



Republic of the Philippines
Supreme Court
Manila

EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated MAY 8, 2020, which reads as follows:

“GR. No. 252118 (Dino S. De Leon v. Rodrigo Roa Duterte, President of the Republic of the Philippines, and the Office of the President through Salvador C. Medialdea, in his capacity as Executive Secretary). – This resolves the Extremely Urgent Petition for Mandamus filed on April 13, 2020 by Dino S. De Leon (petitioner) against President Rodrigo Roa Duterte (President) and the Office of the President (OP) through Executive Secretary Salvador C. Medialdea (collectively, respondents). In light of the Enhanced Community Quarantine (ECQ) brought about by the COVID-19¹ pandemic, the petition was lodged before this Court *via* electronic filing.

In his petition, petitioner alleged that the President has been absent from several engagements due to health reasons and also had prolonged absences from public view.² He further averred that the President appeared incoherent during the COVID-19 live press conference on March 12, 2020. Thus, on the same date, petitioner filed a Freedom of Information (FOI) Request³ under Executive Order No. 2 (2016)⁴ with the OP. Seeking to be clarified on the status of the President’s health, petitioner specifically asked for copies of the President’s latest medical examination results, health bulletins, and other health records. In response to his request, the Malacañang Records Office (MRO) sent to him an electronic mail⁵ dated March 13, 2020 stating that it is unable to provide the information requested. The MRO explained that the records requested are neither on file nor in its possession and that it shall accommodate petitioner’s request as soon as the requested information becomes available for release. Petitioner allegedly

¹ Official name and shortened version of the Coronavirus Disease 2019.

² See Annex “A.”

³ Annex “I”; While petitioner alleges in the instant petition that he filed the FOI Request after listening to the President’s COVID-19 press conference on March 12, 2020, it appears from the FOI Request attached to the petition that the request was filed on March 11, 2020.

⁴ Entitled “Operationalizing in the Executive Branch the People’s Constitutional Right to Information and the State Policies to Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor.” (July 23, 2016).

⁵ Annex “J.”

failed to get a response from the MRO after further inquiry and follow-ups⁶ on the availability of the requested health records.

Thus, by way of the present petition for *mandamus*, petitioner seeks to: (1) compel respondents to disclose all the medical and psychological/psychiatric examination results, health bulletins, and other health records of the President ever since he assumed the Presidency; and (2) compel the President to undergo additional confirmatory medical and psychological/psychiatric examinations, which shall be publicly disclosed in order to ensure the accuracy of the health records to be released. Petitioner anchors his alleged right to be informed on the basis of Section 12, Article VII and Section 7,⁷ Article III, in relation to Section 28,⁸ Article II, of the 1987 Constitution (Constitution).

From petitioner's standpoint, Section 12, Article VII of the Constitution is a self-executing command. It states:

Section 12. In case of serious illness of the President, the public shall be informed of the state of his health. The Members of the Cabinet in charge of national security and foreign relations and the Chief of Staff of the Armed Forces of the Philippines, shall not be denied access to the President during such illness. (Emphasis supplied)

Petitioner argues that the illnesses acknowledged by the President, *i.e.*, Buerger's Disease, Barrett's Esophagus, Gastroesophageal Reflux Disease, and *Myasthenia Gravis*, together with migraine and spinal issues,⁹ are serious illnesses within the ambit of Section 12, Article VII of the Constitution. He also asserts that these illnesses should be considered in addition to the psychological report submitted in the course of the trial court proceedings for the declaration of nullity of marriage involving the President. The report stated that the President has "Antisocial and Narcissistic Personality Disorder." For petitioner, the alleged illnesses and psychological disorders of the President provide sufficient basis to trigger the right of the Filipino people to be informed under Section 12, Article VII and Section 7, Article III of the Constitution.

The petition lacks merit.

The outright dismissal of the petition is proper since on its face, the petition failed to set forth his material allegations to establish a *prima facie*

⁶ See Annexes "K," "L," "L-1."

⁷ Section 7, Article III of the 1987 Constitution provides:

Section 7. The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

⁸ Section 28, Article II of the 1987 Constitution provides:

Section 28. Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest.

⁹ Annexes "B" to "F."

case for *mandamus*.¹⁰ Whether petitioner is actually and ultimately entitled to the reliefs prayed for is exactly what is to be determined by the Court after a judicious study of the petition and its annexes. Regrettably, petitioner fell short of making a *prima facie* case for *mandamus* by failing to establish a legal right that was violated by respondents.

Mandamus is defined as a writ commanding a tribunal, corporation, board or person to do the act required to be done when it or he/she: (1) unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station; or (2) unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, there being no other plain, speedy, and adequate remedy in the course of law.¹¹ It is an extraordinary remedy that is issued only in extreme necessity, and the ordinary course of procedure is powerless to afford an adequate and speedy relief to one who has a clear legal right to the performance of the act compelled.¹²

The writ of *mandamus*, however, will not issue to compel an official to do anything which is not his/her duty to do or which it is his/her duty not to do, or to give to the applicant anything to which the latter is not entitled by law.¹³ The writ will issue only if the legal right to be enforced is well defined, clear, and certain.¹⁴

It bears stressing that for a petition for *mandamus* to sufficiently allege a cause of action, petitioner must satisfy the following elements: (1) the legal right of the plaintiff; (2) the correlative obligation of the defendant to respect that legal right; and (3) an act or omission of the defendant that violates such right.¹⁵ The cause of action does not accrue until the party obligated refuses, expressly or impliedly, to comply with the duty.¹⁶

After a punctilious evaluation of the petition, the Court finds that the averments and arguments in the petition failed to establish a *prima facie* case for *mandamus*, *i.e.*, that the reliefs sought constitute ministerial duties on the part of respondents, and that there is a clear legal right on petitioner's part to demand the performance of these ministerial duties.

Petitioner seeks to avail himself of the writ of *mandamus*, but he himself cited the deliberations of the Constitutional Commission on Section

¹⁰ *Padilla, et al. v. Congress of the Philippines, et al.*, 814 Phil. 344, 377 (2017), citing *De Castro v. Judicial and Bar Council*, 629 Phil. 629, 737 (2010).

¹¹ *Ha Datu Tawahig v. Lapinid*, G.R. No. 221139, March 20, 2019, citing *Lihaylihay v. Tan*, G.R. No. 192223, July 23, 2018.

¹² *City of Davao v. Olanolan*, 808 Phil. 561, 569 (2017), citing *Special People, Inc. Foundation v. Canda*, 701 Phil. 365, 386-387 (2013).

¹³ *Uy Kiao Eng v. Lee*, 624 Phil. 200, 207 (2010), citing *Tangonan v. Paño*, 221 Phil. 601, 610 (1985) and *Gonzalez v. Board of Pharmacy*, 20 Phil. 367, 375 (1911).

¹⁴ *Pimentel III v. COMELEC, et al.*, 571 Phil. 596 (2008), citing *Olama v. Philippine National Bank*, 525 Phil. 424, 435 (2006).

¹⁵ *Phil. Coconut Authority v. Primex Coco Products, Inc.*, 528 Phil. 365, 387 (2006), citing *Jimenez, Jr. v. Jordana*, 486 Phil 452, 469-470 (2004).

¹⁶ *Id.*, citing *Texon Manufacturing v. Millena*, 471 Phil. 318, 324 (2004).

12, Article VII wherein the proponent thereof, Commissioner Blas F. Ople, stated that: "*We are called upon to be more trusting with respect to the Office of the President that they will know what appropriate means to take in order to release this information to the public in satisfaction of the public's right to know of the presidency.*"¹⁷ It was also further expressed in the deliberations that "*the state of health or analysis as to the actual condition of the President should be left to the President and his doctor*" and that "*the burden [is left] to the Office of the President to choose the appropriate means of releasing information to the public.*"¹⁸

Furthermore, petitioner alleges the serious illnesses purportedly suffered by the President, together with the personality disorders which complicate the management of the President's illnesses. The Court quotes in part petitioner's allegations, to wit:

