

Republic of the Philippines  
**REGIONAL TRIAL COURT**  
Branch 78, Morong, Rizal

**FILE COPY**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff,

-versus-

Crim. Case No. 10-9078-M

**REYNALDO MACABENTA,**  
Accused.

X-----X

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff,

-versus-

Crim. Case No. 10-9079-M

**GARY LIBERAL, ET AL.,**  
Accused.

X-----X

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff,

-versus-

Crim. Case No. 10-9080-M

**DEL AYO AVERA,**  
Accused.

X-----X

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff,

-versus-

Crim. Case No. 10-9081-M

**ROMEO DE LA CRUZ,**  
Accused.

X-----X

**COMMENT**  
**(To the Manifestation with Motion to Transfer**  
**Place of Detention of Forty (40) Accused**  
**Dated 2 March 2010)**

**ALL ACCUSED**, by way of special appearance of the undersigned counsels, to this Honorable Court, most respectfully state that:

1. On 04 March 2010, Major General Jorge V. Segovia, in his capacity as the Commanding General of the Second Infantry Division, Philippine Army (2ID PA), through the Office of the Philippine Army Judge Advocate (OPAJA) filed a Manifestation With Motion To Transfer Place of Detention of Forty (40) Accused before this Honorable Court.
2. During the hearing for the arraignment of all the accused on March 5, 2010, undersigned counsels manifested before the Honorable Court that they filed a similar Motion to Transfer Detention before the Honorable Court of Appeals where the petition for habeas corpus for all accused is pending, wherein they asked the Honorable Court of Appeals to issue an Order transferring the custody of all accused to the police authorities particularly the PNP in Camp Crame. Undersigned counsels were then required by the Honorable Court to submit a Comment to OPAJA's Motion to Transfer Detention.
3. It is well to state at the outset that OPAJA's Motion to Transfer Detention to the PNP in Camp Crame is clearly meant to rectify the

illegal detention of all accused in Camp Capinpin, Tanay, Rizal, which is a military detention facility, in contravention of the rules.

4. Without necessarily conceding to the legal personality and authority of the OPAJA to file the said Manifestation with Motion to Transfer Detention, all accused hereby concur to the *rectification* move of the OPAJA to transfer forty (40) accused to the PNP in Camp Crame.
5. It is however preposterous and arrogant for the OPAJA to insist on retaining in Camp Capinpin three (3) accused, namely, Valentino Paulino, Chenelyn Tawagon, and Ellen Carandang.
6. Section 5, Rule 113 of the Rules of Court explicitly provides that “the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail”.
7. There is no justifiable reason for the military to insist on keeping the aforementioned three (3) accused in its custody in Camp Capinpin, Tanay, Rizal. Their alleged reason that the three (3) accused allegedly chose to remain in their custody is highly preposterous.
8. In the first place, if we are going to allow OPAJA’s line of reasoning, then all detention prisoners should be allowed to choose their place of detention.

9. Moreover, it is highly doubtful if the alleged written statements of the three (3) accused attached in OPAJA's motion were secured voluntarily and freely. From the accounts of the said three accused and all the other accused in this case, they suffered threats to their lives, prolonged interrogation to elicit information, intimidation and psychological torture, among other violations of constitutional rights, during their detention in Camp Capinpin.

10. It should be stressed however that the military's adamant insistence to have custody over the persons of the three (3) health workers contravene Section 3, Article II of the 1987 Philippine Constitution which states –

*SECTION 3. Civilian authority is, at all times, supreme over the military. The Armed Forces of the Philippines is the protector of the people and the State. Its goal is to secure the sovereignty of the State and the integrity of the national territory.*

11. The military, in taking custody over persons charged with a crime, is clearly usurping a civilian function that the police may better perform. The 2<sup>nd</sup> ID PA is, without a doubt, flouting the fundamental law of the land.

RESPECTFULLY SUBMITTED.

City of Makati for the City of Manila. March 10, 2010.

**PUBLIC INTEREST LAW CENTER**

*Counsel for All the Accused*

4/F Kaija Bldg. 7836 Makati Ave.

corner Valdez St., Makati City

Tel. No. (632) 899-3439; Telefax No. (632) 899-3416

Email address: [publicinterestlawcenter@gmail.com](mailto:publicinterestlawcenter@gmail.com)

By:



**ROMEO T. CAPULONG**

IBP No. 805307; 01-05-10; Nueva Ecija

PTR No. 2088275; 01-05-10; Makati

Roll No. 13366

MCLE Compliance No. I-0017830;

09-02-09



**RACHEL F. PASTORES**

IBP No. 805304; 01-05-10; Makati

PTR No. 2088276; 01-05-10; Makati

Roll No. 39818

MCLE Compliance No. II-0009044;

08-05-08



**AMYLYN B. SATO**

IBP No. 805305; 01-05-10; Q.C.

PTR No. 3186599; 01-05-10; Q.C.

Roll No. 50389

MCLE Compliance No. II-0013190;

10-09-08



**FRANCIS ANTHONY PRINCIPE**

IBP No. 805306; 01-05-10; Q.C.

PTR No. 3186600; 01-05-10; Q.C.

Roll No. 50915

**LEON P. MOGAO**

IBP No. 812412; 1-13-10; Kalinga-Apayao

PTR No. 2098307; 1-12-10; Makati

Roll No. 52585

MCLE Compliance No. II-0015931

1-23-09



**DICKSON C. AYON-AYON**

IBP No. 812713; 1-14-10; Makati

PTR No. 212567; 1-20-10; Makati

Roll No. 52340

MCLE Compliance No. II-0015686;

1-15-09

*In Collaboration with:*

**NATIONAL UNION OF PEOPLES' LAWYERS (NUPL)**

Third Floor, Erythrina Building

No. 1 Matatag cor. Maaralin Sts.

Central District, Quezon City

(02) 920.6660, (02) 927.2812

By:



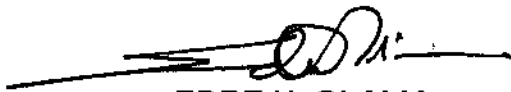
**JULIUS GARCIA MATIBAG**

Roll of Attorneys No. 55254

IBP 773865, 03-30-09, Quezon City

PTR 2598006, 01-13-09, Quezon City

Admitted to Bar, 2008, MCLE not yet required



**EDRE U. OLALIA**  
IBP No. 778004; 1/28/09 RSM Chapter  
PTR No. 1298498; 1/27/09; Quezon City  
Roll No. 36971  
MCLE Compliance No. II-0007658; 1/28/09



**EPHRAIM B. CORTEZ**  
IBP 786805, 03-26-09, Isabela  
PTR 1698205, 04-08-09, Q.C.  
Roll No. 41366  
MCLE Compliance No. II-  
0008441

And 

**RAYMUNDO L. APUHIN**  
*Counsel for Accused Gary Liberal*  
#25 Sapphire St., Pines City Royale Subd.  
Brgy. San Roque, Antipolo City  
PTR No. 2685002; 2-16-10; Antipolo City  
IBP No. 819479; 2-16-10; Neg. Occ.  
Roll No. 27073  
MCLE Compliance No. II-0008421

10 MAR 2010

**Copy furnished:**

**STATE PROSECUTOR ROMEO B. SENSON** # 006433  
Department of Justice  
Manila

**PROSECUTOR BEPPO JEROME L. DILOY** # 006434  
Office of the Public Prosecutor  
Morong, Rizal

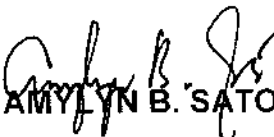
**ATTY. CYRUS D. JURADO** # 006435  
Jurado Law Office  
44 Kasayahan St., Kawilihan Village  
Pasig City

**OFFICE OF THE ARMY JUDGE ADVOCATE** # 006436  
Gusaling Medyor Heneral Delos Reyes  
Fort Bonifacio, Taguig City

MKT P.O.

**EXPLANATION OF SERVICE BY REGISTERED MAIL**

Pursuant to Section 11, Rule 13 of the 1997 Rules of Court, the office of the undersigned served copies of this pleading on the other party through registered mail because of time, distance and manpower constraints to effect personal service.

  
AMYLYN B. SATO