



Republic of the Philippines
Supreme Court
 Manila

EN BANC

**REPUBLIC OF THE PHILIPPINES,
 REPRESENTED BY THE
 DIRECTOR/HEAD OF THE
 CRIMINAL INVESTIGATION
 AND DETECTION GROUP (CIDG),
 PHILIPPINE NATIONAL POLICE
 (PNP),**

Petitioner,

- versus -

**REGINA N. CAYANAN AND
 SPO1 ROLANDO V. PASCUA,**
 Respondents.

G.R. No. 181796

Present:

SERENO, *C.J.*,
 CARPIO,
 *VELASCO, JR.,
 **LEONARDO-DE CASTRO,
 PERALTA,
 BERSAMIN,
 ***DEL CASTILLO,
 ****PERLAS-BERNABE,
 LEONEN,
 *****JARDELEZA,
 CAGUIOA,
 MARTIRES,
 TIJAM,
 REYES, JR., and
 GESMUNDO, *JJ.*:

Promulgated:

November 7, 2017

[Handwritten Signature]

DECISION

BERSAMIN, J.:

Substantial evidence is sufficient in proceedings involving petitions for the writ of *amparo*. The respondent must show in the return on the writ of *amparo* the observance of extraordinary diligence. Once an enforced disappearance is established by substantial evidence, the relevant State agencies should be tasked to assiduously investigate and determine the disappearance, and, if warranted, to bring to the bar of justice whoever may be responsible for the disappearance.

* On official time.
 ** On official business.
 *** On official time.
 **** On official business.
 ***** On leave.

The Case

The Government, represented by the Director/Head of the Criminal Investigation and Detection Group (CIDG) of the Philippine National Police (PNP), appeals the resolution issued on December 13, 2007 by the Regional Trial Court, Branch 91, in Quezon City (RTC) maintaining the writ of *amparo*; ordering the CIDG to continue its investigation into the disappearance of Pablo A. Cayanan (Pablo); directing respondent SPO1 Rolando V. Pascua (Pascua) to appear before the proper forum; making the temporary protection order permanent; and upholding the enrollment of Regina N. Cayanan (Regina) in the Witness Protection Program of the Department of Justice.¹

Also under appeal is the resolution of January 31, 2008, whereby the RTC denied the petitioner's motion for reconsideration.²

Antecedents

On August 16, 2007, Regina filed a petition for *habeas corpus* in the RTC alleging that Pablo, her husband, was being illegally detained by the Director/Head of the CIDG;³ that on July 9, 2007 a group of armed men identifying themselves as operatives of the CIDG, led by Pascua, had forcibly arrested Pablo on Magalang Street, East Avenue, Diliman, Quezon City without any warrant of arrest, and had then detained him at the office of the CIDG in Camp Crame, Quezon City; that Pablo had not been found or heard from since then; and that despite repeated demands by her and her relatives, the CIDG operatives had not produced the body of Pablo.⁴

On August 21, 2007, the CIDG received the petition for *habeas corpus* brought in behalf of Pablo. On August 28, 2007, the CIDG filed its return on the writ wherein it denied having the custody of Pablo or having detained him. It prayed for the dismissal of the petition for *habeas corpus*.⁵

On September 7, 2007, the RTC directed the parties to submit their respective memoranda.⁶

On October 24, 2007, Regina, albeit reiterating the allegations of the petition for *habeas corpus*, amended her petition to now seek instead the issuance of a writ of *amparo*.⁷

¹ *Rollo*, pp. 34-41, penned by Judge Lita S. Tolentino-Genilo.

² *Id.* at 42.

³ *Id.* at 6.

⁴ *Id.* at 34.

⁵ *Id.* at 6-7.

⁶ *Id.* at 7.

⁷ *Id.* at 7-8.

On October 24, 2007, the RTC issued the writ of *amparo*.⁸

On November 5, 2007, the CIDG and Pascua submitted their respective comments vis-à-vis the writ of *amparo*.⁹

On November 5, 2007, Regina moved *ex parte* for the issuance of a temporary protection order and witness protection order. The RTC granted her motion on November 6, 2007.¹⁰

Pascua did not appear in the proceedings in the RTC. He tendered explanations for his non-appearance, specifically: for the initial hearing, he was then suffering acute gastroenteritis; and for the later hearings, he wanted to protect his identity as part of his defenses in the criminal case of kidnapping brought against him in the Department of Justice.¹¹

On December 13, 2007, the RTC issued the first assailed resolution,¹² disposing thusly:

Foregoing premises considered, judgment is hereby rendered as follows, to wit:

- 1) The Court hereby maintains the Writ of Amparo earlier issued;
- 2) For respondent CIDG Chief/Director to continue the investigation it earlier conducted;
- 3) For SPO2 Rolando V. Pascua to appear to the proper forum;
- 4) The Temporary Protection Order is hereby made permanent;
- 5) And the Granting of the Witness Protection Program availed of by the petitioner is hereby retained until the finality of the case/cases related thereto.