22. The President's public admission of having been diagnosed of *Myasthenia Gravis*, Buerger's Disease, GERD, and Barrett's Esophagus, in addition to claimed "spinal issues" and "daily migraines" of undisclosed causes, paint a picture of a President afflicted with various serious illnesses, which at the minimum will cause serious inconvenience to and prejudice the discharge of his official duties.

x x x x

24. These illnesses should be considered in addition to the fact that the President has been found to have personality disorders. xxx To recall, the President was diagnosed with what his psychologist xxx termed as "Antisocial Narcissistic Personality Disorder." The condition, as diagnosed by the former President of the International Council of Psychologists, is said to be characterized by "*gross indifference, insensitivity and self-centeredness,*" a "*grandiose sense of self-entitlement and manipulative behaviors,*" and "*pervasive tendency to demean, humiliate others and violate their rights and feelings.*"

x x x x

30. These disorders only serve to complicate the position of the President. Not only does he have to endure the painstaking process of managing the incurable diseases he claims to be afflicted with, but in doing so, he also has to manage the complications posed by these personality disorders. x x x¹⁹ (Citations omitted)

However, the above-stated claims are merely based on what he perceived from the online news articles discussing the President's illnesses. Worse, these news articles are, as the Court has consistently ruled, characterized as "hearsay evidence, twice removed, and are thus without any

¹⁷ Petition, pp. 34-35; see RECORD, CONSTITUTIONAL COMMISSION 43 (July 30, 1986).

¹⁸ See RECORD, CONSTITUTIONAL COMMISSION 43 (July 30, 1986).

¹⁹ Petition, pp. 14-18.

probative value, unless offered for a purpose other than proving the truth of the matter asserted.”²⁰

The Court also deems it proper to emphasize that in the recent months, the President has been visibly holding regular cabinet meetings, belying petitioner’s insinuation that the President is suffering from serious illnesses. Further, the President’s regular televised addresses to the nation as regards the government’s response to the COVID-19 pandemic show that the President has been actively performing his official duties. Apparently, petitioner’s allegation that the President is seriously ill is unsubstantiated and is based merely on petitioner’s surmises and conjectures regarding his perception of the declining health of the President.

Based on the allegations in the petition itself, petitioner failed to establish the existence of a clear legal right that was violated, or that he is entitled to the writ of *mandamus* prayed for.

Needless to state, the Court finds it unnecessary to address the other issues raised in the petition.

WHEREFORE, the Extremely Urgent Petition for Mandamus is **DISMISSED**.

The Court further Resolved to **NOTE** the

- a. Agenda Report that the electronic mail dated April 20, 2020, containing the resolution dated April 17, 2020 addressed to President Rodrigo Roa Duterte and Executive Secretary Salvador C. Medialdea, Malacañang Palace, San Miguel, Manila at op@president.gov.ph, was returned unserved with notation “The recipient server did not accept our requests to connect.” per Mailer Daemon;
- b. Manifestation dated April 21, 2020 filed by the petitioner, stating that a copy of the petition was served on the respondents and the Office of the Solicitor General (OSG) on April 13, 2020; that a copy was tendered at the OSG Building in Makati City; and that due to the letter of the OSG designating an official e-mail address where it may be served with copies of any process, order or resolution of the Court, the instant pleading and a copy of the filed petition was furnished the OSG’s at its official e-mail address, osgstateofhealth@osg.gov.ph;
- c. Letter dated April 28, 2020 of Bryan Ezra C. Gonzales, Tagapamuno, Kabataang Tagapagtanggol ng Karapatan

²⁰ *Representative Lagman, et al. v. Hon. Medialdea, et al*, 812 Phil. 179, 312 (2017), citing *Feria v. Court of Appeals*, 382 Phil. 412, 423 (2000).

(KATAPAT), submitting almost 11,000 signatures in support of the instant petition and requesting, among others, that the petition be given due course.” (2)

Very truly yours,


EDGAR O. ARICHETA
Clerk of Court

*(With Dissenting Opinions of Associate Justices Marvic M.V.F. Leonen and
Alfredo Benjamin S. Caguioa)*

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AGENDA DIVISION (x)
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(for this Resolution only)

G.R. No. 252118
kat 5/8/20 (URes2) 7/8/20

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