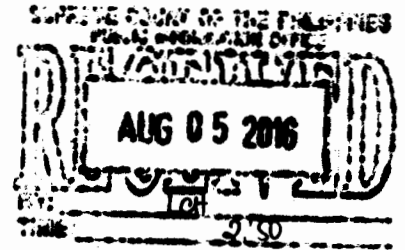




Republic of the Philippines
Supreme Court
Manila

EN BANC

NOTICE



Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated AUGUST 2, 2016, which reads as follows:

“G.R. No. 176830 (Saturnino C. Ocampo v. Hon. Ephrem S. Abando, in his capacity as Presiding Judge of the Regional Trial Court of Hilongos, Leyte, Branch 18, Cesar M. Merin, in his capacity as Approving Prosecutor and Officer-in-Charge, Rosulo U. Vivero, in his capacity as Investigating Prosecutor, Raul M. Gonzalez, in his capacity as Secretary of the Department of Justice); G.R. No. 185587 (Randall B. Echanis v. Hon. Thelma Bunyi-Medina, in her capacity as Presiding Judge of the Regional Trial Court of Manila, Branch 32, Hon. Ephrem S. Abando, in his capacity as Presiding Judge of the Regional Trial Court of Hilongos, Leyte, Branch 18, Cesar M. Merin, in his capacity as Approving Prosecutor and Officer-in-Charge, Rosulo U. Vivero, in his capacity as Investigating Prosecutor, Raul M. Gonzalez, in his capacity as Secretary of the Department of Justice); G.R. No. 185636 (Rafael G. Baylisis v. Hon. Thelma Bunyi-Medina, in her capacity as Presiding Judge of the Regional Trial Court of Manila, Branch 32, Hon. Ephrem S. Abando, in his capacity as Presiding Judge of the Regional Trial Court of Hilongos, Leyte, Branch 18, Cesar M. Merin, in his capacity as Approving Prosecutor and Officer-in-Charge, Rosulo U. Vivero, in his capacity as Investigating Prosecutor, Raul M. Gonzalez, in his capacity as Secretary of the Department of Justice); and G.R. No. 190005 (Vicente P. Ladlad v. Hon. Thelma Bunyi-Medina, in her capacity as Presiding Judge of the Regional Trial Court of Manila, Branch 32, and the People of the Philippines).— Before us are the following incidents in the instant cases:

1. The manifestations of the Office of the Solicitor General (OSG) in compliance with the Court Resolution dated 5 April 2016, requiring it to signify its position with regard to the manifestation of Alexander A. Padilla, Chairperson of the Government of the Philippines Panel for Peace Negotiations (Chairperson Padilla) with the Communist Party of the Philippines/New People’s Army/National Democratic Front of the Philippines (CPP/NPA/NDF);

Alexander A. Padilla

In a letter dated 17 February 2016,¹ Chairperson Padilla informed the Court that since June 2011, the formal peace negotiations between the government and the CPP/NPA/NDF had not resumed. The impasse was supposedly caused by the latter's preconditions for agreeing to return to the negotiating table;

2. Urgent Motion for Leave to Intervene (With Attached Manifestation and Motion [For the Issuance of Orders to Various Regional Trial Courts to Issue Orders of Conditional Release to Specified Members of the NDF Panel) filed by the OSG on behalf of the Government of the Republic of the Philippines Panel for Peace Negotiations with the National Democratic Front (GRP Panel);
3. Urgent Manifestation and Motion (For the Issuance of Orders to Various Trial Courts to Issue Orders of Conditional release to Specified Members of the NDF Panel) also filed by the OSG on behalf of the GRP Panel; and
4. Notice of Order² with attached Order dated 2 June 2016³ issued by the Regional Trial Court of Manila, Branch 32 (RTC).

BACKGROUND

In the Decision dated 11 February 2014,⁴ the Court dismissed the petitions of Saturnino C. Ocampo (Ocampo), Randall B. Echanis (Echanis), Rafael G. Baylisis (Baylisis) and Vicente P. Ladlad (Ladlad). They had sought the annulment of the orders and resolutions of public respondents with regard to the indictment of petitioners and the issuance of warrants of arrest against them for the crime of multiple murder.

The Court found that petitioners had not been deprived of their right to due process during the preliminary investigation and the issuance of the warrants of arrest against them.

The Court also ruled that the political offense doctrine was not a ground to dismiss the charge against petitioners prior to a determination by the trial court that the murders had been committed in furtherance of rebellion. The burden of demonstrating political motivation must be discharged by the defense, since motive is a state of mind that only the accused persons know. The proof showing political motivation is adduced during trial, when the accused are assured of an opportunity to present evidence supporting their defense.

¹ *Rollo* (G.R. No. 176830), p. 1490.

² *Id.* at 1573.

³ *Id.* at 1574.