It is so ordered.¹³

The CIDG forthwith moved for reconsideration;¹⁴ however, the RTC denied the motion for reconsideration on January 31, 2008 through the second assailed resolution.¹⁵

Hence, the CIDG has directly appealed to the Court.

⁸ Id. at 35.

⁹ Id. at 125-132.

¹⁰ Id. at 35.

¹¹ Id.

¹² Id. at 34-41.

¹³ Id. at 40-41.

¹⁴ Id. at 9.

¹⁵ Id. at 10.

Issues

The CIDG urges the following grounds for review and reversal of the assailed resolutions, namely:¹⁶

I.

The trial court gravely erred in granting the writ of *amparo*, there being no sufficient evidence to support the same.

A.

The Rule on the writ of *amparo* did not change the rules on burden of proof.

B.

A mere accusation accompanied by inherently hearsay evidence is not sufficient ground for the court to issue a writ of *amparo* or allow its continued effectivity.

II.

Petitioner discharged its functions as required in its mandate and exhausted all remedies available under the law.

On his part, Pascua submits in his comment to the petition that:¹⁷

I.

Complainant failed to establish by the required burden of proof that respondent SPO2 Pascua, in his personal capacity or as police officer, caused the “forced disappearance” of Pablo Cayanan within the ambit protected by the rule on the writ of *amparo*.

A.

Following Mexico’s *Amparo*, it is [an] essential requirement for the supposed victim to establish where he is being held. Moreover, Philippine rule on *amparo* specifically covers “public official or employee, or of a private individual or entity”, which evidently precludes a government institution/instrumentality, such as CIDG-PNP.

B.

Enforced or forced disappearance means that it must be established that agents of the state perpetrated its commission.

II.

Respondent-Accused Pascua is entitled to presumption of innocence, which cannot be diminished by the rule on writ of *amparo*.

The issues for consideration and resolution in this appeal are follows: (1) whether or not sufficient evidence supported the grant of the writ of *amparo* by the RTC; (2) whether or not the CIDG already discharged its duty as required by the *Rule on the Writ of Amparo*; (3) whether or not the

¹⁶ Id. at 10-11.

¹⁷ Id. at 112-113.

petition for the issuance of the writ of *amparo* was defective; and (4) whether or not the issuance of the writ of *amparo* by the RTC impaired Pascua's right to the presumption of his innocence.

Ruling of the Court

The appeal lacks merit.

We have to indicate as a preliminary observation that although this mode of appeal is usually limited to the determination of questions of law, Section 19 of the *Rule on the Writ of Amparo* explicitly allows the review by the Court of questions of fact or of law or of both. Accordingly, we shall also determine herein the sufficiency of the evidence presented in support of the petition for the issuance of the writ of *amparo*.

I.

Substantial evidence existed to warrant the issuance of the writ of *amparo*

Section 1 of the *Rule on the Writ of Amparo* defines the nature of the writ of *amparo* as a remedy against enforced disappearances or threats to life, liberty and personal security, viz.:

Section 1. *Petition.* – The petition for a writ of *amparo* is a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.

The writ shall cover extralegal killings and enforced disappearances or threats thereof.

Section 17 of the *Rule on the Writ of Amparo* specifies the degree of proof required from the petitioner as a respondent named in the petition for the writ of *amparo*, to wit:

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

X X X X

Section 18 of the *Rule on the Writ of Amparo* requires substantial evidence to establish the allegations of the petition for the writ of *amparo* and to warrant granting the privilege of the writ of *amparo*, to wit:

Section 18. *Judgment.* – x x x 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**.

Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.¹⁸ This standard was applied in *Secretary of National Defense v. Manalo*,¹⁹ the first ruling by the Court relating to the remedy of the writ of *amparo*.

In *Razon, Jr. v. Tagitis*,²⁰ a case involving the propriety of the trial court's issuance of the writ of *amparo*, the Court expounded on the need for substantial evidence to support the petition for the writ of *amparo*, viz.:

We see no merit in the petitioners' submitted position that no sufficient evidence exists to support the conclusion that the Kasim evidence unequivocally points to some government complicity in the disappearance x x x. We painstakingly ruled:

To give full meaning to our Constitution and the rights it protects, we hold that, as in *Velasquez*, **we should at least take a close look at the available evidence** to determine the correct import of every piece of evidence – **even of those usually considered inadmissible under the general rules of evidence – taking into account the surrounding circumstances and the test of reason** that we can use as basic minimum admissibility requirement x x x.

x x x x

Likewise, we see no merit in the petitioners' claim that the Kasim evidence does not amount to substantial evidence required by the Rule on the Writ of *Amparo*. This is not a new issue; we extensively and thoroughly considered and resolved it in our December 3, 2009 Decision. At this point, we need not go into another full discussion of the justifications supporting an evidentiary standard specific to the Writ of *Amparo*. Suffice it to say that **we continue to adhere to the substantial evidence rule that the Rule on the Writ of *Amparo* requires, with some adjustments for flexibility in considering the evidence presented. When we ruled that hearsay evidence (usually considered inadmissible under the general rules of evidence) may be admitted as the circumstances of the case may require, we did not thereby dispense with the substantial evidence rule; we merely relaxed the evidentiary rule on the admissibility of evidence**, maintaining all the time the standards of reason and relevance that underlie every evidentiary situation. **This, we did, by considering the totality of the obtaining situation and the consistency of the hearsay evidence with the other available evidence in the case.**

¹⁸ *Secretary of National Defense v. Manalo*, G.R. No. 180906, October 7, 2008, 568 SCRA 1, 44.

¹⁹ *Id.*

²⁰ G.R. No. 182498, February 16, 2010, 612 SCRA 685.

X X X X

Thus viewed, common threads that plainly run in the three cited cases are applicable to the present case. There is the evidence of ineffective investigation in *Manalo* and *Velasquez Rodriguez*, while **in all three was the recognition that the burden of proof must be lowered or relaxed (either through the use of circumstantial or indirect evidence or even by logical inference); the requirement for direct evidence to establish that an enforced disappearance occurred -- as the petitioners effectively suggest -- would render it extremely difficult, if not impossible, to prove that an individual has been made to disappear. In these lights, we emphasized in our December 3, 2009 Decision that while the need for substantial evidence remains the rule, flexibility must be observed where appropriate (as the Courts in *Velasquez Rodriguez* and *Timurtas* did) for the protection of the precious rights to life, liberty and security.** This flexibility, we noted, requires that ‘we should take a close look at the available evidence to determine the correct import of every piece of evidence – even of those usually considered inadmissible under the general rules of evidence – taking into account the surrounding circumstances and the test of reason that we can use as basic minimum admissibility requirement.’ From these perspectives, we see no error that we should rectify or reconsider.²¹ (*Emphases supplied*)

The CIDG contends that Regina did not discharge her burden of proof because she did not present substantial evidence to support her petition for the issuance of the writ of *amparo*.

The contention of the CIDG is without merit.

We declare that Regina fully discharged her duty to present substantial evidence in support of her petition for the issuance of the writ of *amparo*.

Firstly, the *sinumpaang salaysay* executed on July 30, 2007 before Special Investigator Cesar S. Rivera of the Anti-Kidnapping, Hijacking and Armed Robbery Division of the National Bureau of Investigation (NBI), whereby affiant Ronaldo F. Perez (Perez), *an eyewitness no less*, detailed the events of the abduction of Pablo in mid-afternoon of July 9, 2007, was consistent and credible in itself. Perez’s statements therein definitely recounted how the abductors perpetrated the abduction by blocking the path of Pablo’s Isuzu Sportivo (plate numbered ZCW 283) with their white-colored Kia 2-door Sedan bearing plate numbered YBA 255 and their green-colored Toyota Lite Ace with plate numbered “___-488.” Perez identified one of the perpetrators of the abduction by name (“SPO2 Rolando Pascua”) and supplied another identifying circumstance for Pascua (“*Siya po nagpapagawa din sa akin ng araw na yon ng International Drivers License, police po siya, dating naka-destino sa Firearms and Explosives Division*”).

²¹ Id. at 693-701.

(FED), Camp Crame”). He thereby revealed having last seen Pablo on the day of the abduction as being inside the Isuzu Sportivo that the abductors parked in front of the main office of the CIDG in Camp Crame.

The relevant portions of the *sinumpaang salaysay* of Perez are quoted for ready reference as follows:

4. T. Sino ba si PABLO CAYANAN?

S. Kliyente ko po si PABLO, nagpapagawa ng mga rehistro ng mga sasakyan. May pwesto po siya sa Dagupan at namimili at nagbebenta ng mga second hand car. Mga isang taon mahigit ko na po siyang kilala.

