



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **January 11, 2023**, which reads as follows:*

“G.R. No. 261272 (*Benjamin Akomeah v. People of the Philippines*).
– For this Court’s resolution is a Verified Petition with Respectful Motion for Leave to Allow Herein Counsel to Sign the Certification of Non-Forum Shopping¹ filed by Benjamin Akomeah (petitioner), assailing the Court of Appeals’ (CA’s) Decision² promulgated on June 15, 2021, and Resolution³ dated June 6, 2022 in CA-G.R. CR No. 44108, which affirmed the Regional Trial Court’s (RTC’s) Decision⁴ dated January 30, 2019 in Criminal Case No. 15-22372-CR. The RTC Decision dismissed petitioner’s appeal from the Decision⁵ dated June 28, 2018 of the Metropolitan Trial Court (MeTC) in Criminal Case No. M-PSY-15-22372-CR and convicted petitioner of the crime of Resistance and Disobedience to a Person in Authority.

Counsel of petitioner seeks from the Court the allowance of the instant petition despite the failure of petitioner himself to sign the Certification Against Forum Shopping. Petitioner’s counsel admits that he signed the petition in lieu of petitioner since he could not, despite diligent efforts, locate petitioner. He avers:

x x x [Petitioner] might have transferred to other residence due to his failure to pay for the rent of his rented house as he already informed herein counsel that he already has difficulty in raising money for his daily living. His business has stopped due to economic crisis and present pandemic. Actually, herein counsel is already shouldering the pertinent litigation expenses for petitioner. Herein counsel has no choice in the meantime but to file the petition being a meritorious one. To the mind of herein counsel, should he fail to file the instant petition and sign the certification of non-forum shopping would necessarily defeat the administration of justice particularly there is a penalty of imprisonment imposed upon the petitioner. It is further manifested

¹ *Rollo*, pp. 12-24.

² *Id.* at 29-42; penned by Associate Justice Ronaldo Roberto B. Martin, with Associate Justices Marlene Gonzales-Sison and Bonifacio S. Pascua, concurring.

³ *Id.* at 45-46.

⁴ *Id.* at 229-237; penned by Presiding judge Wilhelmina B. Jorge-Wagan.

⁵ *Id.* at 199-207.

that it is the desire of the petitioner confided to herein counsel that should his appeal to the Honorable Court of Appeals be denied, he wished and requested herein counsel to elevate his case to the Honorable Supreme Court with the humble belief that his appeal is meritorious.⁶

The instant Petition for Review on *Certiorari* is outrightly dismissible.

Section 5, Rule 45 of the Rules of Court provides that a petition for review that does not comply with the required certification against forum shopping is a ground for its dismissal.⁷ Thus, it is settled that:

x x x This certification must be executed by the petitioner, not by counsel. It is the petitioner, and not always the counsel whose professional services have been retained only for a particular case, who is in the best position to know whether he or it actually filed or caused the filing of a petition in that case. Hence, a certification against forum shopping by counsel is a defective certification. It is equivalent to non-compliance with the requirement under Section 4, Rule 45 and constitutes a valid cause for dismissal of the petition.⁸ (Citation omitted)

However, under justifiable circumstances, the Court has relaxed the rule requiring the submission of such certification considering that although it is obligatory, it is not jurisdictional. Not being jurisdictional, it can be relaxed under the rule of substantial compliance.⁹

In a plethora of cases,¹⁰ the Court relaxed this specific rule and allowed the filing of the petition despite the failure of the petitioner or his authorized representative to sign the certification against forum shopping. In all these cases and similar rulings, the Court emphasized that petitioners need only show that there was reasonable cause for the failure to sign the certification against forum shopping and that the outright dismissal of the petition would defeat the administration of justice.¹¹ Otherwise stated, there should be a special circumstance or a compelling reason that could warrant the relaxation of the rules. In *Quantum Foods, Inc. v. Esloyo*,¹² the Court emphasized that one of the compelling reasons that may call for the relaxation of the rules is the plausible merit in the case.¹³

It further bears stressing that in this chain of cases where the Court bent the rules despite the failure of the petitioner/s to sign the certification on non-

⁶ Id. at 20-21.

⁷ Section 5. *Dismissal or denial of petition.* — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

⁸ *Civil Service Commission v. Almojuela*, 707 Phil. 420, 439 (2013).

⁹ *People v. De Grano*, 606 Phil. 547, 563 (2009).

¹⁰ Id.; *Donato v. Court of Appeals*, 462 Phil. 676 (2003); *Spouses Wee v. Galvez*, 479 Phil. 737 (2004); *Sy Chin v. Court of Appeals*, 399 Phil. 442 (2000).

¹¹ *People v. De Grano*, supra at 564.

¹² 775 Phil. 484 (2015).

¹³ Id. at 496.

forum shopping, the petitions have plausible merit. In fact, the Court granted these “defective” petitions for being meritorious.

In this case, while the counsel of petitioner reasons out that he signed the petition in lieu of petitioner because he could not locate petitioner, there is no other compelling reason to bend the rules in petitioner’s favor. Simply, the outright dismissal of the instant petition would not defeat the administration of justice.

After a careful perusal of the Petition for Review on *Certiorari*, the Court finds that there is no merit in the case. Otherwise stated, even if the Court gives due course to the petition despite non-compliance with the rule on certification on non-forum shopping, the Court would still be inclined to dismiss the case for being non-meritorious.

The Court agrees with the uniform pronouncement of the MeTC, RTC, and the CA, that all the elements of the crime of Resistance and Disobedience to a Person in Authority under Article 151 of the Revised Penal Code (RPC) are extant in this case.

For the crime of Resistance and Disobedience to be proven, the two (2) key elements must be shown: “(1) That a person in authority or his agent is engaged in the performance of official duty or gives a lawful order to the offender; and (2) That the offender resists or seriously disobeys such person or his agent.”¹⁴

As found by the MeTC, RTC, and the CA, the prosecution was able to establish that private complainant Ma. Lourdes Quidangen¹⁵ (Quidangen), a Deputy Supervisor at Ninoy Aquino International Airport (NAIA), Terminal II of the Travel Control Enforcement Unit (TCEU), was a person in authority in the performance of her duty during the incident. Furthermore, she was then conducting a redundancy document check for passengers bound for Vancouver/Toronto, Canada when petitioner resisted her valid and lawful order, and harassed, shouted and intimidated her.

The CA’s explanation on this matter is on point, thus:

Under Article 152 of the Revised Penal Code, a person in authority is any person directly vested with jurisdiction, whether as an individual or as a member of some court or governmental corporation, board, or commission. The word “authority” has been given a restricted meaning so as to include only persons who perform some of the functions of the Government of the Philippine Islands and who according to the aforesaid article, are directly vested with jurisdiction. By “directly vested jurisdiction” is meant “the power or authority to govern and execute the laws.[”]

¹⁴ *Mallari v. People*, G.R. No. 224679, February 12, 2020. Citations omitted.

¹⁵ Quidagen in some parts of the *rollo*.

The Bureau of Immigration acts as the primary enforcement arm of the Department of Justice and the President of the Philippines in ensuring that all foreigners within its territorial jurisdiction comply with existing laws. The Bureau of Immigration assists local and international law enforcement agencies in securing the tranquility of the state against foreigners whose presence or stay may be deemed threats to national security, public safety, public morals and public health and also acts as chief repository of all immigration records pertaining to entry, temporary sojourn, admission, residence and departure of all foreigners in the country. Particularly, the Bureau of Immigration through its Board of Commissioners exercises administrative and quasi-judicial powers over the regulation of the entry (arrival), stay (sojourn), and exit (departure of foreign nationals in the country).

The TCEU was established in all major ports of the country due to the emerging trends in migration management and in order to combat trafficking in persons. Under Memorandum Order No. RADJR-2011-011 issued on 30 June 2011, all TCEU officers and members, shall have the duty, among others, to conduct a redundancy check on travel documents of departing passengers.

Here, Quidangen was designated as Deputy Supervisor of the TCEU pursuant to a Letter Directive No. SBM-2014-4-159 dated 11 March 2014 issued by then Commissioner Siegfred Mison. Being an Immigration Officer and a Deputy Supervisor of the TCEU, she is undoubtedly a person in authority as she is given the authority to enforce immigration laws as well as the Anti-Trafficking in Persons Act of 2003. Petitioner knew Quidangen to be a person in authority because petitioner was in the line where redundancy check of passport and travel documents was being done and such procedure would not be conducted by a mere airline personnel but an Immigration Officer, a person in authority. As stated by petitioner in his Counter-Affidavit, he is a businessman who had traveled to several countries. Thus, petitioner cannot feign ignorance of the usual immigration departure procedure that passport and travel documents are checked by one coming from the government.

Quidangen testified in a straightforward manner that while in the performance of her official duties as Deputy Supervisor of the TCEU conducting a redundancy check on petitioner's passport and other travel documents in compliance with immigration procedures, petitioner, a Ghanaian national, angrily and forcibly grabbed his passport from her thereby preventing her from performing her lawful duties. Quidangen further testified that petitioner suddenly grabbed her cellphone from her hands and pointed a finger at her shouting, "Who are you calling, Malacanang? Don't you know who I am? Don't you know who are you dealing with?" Petitioner clearly resisted and seriously disobeyed Quidangen by his act of forcibly grabbing his passport and Quidangen's cellphone while the latter was in the performance of her official duties.¹⁶ (Citations omitted)

It is, therefore, beyond cavil that the prosecution established all the elements of Resistance and Disobedience to a Person in Authority beyond reasonable doubt.

¹⁶ *Rollo*, pp. 40-41.

Anent the issue on the alleged insufficiency of the Information filed against petitioner, suffice it to say that the MeTC, RTC and the CA adequately passed upon this issue.

The Information clearly and sufficiently alleged the act constituting Resistance and Disobedience to a Person in Authority under Article 151 of the RPC. To recall, the Information states:

That on or about the 30th day of May 2014, in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did there and there willfully, unlawfully and feloniously resist or seriously disobey private complainant Ma. Lourdes Quidangen, being the Duty Head Terminal Supervisor, Travel Control Enforcement Unit (TCEU), Bureau of Immigration assigned at NAIA Terminal 2, this City, known to the accused as such and while said complainant is in the performance of her official duties, herein accused instead of following lawful order from the private complainant, pointed a finger and grabbed the cellphone of the latter and thereafter grabbed his own passport from the private complainant.

CONTRARY TO LAW.¹⁷

Clearly, the allegations in the above-quoted Information, if hypothetically admitted by petitioner, would establish all the elements of the crime charged, considering that it alleges the following:

1. Quidangen was a person in authority or an agent of a person in authority as she was the Duty Head Terminal Supervisor, TCEU, Bureau of Immigration assigned at NAIA Terminal 2;
2. That she was at the time of the incident in the performance of her official duties;
3. That petitioner knew at that time that Quidangen was a person in authority or an agent of a person in authority; and
4. Quidangen gave a lawful order to petitioner, however, instead of following such lawful order, petitioner pointed a finger and grabbed the cellphone of the latter and thereafter grabbed his own passport from Quidangen.

From the foregoing, the Court holds and so rules that petitioner was properly charged under Article 151 of the RPC. His right to be informed of the nature and cause of the accusation against him was, therefore, not violated.

All told, the Court finds no reason to overturn the Decisions of the MeTC, RTC and the CA. The prosecution was able to establish all the elements of the

¹⁷ Id. at 199.

crime of Resistance and Disobedience to a Person in Authority. Moreover, petitioner was properly charged with the said crime.

WHEREFORE, in view of the foregoing premises, the instant Petition with Motion for Leave to Allow Herein Counsel to Sign the Certification of Non-Forum Shopping is **DENIED** for lack of merit. The assailed Court of Appeals Decision promulgated on June 15, 2021, and Resolution dated June 6, 2022 in CA-G.R. CR No. 44108 are **AFFIRMED in toto**.

SO ORDERED.”

By authority of the Court:

Micac Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court 3/11/23

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The Presiding Judge
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Branch 111, 1300 Pasay City
(Criminal Case No. M-PSY-15-22372-CR)

The Presiding Judge
METROPOLITAN TRIAL COURT
Branch 46, 1300 Pasay City
(Criminal Case No. M-PSY-15-223712)

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