⁴ G.R. Nos. 176830, 185587, 185636 & 190005, 11 February 2014.

Ng B. Noyan-Dane

Thus, the RTC was ordered to proceed with dispatch with the hearing of the criminal case for multiple murder against petitioners. Nevertheless, this Court allowed them to remain on provisional liberty under a ₱100,000 cash bond posted before the Office of the Clerk of Court of the Supreme Court.

As regards petitioner Ocampo, this Court allowed him to remain on provisional liberty until the termination of the proceedings before the RTC as provided under the Court Resolution dated 3 April 2007.⁵ With respect to petitioners Echanis, Baylosis and Ladlad, their provisional release from detention as ordered under the Court Resolution dated 17 January 2012⁶ shall continue under one condition. That is, their temporary release shall be limited to the period of their actual participation as CPP-NDF consultants in peace negotiations with the government or until the termination of the proceedings before the RTC Manila, whichever is sooner.

The Court also emphasized that it shall be the duty of the government to inform this Court of the conclusion of the peace negotiations the moment it is reached.

On 25 March 2014, the Court denied with finality the motions for reconsideration filed by petitioners Ocampo, Baylosis and Echanis,⁷ but denied also with finality on 1 April 2014, that which was filed by petitioner Ladlad.⁸

Entry of judgment was made on 16 June 2014.⁹

On 23 February 2016, the Court received the aforesaid letter of Chairperson Padilla stating that since June 2011, the formal peace negotiations had not resumed.

In its Resolution dated 5 April 2016, the Court required the OSG to manifest whether it was adopting the manifestation of Chairperson Padilla.¹⁰

The Court also required petitioners to comment.

Accordingly, petitioner Ladlad filed his Compliance¹¹ on 17 May 2016. He emphasized that while there was indeed a suspension of formal peace negotiations, they had not yet been concluded or terminated. He manifested that he remained as one of the political consultants of the NDF negotiating panel. In fact, on several occasions¹² and upon the invitation of

⁵ *Rollo* (G.R. No. 176830), pp. 557-558.

⁶ *Id.* at 1032-M – 1032-P.

⁷ *Id.* at 1466-1467.

⁸ *Id.* at 1462-1463.

⁹ *Id.* at 1471-1473.

¹⁰ *Id.* at 1492-1494.

¹¹ *Id.* at 1498-1517.

¹² 22 September to 3 October 2014, 23 October to 2 November 2014, 26 November to 9 December 2014, 23 October to 10 November 2015.

Jay B. Baylosis

Mr. Luis G. Jalandoni,¹³ he had traveled to the Netherlands – with prior leave of court granted by the RTC – to participate in the consultations regarding the move to resume peace talks with the Philippine Government.

Furthermore, while there had been no resumption of formal peace negotiations since June 2011, informal talks were conducted from the last quarter of 2012 up to November 2015.¹⁴ The meeting in Schipol, Netherlands, in February 2013 was even attended by Chairperson Padilla himself. All of these informal talks had been authorized by Secretary Teresita Deles (Secretary Deles), former Presidential Adviser on the Peace Process. Consequently, petitioner Ladlad emphasizes that he has satisfied the precondition for his provisional release.

Petitioners Ocampo, Echanis and Baylosis filed their Compliance¹⁵ on 25 May 2016. They also emphasized that while formal talks between the negotiating panels had been stalled, these peace negotiations were considered to have continued, since no written notice of termination had been given by either party. Petitioners Echanis and Baylosis continue to be consultants in the peace process, and they perform their tasks as such even while the formal talks are suspended. They have also been invited to and have attended the peace consultations in the Netherlands to discuss updates on the peace negotiations. They also regularly speak at fora and meetings on those negotiations. Petitioner Ocampo states that while he is not a consultant in the peace process, he continues to be invited to meetings with the government of Norway for updates and relevant issues on the peace process.

The Court noted the Compliances of all petitioners on 21 June 2016.¹⁶

On the other hand, the OSG has submitted various motions for extension of time to file its compliance citing the need to coordinate with the then incoming, now current, Justice Secretary regarding policy directions on the matter.¹⁷

The OSG submitted its compliances on 12 July 2016,¹⁸ 15 July 2016,¹⁹ and 19 July 2016.²⁰

MANIFESTATION OF THE OSG

All the manifestations of the OSG refer to a letter dated 28 June 2016²¹ sent by Atty. Mildred Yovela S. Umali-Hermogenes, Deputy Executive Secretary for Legal Affairs, Office of the President. According to

¹³ Chairperson of the NDF Negotiating Panel.

¹⁴ 1-18 December 2012; 25 February 2013; April, September and November 2014; and October 2015.

¹⁵ *Rollo* (G.R. No. 176830), pp. 1530-1540.

¹⁶ *Id.* at 1548-1549.

¹⁷ *Id.* at 1518-1519.

¹⁸ *Id.* at 1577-1586; for G.R. Nos. 176830 and 190005.

¹⁹ *Id.* at 1587-1596; for G.R. No. 185636.

²⁰ *Id.* at 1597-1609; for G.R. No. 185587.

²¹ *Id.* at 1581-1582.

J. Padilla

the letter, Secretary Deles has confirmed the manifestation of Chairperson Padilla before this Court.

Secretary Deles, however, noted that exploratory talks between representatives from the incoming government and NDF panels were held on 14-15 June 2016 in Norway. One of the points agreed upon in the meeting was the resumption of peace negotiations in the third week of July 2016 in Norway under the facilitation of the Royal Norwegian Government.

ORDER FOR THE ARREST OF PETITIONER BAYLOSIS

In a separate but related matter, the RTC furnished this Court on 9 June 2016 with the former's Order dated 2 June 2016.²² The Order narrates that on 30 July 2015, the trial court ordered the issuance of a warrant for the arrest of petitioner Baylosis for his failure to appear during his arraignment.

In a Resolution dated 12 July 2016,²³ the Court deferred action on this incident pending compliance by the OSG with the order for the latter to file its manifestation regarding the letter of Chairperson Padilla.

URGENT MOTIONS OF THE GRP PANEL

The GRP Panel now moves to intervene in the instant cases, particularly with regard to the criminal case against petitioner Baylosis. It alleges that he is a key member of the NDF and his attendance and participation as consultant to the NDF Panel is crucial to the success of the peace negotiations. Therefore, the GRP Panel has a legal interest in the matter in litigation.

In its Urgent Manifestation and Motion filed on 25 July 2016, the GRP Panel informed the Court that President Rodrigo Roa Duterte is steadfast in his intention to forge a permanent peace agreement with the CPP/NPA/NDF. In fact, even before he assumed office, exploratory talks have already been initiated with NDF Chairman Jose Maria Sison for the possible resumption of formal peace talks between the government and the CPP/NPA/NDF. During those meetings, it was agreed that formal peace negotiations shall resume in the fourth week of August 2016 in Oslo, Norway. Both parties have agreed to set a six-month time frame to complete the negotiations.

According to the GRP Panel, aside from petitioner Baylosis, other key members in the peace negotiations and who crucial to the success of the endeavor also have pending criminal cases before the courts. They are the following:

1. Tirso Alcantara

²² Id. at 1574.

²³ Id. at 1575-1576.

Jay to Nayan Pano

2. Alex Birondo
3. Winona Birondo
4. Maria Concepcion Bocala
5. Reynante Gamara
6. Alan Jazmines
7. Vicente Ladlad
8. Ma. Loida Magpatoc
9. Adelberto Silva
10. Benito Tiamzon
11. Wilma Tiamzon

The GRP Panel also alleges that the President has already ordered the temporary release of these individuals pursuant to a previously signed Joint Agreement on Safety and Immunity Guarantees (JASIG) dated 24 February 1995 between the GRP and the NDF Panels for them to be given safe conduct pass to travel to Oslo, Norway.

In this connection, the GRP Panel urges the Court to suspend its own rules in order to grant temporary and conditional liberty to petitioner Baylosis and others under the following conditions:

1. Their release shall only be for the purpose of their attendance and participation in the formal peace negotiations in Oslo, Norway commencing in August 2016 up to six months thereafter, or as soon as the peace negotiations are concluded or terminated. Once their participation ceases or the peace negotiations fail, their respective bonds shall be deemed automatically canceled.
2. Their release shall be subject to the posting of a cash bond in the amount of ₱100,000 with the Office of the Clerk of Court.
3. The above-named individuals shall provide complete contact information, both in the Philippines and in Norway.
4. They shall undertake to return to the Philippines after the formal peace negotiations in Oslo, Norway. For the duration of the peace negotiations, they shall report to the Embassy of the Republic of the Philippines in Norway whenever required.
5. With respect to petitioner Baylosis, who has jumped bail and remains at large, he shall first surrender to the authorities and submit to the jurisdiction of the RTC. Otherwise, he shall be deemed to have waived any right to seek relief from the court.

RULING

As manifested by the Solicitor General in his Urgent Manifestation and Motion that the peace negotiations shall resume “[i]n the higher interest of peace and national security,”²⁴ with the objective of “securing a final solution to the insurgency problem in the country and forging a permanent

²⁴ Urgent Manifestation and Motion, p. 8.

Handwritten signature: J. B. ...

peace agreement with the CPP/NPA/NDF that would bring a final end to nearly five decades of armed conflict,”²⁵ the primary consideration for the grant of provisional liberty to petitioners Echanis and Ladlad continues to be satisfied by them.

Furthermore, considering that the provisional liberty of petitioner Ocampo was not conditioned on his participation in the peace negotiations, he shall be allowed to remain on provisional liberty until the termination of the proceedings before the RTC.

We note the report of the RTC on the failure of petitioner Baylosis to attend his arraignment and the RTC’s order for his arrest. Accordingly, the Court forfeits his cash bond in the amount of ₱100,000 under Official Receipt No. 0034357 dated 1 February 2012.²⁶ His cash bond can be reinstated only upon a justifiable cause as may be determined by the RTC after his arrest or surrender.

As regards the grant of temporary and conditional liberty to the other personalities named in the Urgent Manifestation and Motion of the OSG, the same does not merely involve the suspension of the application of technical rules of procedure. On the contrary, it concerns the substantive issue of jurisdiction that belongs, not to this Court, but in the Regional Trial Courts hearing the various cases which are now in different stages. To grant temporary and conditional liberty to these personalities may have the inadvertent but irremediable effect of pre-empting the trial courts’ own determinations in the exercise of their original jurisdiction to try the cases before them.

As such, appropriate motions and pleadings should be filed for the consideration of the trial courts. Needless to say, the concerned Regional Trial Courts shall give the appropriate priority to the hearing of such motions and manifestations. The relevance of the attendance and participation of the other personalities adverted to in the Urgent Manifestation and Motion to the peace process are matters that must be brought before these courts.

While the Court appreciates the candor of the OSG in seeking to intervene in the instant cases, the motion has to be denied. As we ruled in *Executive Secretary v. Northeast Freight Forwarders, Inc.*,²⁷ intervention shall be allowed only upon the concurrence of two requirements: (1) the movant has legal interest in the matter in litigation; and (b) consideration must be given as to whether the adjudication of the rights of the original parties may be delayed or prejudiced, or whether the intervenor’s rights may be protected in a separate proceeding or not.

²⁵ Id. at 9.

²⁶ *Rollo* (G.R. No. 185636), p. 1436.

²⁷ 600 Phil. 789 (2009).

Ygbe Nagan

In this case, there is no more “matter in litigation” to speak of as entry of judgment had already been made in the Decision dated 11 February 2014. The incidents before us pertain only to the operational application of our Decision as regards the provisional liberty of petitioners, which had already been ruled upon. Furthermore, considering that the intervention is sought with regard to the case involving petitioner Baylosis, who has failed to appear in his arraignment as reported by the RTC, the legal interest of the GRP Panel in the matter may be properly brought and threshed out before the RTC.

Considering the risks of escape from the criminal jurisdiction of Philippine courts that would be occasioned by the envisioned travel of petitioners Echanis and Ladlad to Oslo, Norway, conditions must be additionally imposed to ensure minimization of such risks.

WHEREFORE, the provisional liberty of Saturnino C. Ocampo, Randall B. Echanis, and Vicente P. Ladlad shall **CONTINUE** under their respective cash bonds. They are reminded to faithfully comply with the conditions of their cash bonds.

The following additional conditions for the provisional liberty of Randall B. Echanis and Vicente P. Ladlad shall apply:

1. Their provisional liberty shall only be for the purpose of their attendance and participation in the formal peace negotiations in Oslo, Norway commencing in August 2016 up to six months thereafter, or as soon as the peace negotiations are concluded or terminated, whichever is earlier. Once their participation ceases or the peace negotiations are terminated, their respective bonds shall be deemed automatically canceled.
2. Their provisional liberty shall continue to be secured by the cash bond in the amount of ₱100,000 already posted with the Office of the Clerk of Court of the Supreme Court.
3. They shall provide the Regional Trial Court of Manila, Branch 32, and all parties with complete contact information, both in the Philippines and in Norway.
4. They shall undertake to return to the Philippines after the formal peace negotiations in Oslo, Norway. For the duration of the peace negotiations, they shall report to the Embassy of the Republic of the Philippines in Norway whenever required.

The cash bond posted by Rafael G. Baylosis in the amount of ₱100,000 under Official Receipt No. 0034357 dated 1 February 2012 is hereby **FORFEITED**. His cash bond can be reinstated only upon a justifiable cause as may be determined by the Regional Trial Court of Manila, Branch 32, after his arrest or surrender. Any request for his provisional liberty shall only be placed under consideration after this threshold condition has been satisfied.

Jeffrey B. Pangan - Dano

August 2, 2016

The Government of the Republic of the Philippines Panel for Peace Negotiations with the National Democratic Front may file the appropriate motions and pleadings before the concerned Regional Trial Courts for their consideration.

Accordingly, the instant cases before this Court are hereby considered **CLOSED** and **TERMINATED.**" Brion, J., on leave. Caguioa, J., no part. (adv7)

Very truly yours,



FELIPA B. ANAMA

Clerk of Court ^{CBM}

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