCO, JR.**  
Associate Justice

**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

**ARTURO D. BRION**  
Associate Justice

**DIOSDADO M. PERALTA**  
Associate Justice

**LUCAS P. BERSAMIN**  
Associate Justice

**MARIANO C. DEL CASTILLO**  
Associate Justice

**ROBERTO A. ABAD**  
Associate Justice

**MARTIN S. VILLARAMA, JR.**  
Associate Justice

**JOSE PORTUGAL PEREZ**  
Associate Justice

**JOSE CATRAL MENDOZA**  
Associate Justice

**BIENVENIDO L. REYES**  
Associate Justice

## **CERTIFICATION**


I certify that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court.

**MA. LOURDES P. A. SERENO**  
Chief Justice

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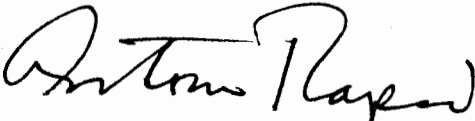
**WHEREFORE**, premises considered, the petitions are hereby **DENIED**. The assailed Orders dated August 14, 2009 and September 22, 2009 of the Regional Trial Court of Davao City, Branch 10, are **AFFIRMED**.

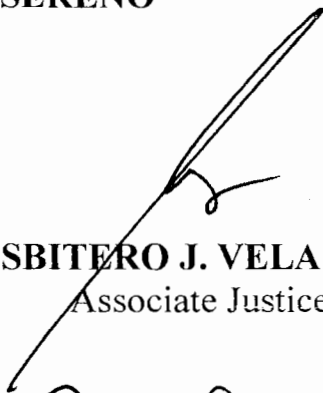
**SO ORDERED.**

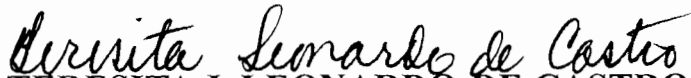
  
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**WE CONCUR:**


  
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Chief Justice

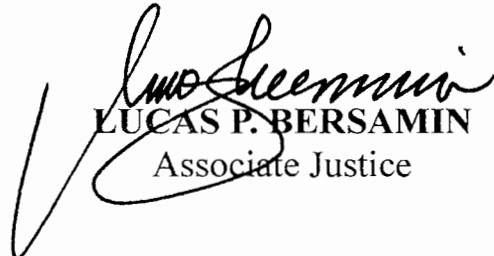
  
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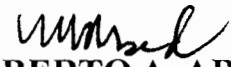
  
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Associate Justice

### **CERTIFICATION**

I certify that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court.



**MA. LOURDES P. A. SERENO**  
Chief Justice