



Republic of the Philippines
Supreme Court
Manila
En Banc

DE LIMA'S
NARCO-POLITICS CASE

G.R. No. 229781 (De Lima vs.
Hon. J. Guerrero, People of the Philippines, et. al.)

Office of the Solicitor General's
MEMORANDUM

Office of the Solicitor General
134 Amorsolo St., Legaspi Village,
Makati City

17 April 2017

REPUBLIC OF THE PHILIPPINES
Supreme Court
MANILA

En Banc

LEILA M. DE LIMA,
Petitioner,

- versus -

G.R. No. 229781

HON. JUANITA GUERRERO,
ETC., ET AL.,
Respondents.

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MEMORANDUM

THE PEOPLE OF THE PHILIPPINES, P/DIR. GEN. RONALD M. DELA ROSA, PSUPT. PHILIP GIL M. PHILIPPS, and SUPT. ARNEL JAMANDRON APUB, through the Office of the Solicitor General, respectfully submit this memorandum in compliance with this Honorable Court's Resolution dated March 28, 2017.

PRELIMINARY STATEMENT

1. This Honorable Court has invariably ruled that in a criminal prosecution, both the accused and the State are entitled to due process. The criminal cases against petitioner Leila De Lima cannot be treated differently. Just because she is a sitting Senator of the Republic does not mean that the trial courts should immediately grant her relief without hearing the side of the government. In particular, Judge Juanita Guerrero could not have resolved De Lima's motion to quash in Criminal Case No. 17-165 before giving the government an opportunity to comment thereon. Judge Guerrero had only ten days after Criminal Case No. 17-165 was raffled to her to determine probable cause for the issuance of a warrant of arrest. Because Judge Guerrero could already determine the existence of probable cause on

the basis of a personal examination of the records of the case, it took precedence over the resolution of the motion to quash, which required that the government be heard on the matter. Certainly, Judge Guerrero could not have disregarded the Rules of Court in order to accommodate De Lima.

THE SUBSTANTIVE AND PROCEDURAL FACTS

2. The Senate and the House of Representatives conducted several inquiries on the proliferation of drug syndicates at the New Bilibid Prison (NBP). They invited inmates and resource persons who executed affidavits in support of their testimonies.¹ The investigation uncovered Leila M. De Lima's involvement in the illicit drug trade in the NBP.

3. Subsequently, on October 11, 2016, the Volunteers Against Crime and Corruption (VACC) filed a complaint against De Lima, Francisco Baraan III, Franklin Jesus B. Bucayu, Wilfredo G. Elli, Joenel Sanchez, Ronnie Palisoc Dayan, Jose Adrian Dera, and Jaybee Sebastian for violation of Section 5, in relation to Section 26(b) of R.A. No. 9165.²

4. On October 28, 2016, the VACC filed a supplemental complaint. The case was docketed as NPS No. XVI-INV-16J-00313.³

5. On October 13, 2016, former National Bureau of Investigation (NBI) Deputy Directors Reynaldo Esmeralda and Ruel M. Lasala filed a complaint against De Lima and Rafael Marcos Ragos for violation of Section 5, in relation to Section 26(b) of R.A. No. 9165. The case was docketed as NPS No. XVI-INV-16J-00315.⁴

6. The Department of Justice thereafter issued Department Order No. 706 constituting a panel of

¹ Annex "G" of the Petition; DOJ Joint Resolution dated February 14, 2017, p. 5.

² The Comprehensive Dangerous Drugs Act of 2002.

³ DOJ Joint Resolution dated February 14, 2017, p. 4 (Annex "G" of the Petition).

⁴ Annex "G" of the Petition; DOJ Joint Resolution dated February 14, 2017, p. 4.

prosecutors headed by Senior Assistant State Prosecutor Peter Ong to conduct a preliminary investigation on these cases.⁵

7. On November 4, 2016, Jaybee Niño Sebastian, represented by his wife Roxanne Sebastian, filed a complaint against De Lima, Ricardo Rainier Cruz, and Richard Schwarzkopf, Jr. for violations of Sections 3(e) and (k) of R.A. No. 3019,⁶ Section 5(a) of R.A. No. 6713,⁷ R.A. No. 9745,⁸ Presidential Decree No. 46,⁹ and Article 211 of the Revised Penal Code. The case was docketed as NPS No. XVI-INV-16K-00331.¹⁰

8. On November 10, 2016, the NBI filed a complaint against De Lima, Franklin Jesus Bucayu, Francisco Baraan III, Rafael Marcos Ragos, Joenel T. Sanchez, Ronnie Dayan, Jovencio P. Ablen, Jr., Wilfredo G. Elli, Jesusa B. Francisco, Florelyn R. Atencio, Julius Rejuso, Jaybee Niño Sebastian, Herbert Colanggo, Engelbert Durano, Vicente Sy, Jojo R. Baligad, and Wu Tuan Yuan, also known as Peter Co, for violation of Section 5, in relation to Section 26(b) of R.A. No. 9165, Article 211-A of the Revised Penal Code, Section 27 of R.A. No. 9165, Section 3(e) of R.A. No. 3019, Section 7(d) of R.A. No. 6713, PD No. 46, and Article 210 of the Revised Penal Code. The case was docketed as NPS No. XVI-INV-16K-00336.¹¹

9. Pursuant to DOJ Department Order No. 790, the four cases were consolidated, and the DOJ Panel of Prosecutors was directed to conduct the requisite preliminary investigation.¹²

10. The DOJ Panel conducted a preliminary hearing on December 2, 2016. On the same date, De Lima filed an Omnibus Motion to Immediately Endorse the Cases to the

⁵ Id.

⁶ Anti-Graft and Corrupt Practices Act.

⁷ Code of Conduct and Ethical Standards for Public Officials and Employees.

⁸ Anti-Torture Act of 2009.

⁹ Making it Punishable for Public Officials and Employees to Receive, and for Private Persons to Give Gifts on Any Occasion, Including Christmas.

¹⁰ Annex "G" of the Petition; DOJ Joint Resolution dated February 14, 2017, p. 4.

¹¹ Id.

¹² Id.