5. T. Kailan at papano siya nawala o dinukot? [*When and how did he disappear or was abducted*]

S. Noon pong ika-9 ng Hulyo 2007, nag-text si PABLO sa akin, tinatanong kung ok na yung papel ng Transfer of Ownership ng sasakyan, at sabi ko po “ok na”. Sabi niya “Sige punta ako diyan.” Mga alas-tres (3:00) ng hapon dumating siya sa harap ng opisina naming sa Cres Eden building sa 8A Magalang St., Pinyahan, Quezon City. **Dala ni PABLO yung Isuzu Sportivo (Plate ZCW-283) na kulay orange. Hindi na siya bumaba ng sasakyan at tinawag na lang ako para sumakay sa kanya. Pag-sakay ko po ay may humarang na dalawang sasakyan, isang Kia 2 door Sedan, puti, na may plate number YBA 255, at isang Toyota Lite Ace, green, plate number ___-488. Tinutukan kami ng Calibre .45 pistol ng 2 lalaking tumabi sa amin ni PABLO. Lumapit si SPO2 ROLANDO PASCUA sa amin at pinalipat ako sa Pajero niya (kulay navy blue). May ibang nag-maneho ng sasakyan ni PABLO na kasama siya doon. Kasama po ni PASCUA yung driver niya.**

6. T. Sino si SPO2 ROLANDO PASCUA?

S: Siya po nagpapagawa din sa akin ng araw na yon ng International Drivers License, police po siya, dating naka-destino sa Firearms and Explosives Division (FED), Camp Crame.

x x x x

11. T. Saan kayo dinala ni PABLO?

S. Inikut-ikot kami sa labas ng Crame mga kalahating oras (3:00-3:30 nh), tapos po ay pumasok kami sa loob ng Crame sa tapat ng CIDG Building, parking area. Nasa labas lang kami ng CIDG Building nakapark mga isa’t kalahating oras (3:30-5:00 nh), nasa loob lang ako ng Pajero ni PASCUA. Si PABLO ay kinakausap nila SPO2 ROLANDO PASCUA sa loob ng Sportivo. Pinaalis na po ako mga bandang alas singko (5:00) ng hapon, tumuloy na ako sa opisina sa Pinyahan. Naiwan po doon si PABLO CAYANAN Jr. bantay siya ng mga dumukot sa kanya, kasama si SPO2 ROLANDO PASCUA.

12. T. Paano mo nasabing nasa CIDG Crame kayo?

S. Madalas po ako doon, makikita po sa labas ng building na may malaking nakasulat na Criminal Investigation and Detention (sic) Group (CIDG).²²

Given that no ill-motive was imputed to Perez for firmly identifying Pascua as the person leading the abduction of Pablo, the credibility of the identification of Pascua was unassailable. Indeed, Perez was not likely to falsely incriminate a police officer like Pascua in the commission of a crime as serious as abduction unless the incrimination was the truth.

Secondly, Pascua himself expressly admitted the abduction of Pablo, albeit asserting himself as another victim of the same abduction. Pascua's version on the abduction, as culled from his counter-affidavit, follows:

a) On July 9, 2007, I was at the vicinity of Magalang Street near the Land Transportation Office (LTO) along East Avenue, Quezon City. I was then processing the application for International Driver's License of a relative which was coursed and requested through me;

b) To facilitate the processing of the said application for International Driver's License, **I met a friend named Ronaldo F. Perez**, who incidentally was [a] **known "fixer" in the area** to help him (sic) facilitate the application;

c) At around 3:00 in the afternoon and while I am seated in a "turo turo" (cafeteria) talking to Ronaldo Perez regarding the license detail, a group of men (referred to herein as "Malefactor" for brevity) more or less ten (10) brandishing long and short firearms arrived and in a "Gestapo" like manner hauled several persons including me and Ronaldo Perez. The incident transpired in no less than a minute. The Malefactor seem to be trained and have prepared for the incident;

d) At that precise moment, **[I] could not identify myself as a police officer** yet to the Malefactors **for fear that I would be shot at** by the Malefactors. At that time I did not bear with me my service fire arm – caliber 9mm pistol;

e) **We were ordered to board in a vehicle, which vehicle I cannot identify nor their license plate number.** There were Seven persons in the vehicle, four (4) members of the Malefactors and three (3) person who were hauled including me and Ronaldo Perez;

f) **All three (3) of us** who were taken by the malefactors **were ordered, at gun point, to bow our head while the vehicle is moving. We were directed not to look anywhere;**

g) **Same vehicle, together with two more vehicle apparently taking the lead, drove all the way to EDSA southbound** passing by the street near the building where the Department of Interior and Local Government is located;

²² *Rollo*, pp. 137-138. (Emphasis supplied)

h) **It was along Kamuning or a few minutes after their (sic) hauling when I had the opportunity to identify myself to one of the Malefactors that I am a bonafide member of the police force. I was asked if I am is(sic) sure that I am a police officer, to which I answered “Opo”;**

i) **A few minutes after and upon learning that I am a police officer, the vehicle stopped and I was required to get off, which I immediately did. I was however directed by one of the Malefactor not to look back or I would be shot which I complied;**

j) **Fearing that what I experienced may be [a] violation of the law, I boarded a taxi cab and immediately proceeded to the Central Metro Manila Criminal Investigation and Detection Team located at Camp Karingal, Sikatuna Village, Quezon City to report the incident. This is the station that I am quite familiar, hence, I decided to proceed to the same station x x x.**

k) **I tried to locate Ronaldo Perez that night but to no avail and so I decided to wait for any news that may come there after;**

l) **The next day, July 10, 2007 (Tuesday), I was surprised to learn from Ronaldo Perez through telephone call, that he was likewise released and that he is now ready to process the requested International Driver’s License of his relative Rizalino Pascua Gani, Jr. x x x.²³**

Asserting himself as another victim of the same abduction was Pascua’s way of denying his participation in the abduction of Pablo. Yet, he did not furnish details of the abduction that would have given to the investigators firm leads to quickly corner the perpetrators as well as to determine and locate the whereabouts of Pablo. His omission as fatal to his credibility. He could not simply belie his part in the abduction by issuing a blanket denial. He was expected to furnish details because he was a police officer sworn to uphold and enforce the law. It is significant that his denial was already doubtful in light of Perez’s *sinumpaang salaysay* positively identifying of him as the leader of the perpetrators of the abduction.

Thirdly, Pascua’s version of being a victim of the same abduction deserved no consideration. For one, he could not even mention the type and the color of the vehicle that he and Pablo were supposedly ordered to board. Such inability was uncharacteristic of a veteran police officer like him. To justify his alleged inability to provide details about the abductors in his counter-affidavit, he stated that he and Pablo were told to “bow their heads and not to look.” The justification was implausible, however, because it was incompatible with his declaration in the same counter-affidavit to the effect that the “[s]ame vehicle, together with two or more vehicle apparently taking the lead, drove all the way to EDSA southbound passing by the street near the building where the Department of Interior and Local Government is located.”²⁴ Furthermore, he said that he was released by the abductors only

²³ Id. at 189-190. (Emphasis supplied)

²⁴ Id. at 190.

after having introduced himself as a police officer. But he thereby contradicted himself because he also stated in the same counter-affidavit that he feared being shot during the abduction if he identified himself as a police officer. Moreover, he claimed that although he was released he submissively complied with the order of one of the abductors for him “not to look back or [he] would be shot.”²⁵ The claim of submissiveness was unnatural for a police officer like him because he was expected – mainly because of his training and experience as a police officer, or even because of simple curiosity on his part – to have at least glanced at the fleeing vehicle of the abductors in order to get a clue for the follow-up investigation. That he did not give chase or tail the vehicle, or alert other police officers about the abduction soonest added to the suspiciousness of his denial of participation in the abduction. And, lastly, his proceeding to a relatively farther police station to report the incident, instead of to the nearer police station or outpost made his version absolutely suspicious.

Fourthly, Regina presented other witnesses, namely: Ricardo Cayanan²⁶ and Leonila R. Francisco,²⁷ to corroborate the allegation on the occurrence of the abduction. Such other witnesses also identified Pascua as the person leading the abductors of Pablo and Perez.

And, fifthly, Perez’s recantation of his *sinumpaang salaysay* had no evidentiary value for being general and bereft of any details. A perusal shows that the recantation did not offer details of what had really occurred if the abduction of Pablo did not actually happen. Such details were the only means to directly contradict the details stated in the recanted *sinumpaang salaysay*.

It is relevant to note that the RTC, whose ascertainment of the credibility of conflicting testimonies is generally accorded great respect by the reviewing court, easily disbelieved Perez’s recantation of his *sinumpaang salaysay*, observing as follows:

Even the recantation of Ronaldo Perez of his Sinumpaang Salaysay as presented by the respondent SPO2 Rolando Pascua is frowned upon by the Court. Jurisprudence has invariably regarded such affidavit as exceedingly unreliable, because it can easily be secured from a poor and ignorant witness, usually through intimidation or for monetary consideration. Considering that the respondents herein belong to the police force, the motive of Ronaldo Perez in executing his Affidavit of Recantation is doubted by the Court. Moreover, Ronaldo Perez’s defiance of the subpoena sent to him by this Court proved all the more the doubt of the Court of the veracity of his recantation.²⁸

²⁵ Id.

²⁶ Id. at 74-75.

²⁷ Id.

²⁸ Id. at 40.

II.
**The CIDG did not observe the
required extraordinary diligence**

Section 17 of the *Rule on the Writ of Amparo* defines the diligence required of a public official or employee who is named as a respondent in the petition for the writ of *amparo*, to wit:

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

The respondent who is a private individual or entity must prove that ordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent who is a public official or employee must prove that extraordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent public official or employee cannot invoke the presumption that official duty has been regularly performed to evade the responsibility or liability.

The CIDG posits that it was only required to observe ordinary diligence in conducting its investigation of the disappearance of Pablo and in determining Pablo's whereabouts.

The CIDG's position is incorrect. The diligence required of the CIDG was extraordinary.

