

Republic of the Philippines
REGIONAL TRIAL COURT
11th Judicial Region
Davao City
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IN THE MATTER OF THE PETITION
FOR THE ISSUANCE OF A **WRIT OF
AMPARO** IN FAVOR OF **CARLOS
ISAGANI T. ZARATE**

SP. PROC. NO. 604-09

For: WRIT OF AMPARO with
prayers for Production of
Documents

CARLOS ISAGANI T. ZARATE,
Petitioner,
versus -

MAJ. GEN. REYNALDO MAPAGU,
Commanding General of the
Philippine Army's 10th Infantry
Division; **LT. COL. KURT A
DECAPIA,** Chief, 10th ID Public
Affairs Office; **COL. OSCAR
LACTAO,** Head Task Force-Davao;
SR. SUPT. RAMON APOLINARIO,
Davao City Police Office Director and
several other JOHN DOES,
Respondents.



x.....x

PETITION FOR THE WRIT OF AMPARO

(WITH PRAYERS FOR PRODUCTION OF DOCUMENTS)

PETITIONER, assisted by Counsels, and unto this Honorable Court,
respectfully avers:

THE PARTIES

1. That petitioner is of legal age, resident of Matina, Davao City, a lawyer and, for purposes of this Petition, can be served with notices and other process of the Honorable Court at BZB Law, 2F Valdevieso Bldg., Ecoland Drive, Ecoland Subdivision, Matina, Davao City;

2. The Respondents are:

2.a. **MAJ. GEN. REYNALDO MAPAGU**, Commanding General of the 10th Infantry Division (10th ID) of the Philippine Army, is impleaded being the commanding officer of the army command from which the supposed "**watch list**" or "**Order of Battle**" comes from. He can be served with summons, notices and other court processes at Camp Panacan, Davao City;

2.b. **COL. LYSANDER SUERTE**, Chief of Staff, 10th I.D, is impleaded being an officer of the Army's 10th I.D who issued press statements relative to the existence of the supposed "**watch list**" or "**Order of Battle**". He can be served with summons, notices and other court processes at Camp Panacan, Davao City

2.c. **LT. COL. KURT A. DECAPIA**, Chief, 10th I.D. Public Affairs Office, is impleaded being an officer of the Army's 10th I.D who issued press statements relative to the existence of the supposed "**watch list**" or "**Order of Battle**". He can be served with summons, notices and other court processes at Camp Panacan, Davao City;

2.d. **COL. OSCAR LACTAO**, Commanding Officer of the Task Force Davao, is impleaded being an officer of an army unit that compiled the supposed "**watch list**" or "**Order of Battle**". He can be served with summons, notices and other court matters at Task Force Davao Headquarters, Sta. Ana Wharf, Davao City;

2.e. **SR. SUPERINTENDENT RAMON APOLINARIO**, Davao City Police Office Director, is impleaded being the head of the Davao City Police Office (DCPO), one of the units that compiled the supposed "**watch list**" or "**Order of Battle**". He can be served with summons, notices and other court processes at the DCPO, Camp Domingo Leonor, San Pedro St., Davao City, and;

2.f. Several **John Does**, known only as members of the different intelligence units of the AFP and PNP;

FACTUAL ANTECEDENTS

3. Petitioner is among the hundred or so names included in the so-called "**Order of Battle**" of alleged "fronts" of the Communist Party of the Philippines (CPP), as prepared by or under the direction and control of public respondents, which maliciously claims, in the current political condition prevailing in the country where extra-judicial killings and enforced disappearance of alleged government critics are rampant, undoubtedly, place petitioner's life in danger, his liberty and right to security violated, for as long as the said "**Order of Battle**" remains and not destroyed or rectified by respondents.

4. Petitioner, a private legal practitioner, is a member in good standing of the Integrated Bar of the Philippines (**IBP**), and, served in various capacities as officer of the in IBP-Davao City Chapter, including having served as its President in 2003-2005. He is currently the Secretary-General of the Union of Peoples' Lawyers in Mindanao (**UPLM**), a recognized organization of lawyers and law students duly registered with the Securities and Exchange Commission (SEC). He is also the Davao City coordinator of the Free Legal Assistance Group (**FLAG**), also a legitimate lawyers' organization that renders legal aid to victims of human rights violations. He also. The petitioner's Affidavit is hereto attached as **Annex "A"**;

5. On May 19, 2009, during a press conference marking the conclusion of an **International Solidarity Mission** (ISM) - attended by both local and international delegates and organized to investigate alleged human rights violations in Southern Mindanao by state's forces -- Bayan Muna Party-list Representative Satur Ocampo revealed the existence of a "**watch list**", officially known in military parlance as "**Order of Battle**" prepared by the intelligence arm of Philippine Army's 10th ID, headed by respondent Maj. Gen. Reynaldo Mapagu. Copies of the news articles carrying said expose of Representative Ocampo are respectively appended here as **Annexes "B", "C" and "D"**;

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

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

8. The name of the herein petitioner was listed in the categories of "**human rights**"¹ and "**Broad Alliance**"² Printed copy of the said power point presentation is attached here as **Annex "E"**;

9. The expose¹ was met with wide condemnation not only from the affected individuals and organizations³ but also from various national and international organizations, like the Asian Human Rights Commission.

10. Davao City Councilor Atty. Angela Librado-Trinidad, also among those named in the document, delivered on May 19, 2009 a privileged speech⁴ before the City Council denouncing said military's "**Order of Battle.**" Councilor Librado-Trinidad's denunciation then prompted the Davao City Council to order the conduct of a formal investigation on the existence of the said list;

¹ Found in frame 50 of the power point presentation, Annex "E"

² Found in frame 53 of the power point presentation, Annex "E"

³ See attached statements issued by the IBP, FLAG, UPLM and NUPL (**Annexes "F", "G",**

11. On the other hand, the Commission on Human Rights (CHR) headed by Chair Leila Delima also announced to hold an investigation, after copy of the said power-point presentation was also presented to the Commission during its public hearing in Davao City on May 22, 2009;

12. While the abovementioned investigations are yet to be conducted, the military, particularly the Army's 10th ID, in several media reports, have peremptorily denied the existence of the said "**Order of Battle.**" However, its official media statements only served to confirm and buttress the existence of the said questioned document;

13. The conflicting statements made by the herein respondents ranged from outright denial to indirect admissions of its existence. Copies of the army's press statements, made integral parts of this Petition, are appended here as **Annexes "K" and "L"**. Also attached are news clippings -- containing the army's statements -- marked as **Annexes "M", "N", "O" and "P"**;

14. Clearly, the inclusion of the petitioner's name in the said power point presentation is not only malicious, but, more importantly it is calculated to harass and instill fear among those named in the list. Among others, those included in the said list are the following: Representative Luzviminda C. Ilagan (Gabriela Women's Party-list), Labor Arbiter Beverly Selim-Musni, Dr. Ruben Robillo, Dr. Shalom Lorenzana journalist Carlos Conde, Bishop Felixberto Calang, Fr. Pete Lamata, Bishop Ben Barlosa, Sister Antonieta Go, former Davao City Mayor Benjamin de Guzman and former Davao City Councilor Jimmy Dureza;

15. A closer reading of the dangerous "**conclusions**" contained in the said document will clearly show that the names listed therein have been branded as "**enemies of the state**":

"CONCLUSIONS:⁵

-White area operation is an indispensable strategy of the CPP/NPA/NDF in waging the revolutionary struggle

-White area serves as wellspring of support to the red area

-White area operation prepares urban areas for final takeover of seat of government as envisioned in PPW

-White area serves as the main arena of the CPP/NPA/NDF legal struggle in support of the armed struggle

-Party allied organizations and **personalities shield party-initiated revolutionary activities."**

16. Although the list was supposedly dated 2007, those named in it, including the herein Petitioner, are still clearly under constant threat, especially when seen in light of the fact that among those in the list, Celso Pojas, a leader of a farmer's organization in Davao City, was killed sometime on May 15, 2008. Likewise, Leodenio Monson, a leader of *Nigkahiusa Koy Mag-uuma to Boston* (NIGKOMB), whose organization was in the list, was shot and killed sometime in May 2009;

17. The killings of the above-mentioned persons validate the fact that it is indeed a hit-list. Petitioner need not wait for something to happen to him as his life, liberty and security are clearly under threat;

18. Petitioner believes that his inclusion in the said "**SECRET**", albeit malicious, list is due to his advocacies as a public interest or human rights' lawyer. However, petitioner must state that his advocacies do not automatically translate that he is also fronting for or is connected with the CPP-NPA, a charge that he vehemently and categorically denies;

19. The mere inclusion of the petitioner's name in the said "**Order of Battle**" is not only putting his life in danger, but, a clear threat as well to his liberty and security, including that of his family;

20. The continued malicious inclusion of petitioner's name in the said "**Order of Battle**" is a continuing threat to his life, liberty and security. The said document, patently unlawful and unjust, also violates his right to privacy. Petitioner has exhausted efforts legally available, but there is no other plain, speedy, and adequate remedy to protect the rights of the victim except by this application for a **Writ of Amparo**.

PRAYER

CONSIDERING THE FOREGOING, it is most respectfully prayed unto this Honorable Court that:

A. Immediately upon receipt of the Petition: /

1. Issue the WRIT OF AMPARO against the respondents

2. Require respondent to immediately produce documents submitted to or in their custody related to the unlawful, malicious inclusion of Petitioner's name in the said Order of Battle or any such list, including, but not limited to intelligence reports of the 10th Infantry Division or any other military or police unit/s involved in the preparation of such list,

3. Order the respondents to fully disclose and provide copies of all the facts, information, statements, records, photographs, dossier and all other evidence, documentary or otherwise, pertaining to petitioner, his family or that of his activities

4. Issue a temporary protection Order in favor of the Petitioner

B. Upon notice and hearing, further:

- a. Ordering the Respondents to correct, suppress or destroy the information in its possession or database, whatever may be applicable as determined by this Honorable Court; and
- b. Ordering the Respondents to rectify the damage caused to petitioner's reputation by making a public apology to petitioner, which shall be circulated in the manner and to such person as the petitioner may deem appropriate.
- c. Make permanent the protection Order issued.

Other remedies just and equitable under the premises are also prayed for.

Davao City, Philippines, June 16, 2009


CARLOS ISAGANI T. ZARATE
Petitioner

Assisted by:

**FREE LEGAL ASSISTANCE GROUP (FLAG)
UNION OF PEOPLES' LAWYERS IN MINDANAO (UPLM)
ATENEO LEGAL SERVICES OFFICE (ALSO)
care Ateneo Legal Services Office
Ateneo de Davao College of Law
Davao City**

By:



MANUEL P. QUIBOD

Roll No. 33499

IBP LIFETIME NO. 00996

PTR NO. 7310187, January 5, 2009

MCLE Exemption No. II-001316



EDUARDO D. ESTORES

Roll No. 34798

IBP OR NO. 669890/1-05-09/Davao City

PTR NO. 6992556/1-05-09/Davao City

MCLE Compliance No. II-0006068



CAESAR S. EUROPA

Roll No. 40456

IBP OR NO. 763043/1-07-09/Davao City

PTR NO. 7427026/1-07-09/Davao City

MCLE Exemption No. II-001307

Davao City

BIBIANO M. BUSTAMANTE

Roll No. 41867

IBP OR NO. 762852/1-05-09/Davao City

PTR NO. 7310237/1-05-09/Davao City

MCLE Compliance No. II-011503



JANUARY FAYE L. RISONAR

Roll No. 48787

IBP No.736233/ 12-02-08/ Davao City

PTR No.7273133/ 12-02-08/Davao City

MCLE Compliance No. II-0008490

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Davao City.....) S.S

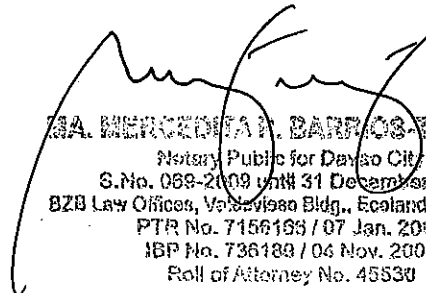
VERIFICATION AND CERTIFICATION

CARLOS ISAGANI T. ZARATE, of legal age, Filipino and resident of Davao City, after having been sworn to in accordance with law, do hereby depose and state that: he is the Petitioner in the above-entitled Petition; he have caused the preparation of the above Petition and has read and know the same; the allegations therein are true and correct of his own personal knowledge: he has not filed or commenced any action or proceedings involving the same issues nor is there any proceedings or action pending before the Supreme Court, Court of Appeals or in any tribunal or agency with the same issues and parties except that which is mentioned above, in the event that Petitioner would know that there is an action or proceedings involving the same issues and parties, he undertakes to notify this Honorable Court of the pendency of the said action within five (5) days from knowledge thereof.


CARLOS ISAGANI T. ZARATE

SUBSCRIBED AND SWORN to before me this 16th day of June 2009 at Davao City, Philippines, personally appeared CARLOS ISAGANI T. ZARATE with his CTC. No. 12950508, issued on Jan. 07, 2009, Davao City.

Doc. No. 60 ;
Page No. 12 ;
Book No. III ;
Series of 2009


SA. MERCEDES A. BARRIOS TALAVER
Notary Public for Davao City
S.No. 069-2009 until 31 December 2010
B2B Law Offices, Velez Bldg., Escalante, Davao City
PTR No. 7156168 / 07 Jan. 2009
IBP No. 736189 / 04 Nov. 2009
Roll of Attorney No. 45530

AFFIDAVIT

I, CARLOS ISAGANI T. ZARATE, Filipino, of legal age, married, and a resident of Davao City, under oath, depose and state that:

1. I am a private law practitioner and a member in good standing of the Integrated Bar of the Philippines-Davao City Chapter (IBP-Davao);
2. I have served in various capacities with the IBP-Davao, including being its chapter president in 2003-2005;
3. Currently, I am the secretary general of the Union of Peoples' Lawyers' in Mindanao (UPLM), Vice President for Mindanao of the National Union of Peoples' Lawyers (NUPL) and the Davao City Coordinator of the Free Legal Assistance Group (FLAG);
4. I am also a regular columnist of the national broadsheet, Philippine Daily Inquirer (PDI), under the column Kris-Crossing Mindanao;
5. As a public interest lawyer, I have represented members of the non-government organizations (NGOs), peoples' organizations and civil society groups in several legal concerns. I have also handled several cases involving cases of human rights violations;
6. Sometime on May 18, 2009 I was shocked to learn that my name was allegedly included in the military's so-called "Order of Battle", specifically in a power-point presentation marked "**SECRET**" and captioned as "**3rd Quarter 2007 OB Validation Result**";
7. The said presentation, exposed by Bayan Muna Representative Satur Ocampo, was supposedly prepared by the "**JCICC 'Agila'**" under the office of the Assistant Chief of Staff for Intelligence of the 10th Infantry Division of the Philippine Army. It also mentioned a certain "**JTICC 'LAWIN'**" with the following as members : Task Force Davao - Chairman; **Team Leader, SPOT11-3, MIG11, ISAFP, NISU-Davao, NISG-EM, PN, 305th AISS, PAF, TL, ISU 11, PA, S2, RCDG, PA; M2, DCPO; NICA XI; S2, 104th DRC, PA** , and, **WACOM- Researcher/Analyst MIG11, ISAFP**;
8. The said power-point presentation made it appear that the organizations and personalities named therein are "fronts" or are "connected" with the Communist Party of the Philippines (CPP) and its military wing, the New People's Army (NPA);
9. I condemn the malicious inclusion of my name in the said malicious

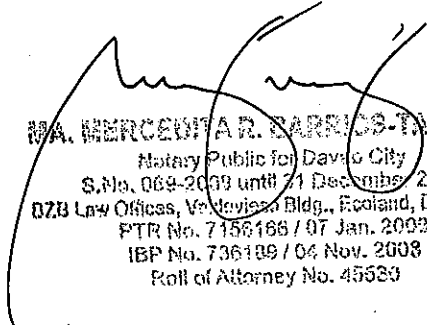
10. It is unmistakable that the said "**Order of Battle**" vilifies and demonizes those who are in the list. Undoubtedly, it also places my life in constant danger. It violated, not only my constitutional right to privacy, but more so, my right to personal security and liberty;
11. But for the bare denials, albeit conflicting statements issued by the military --which only even bolster and confirm the existence of the said "Order of Battle" -- no concrete measures yet are made by concerned government agencies about its existence, including the declared investigations to be conducted by the Davao City Council of Davao City and the Commission on Human Rights (CHR);
12. I am convinced that the said "**Order of Battle**" truly exist, and, its continued existence places my life, privacy, liberty and security in constant threat for as long as it is not destroyed and rectified, and, its compilation duly explained by the military;
13. I am fully convinced, too, that there is no plain, speedy and adequate remedy to protect my rights except by an application for a **Writ of Amparo**;
14. I am executing this Affidavit to attest to the truth of the foregoing facts and to support my filing of a petition for the Writ of Amparo.

IN WITNESS WHEREOF, I have affixed here my signature this day of June 2009, in Davao City, Philippines.


CARLOS ISAGANI T. ZARATE
 Affiant

SUBSCRIBED and sworn to before me this JUN 16 2009 the affiant exhibiting to me his CTC No. 12950508 issued on 1-07-09 at Davao City.

Doc. No. 57;
 Page No. 12;
 Book No. III;
 Series of 2009


MA. MERCENITA R. BARRIOS-DIAZ
 Notary Public for Davao City
 S.No. 069-2009 until 31 December 2010
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 PTR No. 7156166 / 07 Jan. 2009
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