



Republic of the Philippines
Supreme Court
 Manila

EN BANC

IN THE MATTER OF THE
 ISSUANCE OF THE WRIT OF
AMPARO AND *HABEAS DATA*
 FOR JONILA F. CASTRO AND
 JHED REIYANA C. TAMANO
 AND THEIR FAMILIES,

G.R. No. 269249

Present:

JONILA F. CASTRO AND JHED
 REIYANA C. TAMANO,
 Petitioners,

GESMUNDO, *CJ.*,
 LEONEN,
 CAGUIOA,
 HERNANDO,
 LAZARO-JAVIER,*
 INTING,
 ZALAMEDA,*
 LOPEZ, M.,
 GAERLAN,
 ROSARIO,
 LOPEZ, J.,
 DIMAAMPAO,
 MARQUEZ,
 KHO, JR., and
 SINGH, *JJ.**

-versus-

LIEUTENANT COLONEL
 RONNEL B. DELA CRUZ AND
 MEMBERS OF THE 70TH
 INFANTRY BATTALION OF THE
 PHILIPPINE ARMY, POLICE
 CAPTAIN CARLITO BUCO AND
 MEMBERS OF THE PHILIPPINE
 NATIONAL POLICE, BATAAN,
 NATIONAL SECURITY COUNCIL
 ASSISTANT DIRECTOR
 GENERAL JONATHAN MALAYA,
 NATIONAL TASK FORCE TO
 END LOCAL COMMUNIST
 ARMED CONFLICT (NTF-
 ELCAC), AND ALL OTHERS
 ACTING UNDER THEIR
 DIRECTION, INSTRUCTIONS,
 AND ORDERS,

Promulgated:

October 24, 2023

Respondents.

X-----X

* On official business.

DECISION

HERNANDO, J.:

Before this Court is the Extremely Urgent Petition for the Issuance of the Writs of Amparo and Habeas Data (Petition) with Prayer for Temporary Protection Order (TPO), Permanent Protection Order (PPO), and Production Order (PO) filed on September 28, 2023 by Jonila F. Castro (Jonila) and Jhed Reiyana C. Tamano (Jhed).¹

Antecedents

The following are culled from the pleadings, affidavits, and annexes attached to the Petition.

Jonila and Jhed (collectively, petitioners) are volunteers for the *Alyansa para sa Pagtatanggol sa Kabuhayan, Paninirahan, at Kalikasan ng Manila Bay* (AKAP KA Manila Bay), a network of various environmental advocate groups that aim to advance the concerns of marginalized stakeholders along the Manila Bay Area. In line with this objective, petitioners were dispatched by AKAP KA Manila Bay to Orion, Bataan, to coordinate with communities affected by the Manila Bay reclamation projects.²

On September 2, 2023, at around 7:00 p.m., petitioners were walking along Manrique Street, Orion, Bataan, towards the area where they can ride a jeepney. Upon reaching Orion Water District, a sports utility vehicle suddenly stopped beside them. Several unidentified men alighted from the vehicle, all clad in ski-masks, shirts, and shorts, who grabbed and pulled Jonila into the vehicle. Jonila screamed and struggled but failed to escape. Jhed initially shouted for help and ran away for only a few meters until she stumbled, enabling the masked men to catch up and drag her into the vehicle. In the commotion, Jonila left one of her sandals, and Jhed both of her slippers, at the area where they were forcibly carried away.³

In the vehicle, the unidentified men confiscated and went through petitioners' bags and belongings to check for guns, turned off their cellular phones, tied petitioners' hands behind their backs, blindfolded them tightly, and wrapped their heads with duct tape to completely seal their vision. Despite their heavily obscured sight, petitioners were able to observe that they made several stops until they arrived some three to four hours later at their first destination.⁴

¹ *Rollo*, pp. 3–36.

² *Id.* at 8.

³ *Id.* at 9.

⁴ *Id.* at 9–10.