Section 9 of the *Rule on the Writ of Amparo* expressly states what a public official or employee impleaded as a respondent in the petition for the writ of *amparo* should submit with the verified written return, to wit:

Section 9. Return; Contents. – Within seventy-two (72) hours after service of the writ, the respondent shall file a verified written return together with supporting affidavits which shall, among other things, contain the following:

(a) The lawful defenses to show that the respondent did not violate or threaten with violation the right to life, liberty and security of the aggrieved party, through any act or omission;

(b) The steps or actions taken by the respondent to determine the fate or whereabouts of the aggrieved party and the person or persons responsible for the threat, act or omission;

(c) All relevant information in the possession of the respondent pertaining to the threat, act or omission against the aggrieved party; and

(d) If the respondent is a public official or employee, the return shall further state the actions that have or will still be taken:

- (i) to verify the identity of the aggrieved party;**
- (ii) to recover and preserve the evidence related to the death or disappearance of the person identified in the petition which may aid in the prosecution of the person or persons responsible;**
- (iii) to identify witnesses and obtain statements from them concerning the death or disappearance;**
- (iv) to determine the cause, manner, location and time of death or disappearance as well as any pattern or practice that may have brought about the death or disappearance;**
- (v) to identify and apprehend the person or persons involved in the death or disappearance; and**
- (vi) to bring the suspected offenders before a competent court.**

The return shall also state other matters relevant to the investigation, its resolution and the prosecution of the case.

A general denial of the allegations in the petition shall not be allowed.

In its return, the CIDG only attached *passive certificates* issued by its operating divisions to the effect that Pablo was not being detained by any of them.²⁹ Said certifications were severely inadequate. It is almost needless to characterize the certifications as non-compliant with the requirement for a detailed return. As such, the certifications amounted to a general denial on the part of the CIDG. The quoted rule requires the verified written return of the CIDG to be accompanied by supporting affidavits. Such affidavits, which could be those of the persons tasked by the CIDG and other agencies like the NBI and probably the Land Transportation Office (LTO) to collaborate in the investigation of the abduction of Pablo, would have specified and described the efforts expended in the search for Pablo, if such search was really conducted, and would have reported the progress of the investigation of the definite leads given in the Perez's *sinumpaang salaysay* on the abduction itself.

²⁹ Id. at 19-20.

The allegation that the CIDG had continuously searched for Pablo among its various operating divisions similarly constituted a general denial because the CIDG did not thereby indicate who had conducted the search, and how thoroughly the allegedly continuous searches had been conducted.

The CIDG pointed out in its return that the CIDG had undertaken an administrative investigation against Pascua, and submitted in that regard the certification on the pre-charge evaluation and investigation of Pascua. The CIDG asserts that its investigation of the disappearance of Pablo was conducted in tandem with that of the NBI; that it had also formed its own investigating team to conduct a “thorough investigation” of the abduction of Pablo; and that it had meanwhile verified the vehicle used in the abduction from the LTO.³⁰

Under the *Rule on the Writ of Amparo*, the return should spell out the details of the investigations conducted by the CIDG and the NBI in a manner that would enable the RTC to judiciously determine whether or not the efforts to ascertain Pablo’s whereabouts had been sincere and adequate. The return by the CIDG was non-compliant in that regard. To be noted at this juncture is that the CIDG should have exerted greater effort at complying with both the letter and spirit of the *Rule on the Writ of Amparo* in light of Perez’s *sinumpaang salaysay* having fully placed the responsibility for the abduction and disappearance of Pablo right at the very doorsteps of the CIDG in Camp Crame. It is disheartening for us to see the CIDG’s investigation having been limited to Pascua despite the circumstances justifying a broader inquiry. There was also no affirmative showing of any investigation of the area of the abduction itself despite Regina having presented witnesses from the area. Indeed, the CIDG did not seem to have itself investigated Perez on the abduction.³¹

III. The petition for the writ of *amparo* was not defective

In his comment, which the CIDG adopted, Pascua reminds that the *Rule on the Writ of Amparo* was partly patterned after the rules on the writ of *amparo* adopted in Mexico. He posits that it has been an essential requirement in Mexico for the petition for the writ of *amparo* to state where the victim of involuntary disappearance was being held. He argues that upon the recantation by Perez of his *sinumpaang salaysay*, there was no more evidence from which to determine where Pablo was being held.

The argument of Pascua is unfounded.

³⁰ Id. at 21-23.

³¹ Id. at 20-24.

Section 5 of the *Rule on the Writ of Amparo* lists the matters to be alleged in the petition for the writ of *amparo*:

Section 5. *Contents of the Petition.* – The petition shall be signed and verified and shall allege the following:

(a) The personal circumstance 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 the 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.

As Section 5 shows, there is no requirement for the petition to state the probable whereabouts of the victim. We have no doubt, however, that Regina was not aware where Pablo had been kept at the time she filed her petition for the writ of *habeas corpus*.

Nonetheless, the Court clarifies that the application and implementation of the rule of *amparo* adopted in Mexico or in any other country could only be persuasive at best. Despite its being patterned after the rules on the writ of *amparo* of other countries, particularly those in Latin-American, the *Rule on the Writ of Amparo* promulgated by the Court should not be wholly dependent on how those other rules of *amparo* have operated, or have been implemented. Such operation and implementation, if worthy of emulation, are only best practices to be considered and optionally relied upon, if at all. Circumstances and needs peculiar to our country, which the Court has well considered in crafting the *Rule on the Writ of Amparo*, dictate different operation and implementation.

It was actually presumptuous for Pascua to argue that there was no evidence at all that indicated the whereabouts of Pablo following the abduction. There was such evidence, and it was substantial. Specifically, Perez's *sinumpaang salaysay* stated the place where Pablo was detained or was last seen, to wit:

11. T: Saan kayo dinala ni PABLO?

S: Inikut-ikot kami sa labas ng Crame mga kalahating oras (3:00-3:30 nh), tapos po ay pumasok sa loob ng Crame sa tapat ng CIDG Building, parking area. Nasa labas lang kami ng CIDG Building nakapark, mga isa't kalahating oras (3:30-5:00 nh), nasa loob lang ako ng Pajero ni PASCUA. Si PABLO ay kinakausap nila SPO2 ROLANDO PASCUA sa loob ng Sportivo. Pinaalis na po ako mga bandang alas singko (5:00) ng hapon; tumuloy na ako sa upisina sa Pinyahan. Naiwan po doon si PABLO CAYANAN, Jr., bantay siya ng mga dumukot sa kanya, kasama si SPO2 ROLANDO PASCUA.

12. T: Paano mo nasabing nasa CIDG Crame kayo?

S: Madalas po ako doon, makikita po sa labas ng building na may malaking nakasulat na Criminal Investigation and Detention (sic) Group (CIDG).³²

Pascua suggests that the State, or any of its agencies or institutions like the CIDG, cannot be made a respondent in the petition for the writ of *amparo*. He probably bases his suggestion on the text of Section 1 of the *Rule on the Writ of Amparo*, which provides:

Section 1. Petition. – The petition for a writ of amparo is a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a **public official or employee, or of a private individual or entity**. (Emphasis supplied)

The suggestion of Pascua lacks substance. Although Section 1 states that the violation may be committed by the persons therein listed (*i.e.*, public official or employee, or a private individual or entity), it does not state that only the listed persons can be made respondents. The rule does not list the State or its agencies as possible violators simply because the State and its agencies may not be presumed to sanction such violations.

In proper circumstances, the State or any of its relevant agencies may be impleaded; otherwise, the rule on the writ of *amparo* may be rendered ineffective or toothless. There may be occasions when the remedy of the writ of *amparo* can be made effective only through the State and its agencies. This is because the State is vested with the authority and responsibility for

³² Id. at 138. (Emphasis supplied)

securing every inhabitant's life, liberty and property. After all, the State controls the legal, moral and material resources by which to fully enforce the Constitution and the laws guaranteeing life, liberty and property.

IV.

The issuance of the writ of *amparo* did not impair SPO2 Pascua's right to the presumption of innocence

Pascua supposes that the issuance of the writ of *amparo* issued against him impaired or diminished his right to the presumption of innocence.

Pascua's supposition entirely misses the point.

The proceedings taken under the *Rule on the Writ of Amparo* are not akin or similar to those in criminal prosecutions. In the former, the guilt or innocence of the respondents is not determined, and no penal sanctions are meted. The proceedings only endeavor to give the aggrieved parties immediate remedies against imminent or actual threats to life, liberty or security. The presumption of innocence is never an issue. In the latter, the prosecution of the accused with due process of law is the object of the proceedings. The presumption of innocence in favor of the accused is always the starting point. Hence, the need for the State to adduce proof beyond reasonable doubt of the guilt of the accused.

V.

Reliefs to be granted

We next consider the reliefs to be granted in addition to the grant of the privilege of the writ of *amparo*.

According to Section 18 of the *Rule on the Writ of Amparo*, the court hearing the petition may grant the privilege of the writ of *amparo* "and such reliefs as may be proper and appropriate." This means that the *amparo* court should enable every act or move to prevent any violation of another person's right to life, liberty and security or to defeat any threat of a violation of such right.

Under Section 9 of the *Rule on the Writ of Amparo*, the respondent is required to also state in the return the actions that have been or will still be taken: (a) to verify the identity of the aggrieved party; (b) to recover and preserve evidence related to the death or disappearance of the person identified in the petition *which may aid in the prosecution of the person or persons responsible*; (c) to identify witnesses and obtain statements from

them concerning the death or disappearance; (d) to determine the cause, manner, location and time of death or disappearance as well as any pattern or practice that may have brought about the death or disappearance; (e) *to identify and apprehend the person or persons involved in the death or disappearance*; and (f) *to bring the suspected offenders before a competent court*.

With the records of the hearing sufficiently indicating the personal participation of Pascua in the abduction of Pablo, Pascua ostensibly knew more than he cared to reveal thus far about the abduction. As a start, Pascua, as the leader of the abduction, knew the identities of the eight or nine other abductors. He should be assiduously investigated for his participation in the abduction, and, if warranted, he should be promptly but duly held accountable for it. All those conspiring with him in abducting Pablo should also be held to account to the full extent of the law. The CIDG and the NBI should not halt in seeing to this, for they bear the primary responsibility in that respect.

WHEREFORE, the Court **DENIES** the petition for review on *certiorari*; and **AFFIRMS** the resolution rendered on December 13, 2007 by the Regional Trial Court, Branch 91, in Quezon City in all respects subject to the following **MODIFICATIONS** of the dispositive portion, as follows:

Foregoing premises considered, judgment is hereby rendered as follows, to wit:

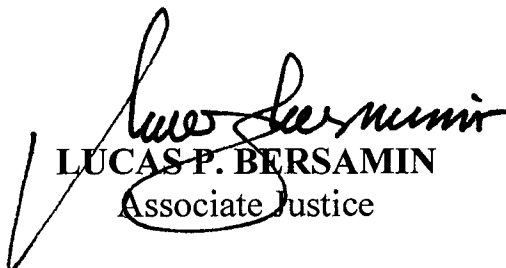
1. The Court hereby **grants the privilege of** the Writ of Amparo;
2. **Ordering respondent CIDG Chief/Director and the Director of the National Bureau of Investigation to cause the speedy conduct of a thorough investigation of the disappearance of Pablo A. Cayanan probably caused by members of the Philippine National Police then assigned in Camp Crame, presumably with the Criminal Investigation and Detection Group;**
3. **Requiring the full investigation of SPO2 Rolando V. Pascua and other persons who took part in the abduction of Pablo A. Cayanan; and, if warranted, charging them with the appropriate criminal offense or offenses in the Department of Justice in relation to the abduction of Pablo A. Cayanan;**
4. The Temporary Protection Order is hereby made permanent;
5. And the Granting of the Witness Protection Program availed of by the petitioner is hereby retained until the finality of the case/cases related thereto.

It is so ordered.


5

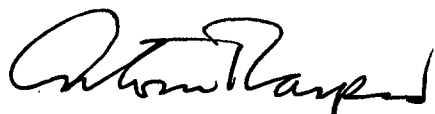
The Court **REMANDS** the case to the Regional Trial Court, Branch 91, in Quezon City for the implementation of and compliance with this decision with utmost dispatch.

SO ORDERED.


LUCAS P. BERSAMIN
Associate Justice


WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice


ANTONIO T. CARPIO
Associate Justice

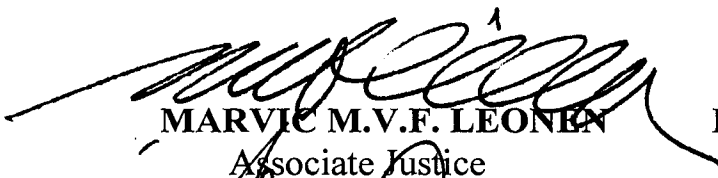
(On Official Time)
PRESBITERO J. VELASCO, JR.
Associate Justice

(On Official Business)
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

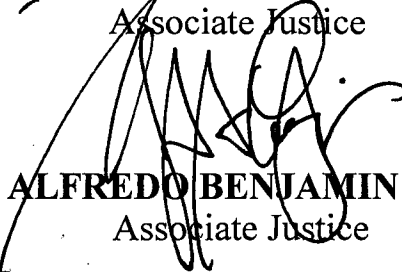

DIOSDADO M. PERALTA
Associate Justice

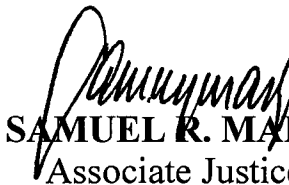
(On Official Time)
MARIANO C. DEL CASTILLO
Associate Justice


(On Official Business)
ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

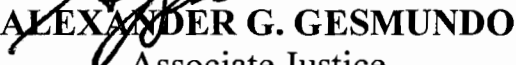
(On Leave)
FRANCIS H. JARDELEZA
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


SAMUEL R. MARTIRES
Associate Justice


NOEL G. MENZ TIJAM
Associate Justice

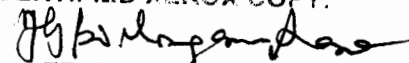

ANDRES B. REYES, JR.
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.


MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED XEROX COPY:

FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT