ORIGINAL

REPUBLIC OF THE PHILIPPINES
SUPREME COURT
MANILA

KABATAANG TAGAPAGTANGGOL NG KARAPATAN ET AL.,
Petitioners,

-versus-

EXECUTIVE SECRETARY SALVADOR C. MEDIALDEA, ET AL.
Respondents.

G.R. No. 252755
For: Special Civil Action for Certiorari and Prohibition under Rule 6

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VEHEMENT OPPOSITION

(*To Respondents' Urgent Motion dated 24 August 2020*)

Petitioners Kabataang Tagapagtanggol Ng Karapatan, Youth For Human Rights And Democracy, Youth Act Now Against Tyranny, Millennials PH, Samahan Ng Progresibong Kabataan, Good Gov PH, Youth Strike 4 Climate, Liberal Youth Of The Philippines, Aksyon Kabataan, La Salle Debate Society, DLSU University Student Government, Sanggunian Ng Mga Mag-Aaral Ng Paaralang Loyola Ng Ateneo De Manila, UP Diliman University Student Council, University of Santo Tomas Central Student Council, Student Council Alliance Of the Philippines, National Union of Students in the Philippines,[1] by counsel, respectfully state:

1. In their Urgent Motion dated 24 August 2020,[2] Respondents, through the Office of the Solicitor General, sought the cancellation of oral arguments, whether conducted in-Court or otherwise, on the Petition for *Certiorari* and Prohibition with Prayer for the Issuance of a Temporary Restraining Order and *Writ* of Preliminary Injunction filed by the Youth Petitioners on 23 July 2020,[3] as well as all other pleadings ordered consolidated with such Petition. In reality, the Urgent Motion is a mere reiteration of Respondents' arguments seeking the dismissal of the Petition as set forth in their Comment dated 17 July 2020 and Supplemental Comment dated 24 August 2020, with 28 of the Urgent Motion's 39 paragraphs dedicated for such purpose.

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[1] Hereafter, "Youth Petitioners."
[2] Hereafter, "Urgent Motion."
[3] Hereafter, "Petition."

2. At the outset, Youth Petitioners must point out that the Honorable Court has no reason to entertain the Urgent Motion as it is patently premature and devoid of any real basis. Youth Petitioners note that Respondents filed the Urgent Motion ahead of any order or notice from this Honorable Court regarding the conduct of oral arguments. It appears, then, that the Urgent Motion was driven by none other than Respondents' own apprehension to discuss, much less defend, the constitutionality of Republic Act No. 11749[4] in open court.

3. Absent any notices or orders from this Honorable Court, it appears that what moved Respondents to file the Urgent Motion is a post by the Supreme Court Public Information Office over the social media site *Twitter*, announcing that the Court will schedule oral arguments sometime in September.[5] The very text of the announcement itself says that proper notices on the scheduled date will be announced.

4. There being neither a scheduled date nor any announcement received by the Parties thus far, there is simply no cause for Respondents to pray for the reliefs sought in the Urgent Motion as all the constraints stated therein are speculative at best. On this basis alone, the Urgent Motion should be denied outright by this Honorable Court. In any case, assuming that the Urgent Motion was not filed prematurely, Youth Petitioners submit that it fails to persuade even on the merits and it must thus be denied by this Honorable Court.

The Honorable Court has proven its capacity to conduct proceedings remotely via videoconference.

5. Respondents made much of the Supreme Court of the United States' cancellation of oral arguments due to the stay-at-home orders imposed in that jurisdiction, and would have this Honorable Court do the same. Youth Petitioners submit that the parallelism Respondents seek to invoke is utterly misplaced.

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[4] An Act to Prevent, Prohibit and Penalize Terrorism, Thereby Repealing Republic Act No. 9372, Otherwise Known as The Human Security Act of 2007, [Anti-Terrorism Act of 2020] Republic Act No. 11749, (2020). Henceforth, "Anti-Terror Law."

[5] *See* Supreme Court Public Information Office, The SC will conduct oral arguments on the petitions on the 3rd week of September, at the earliest, and will issue proper notices once the date is finalized, 11 August 2020, Twitter, *available at* https://twitter.com/SCPh_PIO/status/1293067355925307393, last accessed 30 August 2020.

6. *First*, the comparison seeks to impress upon this Honorable Court that it is subject to the same limitations and conditions as those confronting the Supreme Court of the United States, but Respondents did not even bother to draw the similarities between the two courts. It is submitted that the circumstances of this Honorable Court and the Supreme Court of the United States are far too different to be compared on even terms.

7. To start with, the two courts have different procedures for the conduct of oral arguments. Even assuming there is a showing of substantial similarities on the rules, Respondents did not offer any compelling logistical reason for this Honorable Court to take the American High Court's lead on the supposed cancellations. In other words, Respondents did not even properly argue why the circumstances of both courts in terms of rules and logistics are on all fours.

8. Besides, Respondents mislead when they referred to the American Court's cancellation of oral arguments. Respondents puts too much emphasis on the fact that this is the first time the Supreme Court of the United States cancelled arguments in more than a hundred years. However, Respondents overlooked, or perhaps deliberated failed to mention, that the same American Court scheduled, and in fact conducted, oral arguments via teleconference on the following cases, which include Petitions filed by United States President Donald J. Trump:

a. 18-9526, *McGirt v. Oklahoma*
b. 19-46, *United States Patent and Trademark Office v. Booking.com B.V.*
c. 19-177, *Agency for International Development v. Alliance for Open Society International, Inc.*
d. 19-267, *Our Lady of Guadalupe School v. Morrissey-Berru*, and 19-348, *St. James School v. Biel*
e. 19-431, *Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania*, and 19-454, *Trump v. Pennsylvania*
f. 19-465, *Chiafalo v. Washington*
g. 19-518, *Colorado Department of State v. Baca*
h. 19-631, *Barr v. American Association of Political Consultants, Inc.*
i. 19-635, *Trump v. Vance*
j. 19-715, *Trump v. Mazars USA, LLP*, and 19-760, *Trump v. Deutsche Bank AG*[6]

[6] *See* Supreme Court of the United States, *Press Release Regarding May Teleconference Oral Arguments*, 13 April 2020, *available at* https://www.supremecourt.gov/publicinfo/press/pressreleases/pr_04-13-20 last accessed 30 August 2020.

9. Clearly, then, the American Supreme Court's protocol on the cancellation of oral arguments is not absolute and simply cannot be relied upon by Respondents' to support the Urgent Motion.

10. In any case, independent of the procedural rules adopted by the American Supreme Court, this Honorable Court has already proven itself capable of conducting its proceedings and official business remotely using the best available technology.

11. In fact, on 25 June 2020, this Honorable Court conducted the oath-taking ceremony of new lawyers via videoconferencing, during which it simultaneously hosted online over 2,000 passers of the 2019 Bar Examinations.[7] The conduct of such oath-taking, although done *pro hac vice*, shows the High Court's capacity to carry out remote and online proceedings that would have customarily needed renting out facilities as sizeable as the Philippine International Convention Center.

12. Further, this Honorable Court has been conducting its virtual *En Banc* sessions online, as periodically recounted by the Supreme Court Public Information Office. It even held one such session on 11 August 2020, a few weeks before Respondents' Urgent Motion was filed.[8]

13. Similarly, the Judicial and Bar Council[9] has been conducting public interviews via videoconferencing. One of the current Members of this Honorable Court even underwent such procedure via videoconferencing prior to appointment. Specifically, the JBC scheduled the following videoconferences to interview candidates for the following vacancies:

a. Supreme Court Associate Justice (vice Hon. Jose C. Reyes, Jr.) on August 11, 19 and 26, 2020;
b. Court of Appeals Presiding Justice (vice Hon. Romeo F Barza) on August 12, 2020;
c. Supreme Court Associate Justice (vice Hon. Andres B. Reyes, Jr.) on May 28, 2020.[10]

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[7] *See* Office of the Bar Confidant, *Notice to the 2019 Bar Passers Re: Oath Taking Ceremony*, 9 June 2020, *available at* http://sc.judiciary.gov.ph/11682/ last accessed 30 August 2020.
[8] *See* Supreme Court Public Information Office, *Screenshot of the Supreme Court's virtual En Banc Session this morning with all 15 SC Justices present*, 11 August 2020, Twitter, *available at* https://twitter.com/SCPh_PIO/status/1293056084001792003 last accessed 30 August 2020.
[9] Henceforth, "JBC."
[10] *See* Judicial and Bar Council, *Schedule of Interviews*, available at http://jbc.judiciary.gov.ph/index.php/announcements/schedule-of-interview, last accessed 27 August 2020.

14. Respondents must surely be aware, as it represents the government in all cases filed against it before all courts, that even lower courts have been regularly conducting hearings via videoconferencing. This has been extended in areas under a General Community Quarantine, as shown in the Announcement of this Honorable Court dated 31 May 2020:

> This is authorized by both AC 40-2020 and AC 41-2020 which were issued by Chief Justice Diosdado M. Peralta. Hence, for example if a party wishes his/her case to be heard via videoconferencing, the proper motion just needs to be filed, and the court, using its sound discretion, can either grant or deny the motion. This remedy is available in both civil and criminal cases.[11]

15. While Respondents may argue that their motives are laudable, no other than the Supreme Court itself is in the best position to determine how to conduct its business, independent of any attempt to cast doubt on its technical and logistical capabilities. It is not in Respondents' place to tell the Supreme Court what it can and cannot do because even in the context of an unprecedented pandemic, it has the sole power and discretion to promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts.[12]

16. Youth Petitioners must emphasize that all of the proceedings cited above belie Respondents' allegation that there is no guarantee that oral arguments will go smoothly.[13] While Youth Petitioners agree with Respondents that several parties are affected by the uneven quality of local internet service in the country, Respondents are in no position to speak for the Honorable Court or any of the other petitioners. Unless the parties themselves invoke any technical or logistical difficulties in attending future hearings, Respondents cannot speak on behalf of all other parties merely on the basis of a news report stating the obvious poor quality of internet service in the country.

17. All other logistical issues raised by Respondents are better dealt with in a preliminary conference, should this Honorable Court deem it necessary to call for one in preparation for the conduct of oral arguments. Respondents' barefaced allegation that it needs more than 26 lawyers to gather in one place for the conduct of oral arguments is simply insufficient to hold this Honorable Court hostage in the

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[11] Supreme Court Public Information Office, *Videoconferencing hearings to continue in GCQ Areas*, 31 May 2020, *available at* http://sc.judiciary.gov.ph/11536/, last accessed 30 August 2020.
[12] *See* PHIL. CONST., art. VIII, §5(5).
[13] *See* Respondents' Urgent Motion, Calleja v. Executive Secretary, G.R. No. 252578 at ¶ 35.

exercise of its sound discretion as to the question of whether to hold oral arguments. Surely, with the Office of the Solicitor General operating on a work-from-home basis for an extended time, it should have figured out by now how to carry out its work under the present circumstances.

18. Based on the foregoing, it is clear that there is no real factual basis which would necessitate the cancellation of the oral arguments on the Petition, since this Honorable Court's capacity to adapt to the exigencies of the country's current situation and to carry out proceedings remotely has been well-demonstrated on several occasions. There is thus no reason for this Honorable Court to heed the reliefs sought in the Urgent Motion, which, Youth Petitioners submit, must be denied for utter lack of merit.

The Petition raises genuine questions of constitutionality which justify direct resort to this Honorable Court.

19. The real motivation of Respondents in filing the Urgent Motion is betrayed by its opening paragraphs, which seek to have the Petition dismissed since it allegedly raises factual questions which merit outright dismissal. Respondents wrongfully contend that if the Honorable Court were to proceed with oral arguments, the Petition would be *ipso facto* granted or given due course in spite of the alleged absence of an actual controversy and notwithstanding the supposed factual questions raised therein. Youth Petitioners respectfully disagree.

20. To begin with, the Petition does not raise questions of fact. The Urgent Motion ignores the fact that the Petition raised genuine questions on the constitutionality of the Anti-Terror Law which can be taken cognizance directly by the Honorable Court, as it specifically alleged that:

I. The Anti-Terror Law imposes vague restrictions on Freedom of Speech and impede on fundamental rights, making it susceptible to a facial challenge;
II. The definitions of the crimes of Terrorism and Inciting to Terrorism and related crimes in the Anti-Terror Law are vague and, therefore, void;
III. The Anti-Terror Law's provisions on (a) Warrantless Arrests, and (b) the ATC's power to "designate" directly contravene the constitutional right to due process; and

IV. The Anti-Terror Law violates separation of powers and the constitutional system of checks and balances.

21. The sufficiency of Youth Petitioners' allegations in invoking the Honorable Court's jurisdiction is already thoroughly discussed in the Petition. However, just to reiterate and to respond to the arguments put forth in the Urgent Motion, Respondents ought to be reminded that the Honorable Court has already ruled that whenever violations of the constitutional rights to freedom, speech, religion, and other fundamental rights are raised, this Court acquires authority to rule on the same, even with an alleged lack of, and without waiting for, an actual controversy.[14] The Honorable Court could not have been clearer on this matter in *Imbong v. Ochoa*[15] where it explained that:

> Consequently, considering that the foregoing petitions have seriously alleged that the constitutional human rights to life, speech and religion and other fundamental rights mentioned above have been violated by the assailed legislation, the Court has authority to take cognizance of these kindred petitions and to determine if the RH Law can indeed pass constitutional scrutiny. *To dismiss these petitions on the simple expedient that there exist no actual case or controversy, would diminish this Court as a reactive branch of government, acting only when the Fundamental Law has been transgressed, to the detriment of the Filipino people.*[16]

22. While the Petition does not raise allegations of the red-tagging of Youth Petitioners, it does raise Youth Petitioners' concerns that their activities of legitimate protest are at risk of prosecution under the Anti-Terror Law. As such, the question of constitutionality remain to be the Petition's very *lis mota*. In any case, such allegations are not even necessary to vest Youth Petitioners with standing, as the Honorable Court's ruling on the standing of the Integrated Bar of the Philippines in *Francisco, Jr. v. Nagmamalasakit na Manananggol*[17] applies to them, *viz*:

> However, a reading of the *petitions shows that it has advanced constitutional issues which deserve the attention of this Court in view of their seriousness, novelty and weight as precedents. It, therefore, behooves this Court to relax the rules on standing* and to resolve the issues presented by it.[18]

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[14] See *Imbong v. Ochoa*, G.R. No. 204819, 721 SCRA 146, 283 (2015).
[15] *Id.*
[16] *Id.* emphasis supplied.
[17] See *Ernesto B. Francisco, Jr. v. Nagmamalasakit na Manananggol ng Manggagawang Pilipino*, G.R. No. 160261, 415 SCRA 44, (2003).
[18] *Id.* at 138. Emphasis supplied.

23. Be that as it may, the legal and factual bases supporting Youth Petitioners' standing to question the constitutionality of the Anti-Terror Law are thoroughly discussed in the Petition, and Petitioner may more eloquently and aptly argue its position on the matter during the oral arguments, which must rightfully be convened by the Honorable Court, considering the grave issues raised in the Petition and in the various other petitions against the Anti-terror Law.

24. Stripped of all its verbiage, the Urgent Motion is nothing more than a manifestation of Respondents' apparent unpreparedness or unwillingness to defend a patently unconstitutional law before Honorable Court and in plain view of the Filipino People. Respondents' time will surely be better served by preparing for the possibility of the conduct of oral arguments, as opposed to rehashing arguments it has already made in other pleadings, and which are already sufficiently addressed in the Petition.

25. Respondents are correct that oral arguments are not always mandatory, and that in several instances, the Honorable Court has indeed resolved petitions without conducting oral arguments. However, whether or not the Petition requires oral arguments remains to be the sole discretion of the Honorable Court. Respondents should not be allowed to preempt the exercise of the Honorable Court's sound discretion by raising what it thinks are logistical issues confronting the Honorable Court, Youth Petitioners, or any of the other petitioners. Neither should Respondents be allowed to propose the cancellation of oral arguments for its own convenience or on account of its own logistical issues, which Respondents surely have the means to address.

26. It must be emphasized that the law in question threatens to infringe upon the most fundamental civil liberties of the Filipino People. Inasmuch as the Honorable Court ensured that its bounden duty is to remain accessible to the Filipino People amidst the pandemic, it should likewise ensure that such very important legal issues raised in the Petition will be properly discussed by all the Parties concerned to settle once and for all the constitutionality of the Anti-Terror Law.

27. Based on the foregoing, it is clear that the Urgent Motion stands on no real basis that would warrant its approval. The Honorable Court is thus respectfully urged to dismiss the Urgent Motion for utter lack of merit.

RELIEF

WHEREFORE, premises considered, Youth Petitioners respectfully pray that this Honorable Court **DENY** Respondents' Urgent Motion dated 24 August 2020.

Youth Petitioners also pray for other just or equitable relief.

Quezon City for Manila City, 9 September 2020.

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[19] MCLE Compliance in the process of completion as counsel was only admitted to the Bar in 2020.

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Quezon City, Metro Manila) S.S.

AFFIDAVIT OF SERVICE

I, **Baldking G. Perticasion**, paralegal of Norma Singson-de Leon and Dino S. de Leon, counsel for Petitioners Kabataang Tagapagtanggol Ng Karapatan et al., with office address at Suite 303 Pacific Century Tower, 1472 Quezon Avenue, Quezon City, after being duly sworn, do hereby depose and state that:

1. On 10 September 2020, prior to its filing with the Supreme Court, I served the Motion for Leave to File Opposition and Vehement Oppostion entitled "Kabataang Tagapagtanggol Ng Karapatan et al. v. Executive Secretary Salvador C. Medialdea, et al." to the following via registered mail due to time, distance and manpower constraints:

Office of the Solicitor General
Republic of the Philippines
134 Amorsolo Street, Legazpi Village
1229 Makati

RR# _____
PO _____
Date _____

2. I deposited copies thereof in the post office, in sealed envelopes, plainly addressed to the parties at their respective offices with postage fully prepaid, as evidenced by Registry Receipts hereto attached, and with instructions to the postmaster to return the mail to the sender after ten (10) days if undelivered.

BALDKING G. PERTICASION

SUBSCRIBED AND SWORN to before me this 10 September 2020 at Quezon City, affiant exhibiting to me his Driver's License with LTO No. D16-05-009488 valid until 2023/01/29, both bearing his photographs.

Doc. No. 236;
Page No. 48;
Book No. 194;
Series of 2020.

ATTY. JASON S. DE BELEN
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MCLE VI-0022012; 4-14-22

DECLARATION

Undersigned counsel for Petitioners Kabataang Tagapagtanggol Ng Karapatan et al., hereby declare that copies of the Motion for Leave to File Opposition and Vehement Opposition, together with the documents thereof hereto submitted electronically in accordance with the Efficient Use of Paper Rule are complete and true copies of the Motion for Leave to File Opposition and Vehement Opposition, as well as the documents and annexes for manual filing with the Supreme Court.

JANINE KARLA A. ARANAS, CPA

SUBSCRIBED AND SWORN to before me this 10th day of September 2020, affiant exhibiting me her IBP ID with Roll No. 74351 bearing her photograph and valid until 2022/07/15.

Doc. No. 237;
Page No. 48;
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