At their first destination, petitioners were brought out of the vehicle and made to sit on separate chairs in one room. Still blindfolded, they were interrogated as to their name, age, address, birthdate, organizations, affiliations, its organizational structures, its members, leaders, and officers. Jonila was asked the password of her phone. Jhed was asked where her laptop was, and what their plans are in Calumpit, Bulacan. Jhed denied knowledge on both questions. Thereafter, Jhed was brought out of the room where she was interrogated more threateningly with statements such as, “*pagtatabihin namin kayo sa isang hukay,*” “*puputulin namin ang dila mo [Jhed] kapag hindi pa rin kayo nagsalita,*” “*ikukulong namin kayo sa sa kasong rebellion,*” and “*hindi ako takot mamatay dahil hindi rin ako takot pumatay.*” Petitioners did not respond, and were again put together in a room, still blindfolded.⁵

On September 3, 2023, petitioners were again interrogated, but still did not answer the same line of questions. They were given dried fish and eggs to eat. Jhed was permitted to take off her blindfold and take a bath in a doorless bathroom. Jonila did not take a bath. Thereafter, Jhed was again blindfolded and they left the place.⁶

They arrived at their second destination, which they were told was a “motel.” Petitioners were placed on separate rooms on the second floor where their blindfolds were removed. Jonila were told by the captors, “*baka masayang buhay mo,*” “*di kami takot pumatay,*” and “*pagsasamahin namin kayo sa iisang hukay kung hindi kayo magsalita.*”⁷ One man told petitioners that he was “from ELCAC,” and that they (the captors) received an order to kill them (petitioners), if the latter should not “speak.” The captors returned their belongings, but Jhed noticed that her smartphone, flash drive, notebooks, wallet, and pamphlets were missing. There was no mention if Jonila’s bag containing three cellular phones and two notebooks were returned to her. Jonila was allowed to take a bath in her separate room. Petitioners remembered seeing 5 to 6 men in their respective rooms.⁸

On September 4, 2023, the interrogations continued with more psychological torment and threats. Petitioners were led to believe that the other had already “spoken” and cooperated, apparently to make them submit to their captors’ orders. The captors further told Jonila that Jhed’s life depends on Jonila’s actions. Jonila requested to see Jhed, to which their captors obliged. Jonila was thereafter given a form, which she remembered bore a stamp of the 70th Infantry Battalion and the words *Matatag at Matapat.*⁹

⁵ *Id.* at 10.

⁶ *Id.*

⁷ *See id.* at 59.

⁸ *Id.* at 11.

⁹ *Id.*

From September 5 to 11, 2023, the captors continued with petitioners' interrogations and forced them to "surrender as rebels." Eventually, petitioners were made to handwrite their affidavits with a narrative prepared for them. Several times were they asked to rewrite their affidavits to streamline their written declarations.¹⁰

On September 12, 2023, petitioners were brought to the 70th Infantry Battalion camp in Bulacan, where their personal details were taken and they were given a medical check-up. They were introduced to the Mayor of Angat, Bulacan and to Lieutenant Colonel (Lt. Col.) Ronnel Dela Cruz (Dela Cruz), who were to serve as witnesses to their affidavits. They were also introduced to a member of the National Intelligence Coordinating Agency and some more persons. Jhed's parents also arrived at the camp.¹¹

On September 13, 2023, petitioners were introduced to Atty. Joefer Baggay (Baggay) from the Public Attorney's Office, to whom petitioners' handwritten affidavits were handed to be arranged and printed on his computer. Petitioners, with Jhed's parents, were made to swear to the printed affidavits before Atty. Baggay. Lt. Col. Dela Cruz asked petitioners if they can show up at a press conference but they refused.¹²

Petitioners were also introduced to one Emjay Chico (Chico) of the National Task Force to End Local Conflict (NTF-ELCAC) to convince them to agree to the press conference to disprove their abduction.¹³

On September 14, 2023, petitioners met with three representatives from the Commission on Human Rights (CHR). The latter sought to confirm petitioners' "voluntary surrender" and the veracity of their sworn affidavits. Petitioners could not give the CHR representatives specific conclusive answers as they were unsure if they can be trusted. Later on, petitioners decided to do the press conference to reveal the truth.¹⁴

On September 15, 2023, petitioners told Lt. Col. Dela Cruz that they will do the press conference. In preparation, Chico briefed them on the planned flow of the press conference, and a 70th Infantry Battalion member gave them possible questions that they may be asked and the answers thereto.¹⁵

On September 19, 2023, petitioners proceeded with the press conference organized by the NTF-ELCAC, abandoned the plans made for them, and revealed in public that they were abducted. They belied the version of

¹⁰ *Id.* at 11–12.

¹¹ *Id.*

¹² *Id.*

¹³ *See id.* at 14–16.

¹⁴ *Id.* at 18.

¹⁵ *Id.* at 14–15.

respondents that they “surrendered” and stated categorically that they were forcibly taken by the military and made to sign their affidavits.¹⁶

Petitioners were then turned over to the CHR’s custody before they were released to their families and colleagues.¹⁷

Thereafter, this Petition for the issuance of the writs of *amparo* and *habeas data* with prayer for TPO, PPO, and PO.¹⁸

Petitioners allege that, to date, threats to their lives, freedom, and security are existing considering the circumstances preceding their release and the various press conferences subsequently organized by the NTF-ELCAC on the matter.¹⁹

The Armed Forces of the Philippines (AFP), in a press briefing conducted by the NTF-ELCAC on September 20, 2023, described petitioners’ acts as “brazen with a plot that is new, quite deep (with the interplay of red and white area forces) and dangerous.”²⁰

Also, in an ABS-CBN interview, National Security Council Assistant Director General (ADG) Jonathan Malaya (Malaya) said that their Office would “expose all information they have on Jonila and Jhed” and that “they may be charged [of perjury] in relation to their alleged execution of an affidavit while in custody of the 70th [Infantry Battalion].”²¹

The pertinent supporting documents appended to the Petition are:

- (1) Affidavit of Pia C. Montalban (Montalban),²² a member of the fact-finding team and mission launched by KARAPATAN Gitnang Luzon from September 4 to 5, 2023, which collected information as regards petitioners’ abduction. The fact-finding mission was commissioned upon viral Facebook posts by concerned citizens as to two girls who were abducted in front of Orion Water District by allegedly armed men;
- (2) A Report of the fact-finding commission,²³ participants of which were members of the following organizations: *AKAP KA Manila Bay*, *Kalikasan People’s Network for the Environment*, *Promotion of Church People’s Response*, *National Council of Churches in the Philippines*, and *KARAPATAN*;

¹⁶ *Id.* at 16–17.

¹⁷ *Id.* at 18.

¹⁸ *Id.*

¹⁹ *Id.* at 18–19.

²⁰ *Id.* at 18.

²¹ *Id.*

²² *Id.* at 97–109.

²³ *Id.* at 110–112.

- (3) The Facebook posts mentioned in (1);²⁴
- (4) Affidavit of Rosielie Castro (Rosielie), Jonila's mother;²⁵ and
- (5) Online screenshots of news articles reporting public statements of the AFP and ADG Malaya against petitioners.²⁶

Issues

For resolution of the Court are the following issues:

- (1) Whether petitioners' direct recourse to the Supreme Court is justified;
- (2) Whether petitioners are entitled to the issuance of the writs of *amparo* and *habeas data*; and
- (3) Whether petitioners are entitled to the interim reliefs of TPO, PPO, and/or PO.

The Court's Ruling

There is more than sufficient factual and legal basis to grant outright the protective writs sought by petitioners.

The procedural issues must be addressed preliminarily.

The Supreme Court may issue writs of amparo at the first instance

It is opportune to construe the principle on hierarchy of courts as a potential argument against this Court's assumption of concurrent jurisdiction over the subject matter.

Rule on the Writ of *Amparo*,²⁷ Section 3, provides:

SEC. 3. Where to File. – The petition may be filed on any day and at any time with the **Regional Trial Court** of the place where the threat, act or omission was committed or any of its elements occurred, or with the **Sandiganbayan**, the **Court of Appeals**, the **Supreme Court**, or **any justice of such courts**. The writ shall be enforceable anywhere in the Philippines. (Emphasis supplied)

²⁴ *Id.* at 113–118.

²⁵ *Id.* at 119–121.

²⁶ *Id.* at 123–128.

²⁷ A.M. No. 07-9-12-SC, October 24, 2007.

Concurrent jurisdiction is that which is possessed and bestowed by law over the same parties or subject matter at the same time by two or more separate tribunals.²⁸ Direct recourse to this Court, if it has jurisdiction concurring with another tribunal, is generally improper as the Supreme Court is a court of last resort, and must remain to be so in order for it to satisfactorily perform its constitutional functions, thereby allowing it to devote its time and attention to matters within its exclusive jurisdiction and prevent the overcrowding of its docket.²⁹

Exceptions to the principle of hierarchy of courts have usually been applied to petitions for *certiorari*. The invocation of this Court's original jurisdiction to issue writs of *certiorari* has been allowed in certain instances on the ground of special and important reasons clearly stated in the petition, such as, (1) when dictated by the public welfare and the advancement of public policy; (2) when demanded by the broader interest of justice; (3) when the challenged orders were patent nullities; or (4) when analogous exceptional and compelling circumstances called for and justified the immediate and direct handling of the case.³⁰

These procedural rules in the handling of *certiorari* cases may be applied just as well to other extraordinary and prerogative writs, under which *amparo*, as well as *habeas data*, may reasonably be classified. These writs are: *extraordinary*, since, historically, they have been issued “only in extraordinary cases . . . and only when some gross injustice was being done by other authorities.’ They were used only sparingly and in the most urgent of circumstances . . . ;” and *prerogative*, as “[i]t remained the function of the King, through his court of King’s Bench, to be the judge of the necessity for their issue . . . ”³¹

Here, petitioners versed their claim for exemption from the hierarchy of courts rule as a special, important, exceptional, and compelling reason. The Petition demonstrated a clear image of the danger that the State has apparently wrought and which petitioners have faced, and are still facing, that warrant this Court’s immediate action. This is even more so as various organizations are actively interested in the outcome of the case and how it has received public attention and gone viral over media.

Thus, petitioners properly lodged their *amparo* case before this Court.

The Supreme Court may issue writs of habeas data at the first instance if it concerns public data files of government offices

²⁸ *Pat-Og v. Civil Service Commission*, 710 Phil. 501, 514 (2013) [Per J. Mendoza, Third Division].

²⁹ *Palafox, Jr. v. Mendiola*, G.R. No. 209551, February 15, 2021 [Per J. Hernando, Third Division], *citing Dy v. Bibat-Palamos*, 717 Phil. 776, 782–783 (2013) [Per J. Mendoza, Third Division].

³⁰ *Id.*

³¹ *See Kumar v. People*, 874 Phil. 214, 228 (2020) [Per SAJ Leonen, Third Division].

Petitioners also have direct recourse to this Court in seeking the issuance of a writ of *habeas data*.

The Rule on the Writ of *Habeas Data*,³² Section 3, states:

SEC. 3. *Where to File.* - The petition may be filed with the Regional Trial Court where the petitioner or respondent resides, or that which has jurisdiction over the place where the data or information is gathered, collected or stored, at the option of the petitioner.

The petition may also be filed with the Supreme Court or the Court of Appeals or the Sandiganbayan when the action concerns public data files of government offices. (Emphasis supplied)

Recall that in an ABS-CBN interview, ADG Malaya said that the National Security Council would “expose all information they have on Jonila and Jhed” and that “they may be charged [of perjury] in relation to their alleged execution of an affidavit while in custody of the 70th [Infantry Battalion].”³³

These statements were expressed by a high-ranking government officer of the National Security Council, the primary advisory entity to the President of the Philippines as to *all* matters of national security, apparently threatening to disclose information on petitioners that was admittedly collected in official government capacity. This qualifies the information sought to be protected as a *public data file*, over which this Court exercises jurisdiction concurrent with and to the eventual exclusion of the Court of Appeals and the Sandiganbayan.

As similarly reasoned above regarding this Court’s assumption of concurrent jurisdiction over the present *amparo* case, the *habeas data* case at hand likewise properly falls outside the general rule of procedure on hierarchy of courts.

Withal, this Court is in a position to address this detriment to petitioners’ right to life, liberty, and security via writs of *amparo* and *habeas data* as follows.

Petitioners are entitled to the issuance of a writ of amparo

First: the writ of amparo is granted.

The Rule on the Writ of *Amparo*, Section 1, clearly states the purpose and coverage of such a writ:

³² A.M. No. 08-1-16-SC, February 2, 2008.

³³ *Rollo*, p. 18.

Sec. 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**. (Emphasis supplied)

The Court further expounds in *Ladaga v. Mapagu*³⁴ that:

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. 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. In *Tapuz v. Del Rosario*, 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.³⁵

The Rule on the Writ of *Amparo* also provides that for the court to render judgment granting the privilege of the writ, the petitioner must be able to discharge the burden of proving the allegations in the petition by the standard of proof required, that is, substantial evidence.³⁶ Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.³⁷

In *Navia v. Pardico*,³⁸ the Court identified the elements constituting enforced disappearance, to wit:

From the statutory definition of enforced disappearance, thus, we can derive the following elements that constitute it:

- (a) that there be an arrest, detention, abduction or any form of deprivation of liberty;
- (b) that it be carried out by, or with the authorization, support or acquiescence of, the State or a political organization;

³⁴ 698 Phil. 525 (2012) [Per J. Perlas-Bernabe, *En Banc*].

³⁵ *Id.* at 540

³⁶ Sec. 18. *Judgment.* – The court shall render 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.

³⁷ *Republic v. Cayanan*, 820 Phil. 452, 461 (2017) [Per J. Bersamin, *En Banc*].

³⁸ 688 Phil. 266 (2012) [Per J. Del Castillo, *En Banc*].

- (c) that it be followed by the State or political organization's refusal to acknowledge or give information on the fate or whereabouts of the person subject of the *amparo* petition; and,
- (d) that the intention for such refusal is to remove subject person from the protection of the law for a prolonged period of time.

As thus dissected, it is now clear that for the protective writ of *amparo* to issue, allegation and proof that the persons subject thereof are missing are not enough. It must also be shown and proved by substantial evidence that the disappearance was carried out by, or with the authorization, support or acquiescence of, the State or a political organization, followed by a refusal to acknowledge the same or give information on the fate or whereabouts of said missing persons, with the intention of removing them from the protection of the law for a prolonged period of time. **Simply put, the petitioner in an *amparo* case has the burden of proving by substantial evidence the indispensable element of government participation.**³⁹ (Emphasis supplied)

All the elements are already extant in the verbal exchanges between petitioners and Lt. Col. Dela Cruz during the September 19, 2023 press conference, as transcribed in the Petition:

33. On 19 September 2023, during a press conference organized by the NTF-ELCAC held in the Municipal Hall of Plaridel, Bulacan, Jonila and Jhed were suddenly presented before the media by Dir. Alexander Umbar of the NTF-ELCAC, Lt. Col. Ronnel dela Cruz, and Hon. Mayor Jocell Almeo Vistan Casaje.

34. In this press conference, Jonila herself belied the version of respondents that they had "surrendered" and stated categorically that they were forcibly taken by the military and that they were forced to sign the affidavits, to wit:

... Magandang araw po sa lahat... pinili na namin magsalita ngayong araw para... katulad nga nang sinabi kanina, mahalagang malaman natin kung ano talaga 'yong totoong nangyari... at gusto naming mala-at sa tanong na dinukot kami o kusa kaming... o boluntaryo kaming sumurrender. **Ang totoo po ay dinukot kami ng mga military sakay ng van.** Napilitan din kami na sumurrender dahil pinagbantaan po iyong buhay namin. 'Yon po ang totoo. Hindi namin ginusto na mapunta kami sa kustodya ng militar...

Hindi din totoo 'yong laman ng affidavit dahil ginawa 'yon, pinirmahan 'yon sa loob ng kampo ng military. Wala na kaming magagawa sa mga pagkakataong mga 'yon. **Ang gusto lang namin mapakita ngayong araw 'yong lantarang pasismo sa mga aktibistang ang tanging hangarin ay ipaglaban lang 'yong Manila Bay. May nangyayaring reclamation projects don. Ang problema don iyong mga mangingisdang mawawalan ng hanapbuhay pero nagagamit yong mga**

³⁹ *Id.* at 279–280.

military para ipatigil ‘yong mga pagkilos, masugpo lang ‘yong mga kabataan, ‘yong mga mangingisdang mga ‘yon.

35. Despite this revelation, respondent Lt. Col. Ronnel dela Cruz still insisted during the same press conference that Jonila and Jhed “surrendered” and that the two were pursued due to an informant from Pampanga, the written report of whom could not be located. Furthermore, in the same press conference, respondent Lt. Col. dela Cruz claimed:

[. . .] Wala pong intervention po ‘yon. So ‘yon naman po ang nangyari sa side po ng 70 IB. Ang ginawa po sumurrender sila, inayos po namin ang pagsurrender... negotiate po kung papaano namin makuha at dinaan naman po namin sa tamang proseso. ‘Yon po ‘yong sa amin. Hindi ko lang po alam kung ano po ‘yong ano n’ya pero klarong klaro po sa atin, sa lahat ng proseso tanggapin namin sila hanggang ngayon po na punto na ‘to. ‘Yon po, Sir.

36. During this press conference, Jhed asked permission to be allowed to speak; when she did, Jhed categorically and publicly supported Jonila's statements and belied the respondents' version:

Katulad lang din ng sinabi ni Jonila na kusang loob po kaming sumurrender dahil pinilit lang po kami. **Nung gabi po ng September 2 naglalakad lang po kami sa kalsada nang meron pong dumukot sa'min. May tumigil pong SUV sa harap namin tapos dinukot po kaming pasamahin sa kanila.** ‘Yon po ‘yong totoo. Akala po namin sindikato pero kilala po nila kami.

37. Despite these statements, respondent Lt. Col. dela Cruz again insisted that (a) this was part of Jonila and Jhed's surrender; (b) they saw it as a rescue operation due to what the two environmental activists had signed; (c) they did not operate in the Bataan area and their only areas of responsibility were Bulacan and Pampanga; and (d) what Jhed said may be true, that indeed it was a syndicate who took them and they had to be processed before taking them to his battalion at the AFP.

38. However, Jonila's words, when she responded, were unambiguous:

Kaduda-duda naman po na hindi alam ni Bat Com kung ano yong tunay na nangyari kasi mismong mga kumuha sa amin, **inamin nilang mga sundalo sila. Nakita namin sa papel na interrogation na papel ang nakalagay 70th IB.** Kaya hindi ako naniniwala na hindi alam ni Battalion Commander na dinukot kami.⁴⁰

It must also be emphasized that in a petition for writ of *amparo*, the court is allowed a certain degree of leniency or flexibility in the application of the evidentiary rules by adopting the totality of evidence standard.

⁴⁰ *Rollo*, pp. 16–17.

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The Court explained in *Razon, Jr. v. Tagitis*⁴¹ that evidentiary difficulties had compelled it to adopt standards appropriate and responsive to the circumstances, without transgressing the due process requirements that underlie every proceeding. It determined that the fair and proper rule was to consider all the pieces of evidence adduced in their totality, and to consider any evidence otherwise inadmissible under usual rules to be admissible if it is consistent with the admissible evidence adduced.

In other words, the rules are reduced to the most basic test of reason, *i.e.*, to the relevance of the evidence to the issue at hand and its consistency with all other pieces of adduced evidence. Thus, even hearsay testimony or circumstantial evidence can be admitted and appreciated if it satisfies this basic minimum test.

Still, the Court issued a *caveat* in *Bautista v. Dannug-Salucon*⁴² that such use of the standard does not unquestioningly authorize the automatic admissibility of hearsay or circumstantial evidence in all *amparo* proceedings, and that the matter of the admissibility of evidence should still depend on the facts and circumstances peculiar to each case.

The Court here, however, need not adjust too much to assess some of the evidence presented by petitioners and grant the *amparo* prayed for.

As regards the first element, while the appended screenshots of Facebook posts alluding to petitioners' capture was unauthenticated by their authors, other circumstances already lead the Court to believe that the first element of *enforced disappearance* is present, in that petitioners was, indeed, forcibly taken on September 2, 2023: (1) Montalban's affidavit as to the accounts of witnesses to the abduction in plain sight;⁴³ (2) petitioners' attestation that they left their footwear during their struggle against their captors; and (3) photos⁴⁴ of petitioners' footwear left at the scene of the abduction, affirming petitioners' attestation.

As regards the third element, Rosielie, being Jonila's mother, also tried her utmost to locate her then missing daughter and coordinate with one Justin Gutierrez, a person who allegedly introduced himself to Rosielie as a member of the military, and with the police authorities in Orion Municipal Police Station, but received no positive response from them.⁴⁵

Applying the foregoing quantum of proof particularly required by a petition for a writ of *amparo*, as well as the jurisprudential principles guiding its grant or denial, there is no need to belabor petitioners' entitlement thereto.

⁴¹ See 621 Phil. 536, 609 (2009) [Per J. Brion, *En Banc*].

⁴² 824 Phil. 293, 310 (2018) [Per J. Bersamin, *En Banc*].

⁴³ *Rollo*, p. 103.

⁴⁴ *Id.* at 96.

⁴⁵ *Id.* at 119–121.

The Court finds that petitioners presented more than mere substantial evidence meriting the protection of their freedoms through a writ of *amparo*.

Petitioners are entitled to the issuance of a writ of habeas data

Second: the writ of habeas data is granted.

Section 1 of The Rule on the Writ of *Habeas Data* states:

SECTION 1. *Habeas Data*. - The writ of habeas data is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home and correspondence of the aggrieved party.

Substantial evidence is also the minimum level of proof required for a grant of the writ of *habeas data*.⁴⁶

Again, ADG Malaya's statements during the ABS-CBN interview announcing to "expose all information they have on Jonila and Jhed" and that "they may be charged [of perjury] in relation to their alleged execution of an affidavit while in custody of the 70th Infantry Battalion"⁴⁷ is already an open and express threat to petitioners' right to life, liberty, and security publicly verbalized by government official admittedly engaged in the gathering, collecting, and storing of data and information against petitioners.

After a judicious review of the records, there was an established violation or threat to the life, liberty, or security of petitioners by respondents. The writs are called to be issued for reasons so obvious on the mere face of the Petition.

Except for a TPO, further proceedings are required for the grant or denial of other interim reliefs in amparo cases

As regards the interim reliefs sought, this Court grants only the TPO to petitioners.

Upon filing of the petition or at anytime before final judgment, the following reliefs may be availed of by the petitioner: a Temporary Protection Order (TPO), an Inspection Order (IO), a Production Order (PO), and a Witness

⁴⁶ HABEAS DATA WRIT RULE, Sec. 16.

⁴⁷ *Rollo*, p. 18.

Protection Order (WPO).⁴⁸ TPOs and WPOs may be granted upon motion or *motu proprio*, whereas IOs and POs are ordered upon verified motion and after due hearing.⁴⁹

Petitioners here pray for a TPO, a Permanent Protection Order (PPO), and a PO. As there has been no hearings conducted as of yet on the case, the PO should not be issued.

In the same vein, a PPO technically is not an interim relief. It is already a judgment by itself upon the grant of the *privilege* of the writ of *amparo*, not upon the *prefatory* grant of the writ of *amparo*.

For distinction and clarity, the prefatory grant of the writ of *amparo* follows Sec. 6 of the Rule on the Writ of *Amparo*:

SEC. 6. Issuance of the Writ. – Upon the filing of the petition, the court, justice or judge shall immediately order the issuance of the writ if on its face it ought to issue. The clerk of court shall issue the writ under the seal of the court; or in case of urgent necessity, the justice or the judge may issue the writ under his or her own hand, and may deputize any officer or person to serve it.

Sec. 6 governs the initial evaluation and is divided into two parts: the first sentence describes the minimum weight of evidence required for the issuance of the writ, while the second sentence details the procedure for its issuance.⁵⁰

On the other hand, the grant of the *privilege* of the writ of *amparo* is laid out in Sec. 18:

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.

The subsequent evaluation of the petition for the grant of the privilege of the writ of *amparo* comes after the issuance of the writ, the filing of the return, and the conduct of a summary hearing.⁵¹

Further in *De Lima v. Gatdula*:⁵²

⁴⁸ AMPARO WRIT RULE, Sec. 14.

⁴⁹ *Id.*

⁵⁰ *Deduro v. Vinoya*, G.R. No. 254753, July 4, 2023 [Per J. Zalameda, *En Banc*].

⁵¹ *Id.*

⁵² 704 Phil. 235 (2013) [Per SAJ Leonen, *En Banc*].

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The **privilege of the Writ of Amparo** should be distinguished from the **actual order** called the *Writ of Amparo*. The privilege includes availment of the entire procedure outlined in A.M. No. 07-9-12-SC, the Rule on the Writ of *Amparo*. After examining the petition and its attached affidavits, the Return and the evidence presented in the summary hearing, the judgment should detail the required acts from the respondents that will mitigate, if not totally eradicate, the violation of or the threat to the petitioner's life, liberty or security.⁵³

Given the guidelines set by jurisprudence, the issuance of a PPO and PO shall only be improper at this point.

ACCORDINGLY, the Petition is **GRANTED** in the following manner:

The writs of *amparo* and *habeas data* are **ISSUED** in favor of petitioners Jonila F. Castro and Jhed Reiyana C. Tamano, **returnable to the Court of Appeals**.

Respondents and all the persons and entities acting and operating under their directions, instructions, and orders are **DIRECTED** to comply with the rules on return under Sec. 9 of the Rule on the Writ of *Amparo* and Sec. 10 of the Rule on the Writ of *Habeas Data*.

A Temporary Protection Order is **ISSUED** *motu proprio* as an interim relief against respondents and all the persons and entities acting and operating under their directions, instructions and orders, prohibiting them from entering within a radius of one (1) kilometer from the persons, places of residence, school, work, or present locations, of petitioners, as well as those of their immediate families.

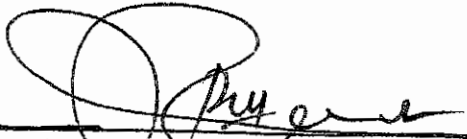
The Court of Appeals is **DIRECTED** to:

- (1) **CONDUCT** a summary hearing on the Petition and the other interim relief sought by petitioners, *i.e.*, Production Order, within five (5) days from receipt of notice of this Decision;
- (2) After hearing, **DECIDE** the Petition and the other interim relief sought by petitioners, *i.e.*, Production Order, within five (5) days from the time it is submitted for decision; and
- (3) **FURNISH** this Court with a copy of the decision on the Petition and the other interim relief sought by petitioners, *i.e.*, Production Order within five (5) days from its promulgation.

⁵³ *Id.* at 249.


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SO ORDERED.



RAMON PAUL L. HERNANDO
Associate Justice

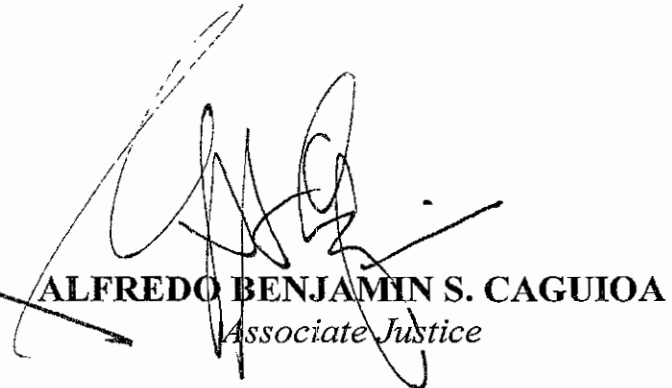
WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice



MARVIC M. V. F. LEONEN
Associate Justice




ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

On official business
AMY C. LAZARO-JAVIER
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice

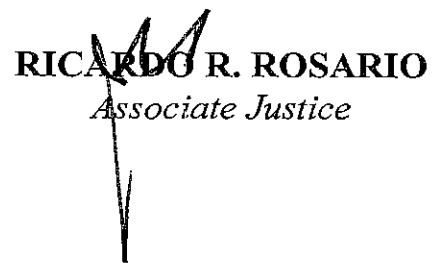
On official business
RODIL V. ZALAMEDA
Associate Justice



MARIO N. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



RICARDO R. ROSARIO
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice



JAFAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice

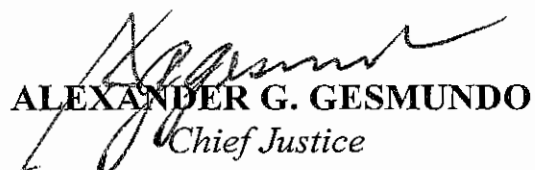


ANTONIO T. KHO, JR.
Associate Justice

On official business
MA. FILOMENA D. SINGH
Associate Justice

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice