

REPUBLIC OF THE PHILIPPINES
SUPREME COURT
MANILA

SEN. ANTONIO "SONNY" F. TRILLANES IV,

Petitioner,

-versus-

HON. SALVADOR C. MEDIALDEA, in his capacity as Executive Secretary, **HON. DELFIN N. LORENZANA**, in his capacity as Secretary of National Defense, **HON. EDUARDO M. AÑO**, in his capacity as Secretary of Interior and Local Government, **HON. MENARDO I. GUEVARRA**, in his capacity as Secretary of Justice, **GEN. CARLITO G. GALVEZ, JR.**, in his capacity as Chief of Staff, Armed Forces of the Philippines, **P/Dir. Gen. OSCAR D. ALBAYALDE**, in his capacity as Chief of the Philippine National Police and all persons acting for and in their behalf and/or under their direction,

Respondents.

SP CASE NO. _____
FOR: **CERTIORARI, PROHIBITION AND INJUNCTION WITH APPLICATION FOR THE ISSUANCE OF A WRIT OF PRELIMINARY INJUNCTION AND/OR TEMPORARY RESTRAINING ORDER (TRO).**

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**PETITION FOR CERTIORARI,
PROHIBITION AND INJUNCTION**
[WITH APPLICATION FOR THE ISSUANCE OF
A WRIT OF PRELIMINARY INJUNCTION
AND/OR TEMPORARY RESTRAINING ORDER]

PETITIONER **SEN. ANTONIO "SONNY" F. TRILLANES IV**,
by and through the under counsel, unto the Honorable Supreme
Court most respectfully: **STATES –**

1. NATURE AND BASIS OF THE PETITION

1.1 The instant case is **Petition for Certiorari, Prohibition and Injunction**, filed under Article VII, Section 1 of the 1987 Constitution, which expressly provides:

"Section 1. Judicial power shall be vested in one Supreme Court and in such other courts as may be established by law.

"Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of Government."

[Emphasis]

1.2 Petitioner most respectfully invokes the jurisdiction of the Honorable Supreme Court, to restrain, prohibit and/or nullify the act of the Executive Department, acting through the Respondents named herein, to whimsically and arbitrarily revoke the amnesty granted to the Petitioner under **PROCLAMATION NO. 75**, series of 2010, signed by former President **HON. BENIGNO S. AQUINO III** as concurred by the **CONGRESS OF THE PHILIPPINES** through **CONCURRENT RESOLUTION NO. 4**, and to arbitrarily, illegally and whimsically arrest the Petitioner sans any warrant and/or any lawful basis, in gross and utter violation of the Constitution, when all of the previous cases filed against Petitioner have been dismissed already by the respective courts where the same were previously pending.

1.3 Petitioner likewise most respectfully urgently applies with the Honorable Court and prays for the immediate issuance of the provisional remedies of Writ of Preliminary Injunction and/or Temporary Restraining Order (TRO) in the case, to restrain, enjoin and/or prevent the Respondents, and all other persons acting in their behalf and/or under their orders, from implementing the arbitrary, whimsical and capricious order of arresting the Petitioner contained in **PROCLAMATION NO. 527, SERIES OF 2018**, without any warrant and/or any pending cases against him, as will be discussed below.

2. PETITIONER MOST RESPECTFULLY SUBMITS THAT DIRECT RECOURSE TO THE HONORABLE SUPREME COURT UNDER THE CIRCUMSTANCES IS JUSTIFIED BECAUSE:
 - A. THE CASE INVOLVES GENUINE ISSUES OF CONSTITUTIONALITY OF THE ACTIONS OF THE EXECUTIVE DEPARTMENT THAT MUST BE ADDRESSED AT THE MOST IMMEDIATE TIME;
 - B. THE INSTANT CASE APPEARS TO BE A VERY NOVEL CASE OF FIRST IMPRESSION; AND
 - C. THE ISSUES OF CONSTITUTIONALITY RAISED IN THE CASE ARE CLEARLY BETTER DECIDED BY THE HONORABLE SUPREME COURT.
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2.1 Petitioner has been compelled to most respectfully invoke the Honorable Supreme Court's role to interpret the Constitution and to act in order to protect constitutional rights of the Petitioner, as the same becomes very exigent and/or important, as will be shown below.

2.2 As of the filing of this Petition, Petitioner has been compelled and constrained to stay at the Senate Building since 04 September 2018 to prevent his illegal arrest by scores, if not hundreds, of policemen and soldiers sent by the Respondents to arrest and take him into custody despite of the fact that there is no lawful warrant for his arrest and no lawful cause or basis for his arrest.

2.3 To be sure, Petitioner is not unaware of the *doctrine of hierarchy of courts*. However, as held by the Supreme Court in *Roque v. COMELEC (2009)*, **the doctrine of hierarchy of courts is not an iron-clad rule.**¹

¹ Roque, Jr., et al. v. COMELEC, et al., 615 Phil. 149, 201 (2009) [Per J. Velasco, Jr., En Banc].

2.4 As clearly stated in a number of cases, the Honorable Supreme Court has "***full discretionary power to take cognizance and assume jurisdiction [over] special civil actions for certiorari... filed directly with it for exceptionally compelling reasons² or if warranted by the nature of the issues clearly and specifically raised in the petition.*"³**

2.5 As specifically provided below, the Honorable Supreme Court has provided specific exceptions to the doctrine of hierarchy of courts, thus:

[D]irect resort to this court is allowed when there are genuine issues of constitutionality that must be addressed at the most immediate time. A direct resort to this court includes availing of the remedies of certiorari and prohibition to assail the constitutionality of actions of both legislative and executive branches of the government.⁴

[Emphasis supplied]

2.6 Petitioner most respectfully submits that the issues of constitutionality being raised in this petition, as well as the urgency of the need of addressing the same because of the imminent and threatened violation of the constitutional rights of the Petitioner, would qualify as *exceptionally compelling reasons* which would justify direct resort to the Honorable Supreme Court.

2.7 Among others, the instant Petition raises a genuine issue of constitutionality, particularly on whether or not the President, acting on its own, can unilaterally revoke the amnesty granted to the Petitioner with the concurrence of the members of both houses of Congress.

2.8 Another constitutional issue raised in the Petition is whether or not the President can lawfully issue an order to arrest a civilian like Petitioner despite of the fact that there appears to be

² Id., citing Chavez v. National Housing Authority, 557 Phil. 29, 72 (2007) [Per J. Velasco, Jr., En Banc].

³ Id. at 201, citing Cabarles v. Maceda, 545 Phil. 210, 224 (2007) [Per J. Quisumbing, Second Division].

⁴ See Aquino III v. COMELEC, G.R. No. 189793, April 7, 2010, 617 SCRA 623, 637–638 [Per J. Perez, En Banc]; Magallona v. Ermita, G.R. No. 187167, August 16, 2011, 655 SCRA 476, 487–488 [Per J. Carpio, En Banc].

no lawful basis and/or no pending cases which would justify such arrest.

2.9 Yet another constitutional issue raised in this case is whether or not PROCLAMATION NO. 527, SERIES OF 2018, which specifically names and mentioned Petitioner as the only person affected thereby, violates the "due process" and "equal protection" clauses of the Constitution.

2.10 Apart from the fact that the instant case involves numerous genuine constitutional issues, the same likewise involves a very novel legal issues never before ruled upon by the Courts. As such, Petitioner submits that it qualifies as a case of first impression warranting direct resort to the Honorable Supreme Court.

2.11 As held by this Honorable Court in a number of cases:

[C]ases of first impression⁵ warrant a direct resort to this court. In cases of first impression, no jurisprudence yet exists that will guide the lower courts on this matter. In Government of the United States v. Purganan,⁶ this court took cognizance of the case as a matter of first impression that may guide the lower courts:

"In the interest of justice and to settle once and for all the important issue of bail in extradition proceedings, we deem it best to take cognizance of the present case. Such proceedings constitute a matter of first impression over which there is, as yet, no local jurisprudence to guide lower courts."⁷

[Emphasis supplied]

2.12 The questions raised by the Petitioner in this case are question which the Honorable Supreme Court has yet to provide substantial answers to, through jurisprudence. Thus, it is most

⁵See Soriano v. Laguardia, 605 Phil. 43, 99 (2009) [Per J. Velasco, Jr., En Banc]; See also Mallion v. Alcantara, 536 Phil. 1049, 1053 (2006) [Per J. Azcuna, Second Division].

⁶ 438 Phil. 417 (2002) [Per J. Panganiban, En Banc].

⁷ Id. at 439.

respectfully submitted that direct resort to this court should be allowed.

2.13 Finally, Petitioner submits that the constitutional issues raised here are better decided by the Honorable Supreme Court rather than the lower courts. In the case of *Drilon v. Lim*, this court held that:

. . . it will be prudent for such courts, if only out of a becoming modesty, to defer to the higher judgment of this Court in the consideration of its validity, which is better determined after a thorough deliberation by a collegiate body and with the concurrence of the majority of those who participated in its discussion.⁸

3. THE PARTIES

3.1 Petitioner **ANTONIO "SONNY" F. TRILLANES IV** is of legal age, Filipino, married. He is currently an elected Senator of the Republic, with office address at Room 519, Senate Building, GSIS Financial Center, Roxas Boulevard, Pasay City, where he may be served with the processes of this Honorable Court.

3.2 Respondent **HON. SALVADOR C. MEDIALDEA** (Respondent "*HON. MEDIALDEA*" hereinafter) is of legal age and a Filipino. He is being sued in his official capacity as the incumbent Executive Secretary of the Executive Department and may be served with summons and other legal processes through the Office of the Executive Secretary, Malacañang Palace, Manila.

3.3 Respondent **HON. DELFIN N. LORENZANA** (Respondent "*HON. LORENZANA*" hereinafter) is of legal age and a Filipino. He is being sued in his official capacity as the Secretary of National Defense, and may be served with summons and other legal processes through his Office at the Department of National Defense (DND), Camp Emilio Aguinaldo, Quezon City.

3.4 Respondent **HON. EDUARDO M. AÑO** (Respondent "*HON. AÑO*" hereinafter) is of legal age and Filipino. He is being sued in his official capacity as the Secretary of the Department of Interior and Local Government (DILG), and may be served with

⁸ Id. at 140; Emphasis supplied.

summons and other legal processes through his Office at the DILG Napolcom Center, EDSA cor. Quezon Avenue, Quezon City.

3.5 Respondent **HON. MENARDO I. GUEVARRA** (Respondent "*HON. GUEVARRA*" hereinafter) is of legal age and Filipino. He is being sued in his official capacity as the Secretary of the Department of Justice (DOJ), and may be served with summons and other legal processes through his Office at the Department of Justice, DOJ Compound, Padre Faura, Manila.

3.6 Respondent **GEN. CARLITO G. GALVEZ, JR.** (Respondent "*GEN. GALVEZ*" hereinafter) is of legal age and Filipino. He is being sued in his official capacity as the Chief of Staff, Armed Forces of the Philippines (AFP), and may be served with summons and other legal processes through his Office at the General Headquarters, Armed Forces of the Philippines, Camp Emilio Aguinaldo, Quezon City.

3.7 Respondent **P/DIR. GEN. OSCAR ALBAYALDE** (Respondent "*P/DIR. GEN. ALBAYALDE*" hereinafter) is of legal age and Filipino. He is being sued in his official capacity as the Chief of the Philippine National Police (PNP), and may be served with summons and other legal processes through his Office at the PNP Headquarters, Camp Crame, Quezon City; and –

3.8 Respondent **P/DIR. ROEL B. OBUSAN** (Respondent "*P/DIR. OBUSAN*" hereinafter) is of legal age and Filipino. He is being sued in his official capacity as the Chief of the Criminal Investigation and Detection Group (CIDG), and may be served with summons and other legal processes through his Office at the CIDG National Headquarters, Camp Crame, Quezon City.

4. ANTECEDENT FACTS

4.1 On 24 November 2010, then President **HON. BENIGNO S. AQUINO III**, issued **PROCLAMATION NO. 75, SERIES OF 2010**, the title of which reads as follows, to wit:

"PROCLAMATION NO.75"

"GRANTING AMNESTY TO ACTIVE AND FORMER PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES, PHILIPPINE NATIONAL POLICE AND THEIR SUPPORTERS WHO MAY

HAVE COMMITTED CRIMES PUNISHABLE UNDER THE REVISED PENAL CODE, THE ARTICLES OF WAR AND OTHER LAWS IN CONNECTION WITH THE OAKWOOD MUTINY, THE MARINES STAND-OFF AND THE PENINSULA MANILA HOTEL INCIDENT."

A copy of PROCLAMATION NO. 75, SERIES OF 2010, as officially published in the Official Gazette, is hereto appended and made an integral part hereof as **ANNEX "A"**.

4.2 As can be seen from the text of the said presidential proclamation, the same intended to grant amnesty to all active and former personnel of AFP and PNP as well as their supporters who have or may have committed crimes punishable under the Revised Penal Code, the Articles of War or other laws in connection with, in relation or incident to the July 27, 2003 Oakwood Mutiny, the February 2006 Marines Stand-Off and the November 29, 2007 Peninsula Manila Hotel incident who will apply therefore⁹.

4.3 On the basis of the said proclamation, the CONGRESS OF THE PHILIPPINES adopted **CONCURRENT RESOLUTION NO. 4**, the caption of which reads:

"CONCURRENT RESOLUTION NO. 4"

"CONCURRENT RESOLUTION CONCURRING WITH PROCLAMATION NO. 75 OF THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES DATED 24 NOVEMBER 2010 ENTITLED: 'GRANTING AMNESTY TO ACTIVE AND FORMER PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES, PHILIPPINE NATIONAL POLICE AND THEIR SUPPORTERS WHO MAY HAVE COMMITTED CRIMES PUNISHABLE UNDER THE REVISED PENAL CODE, THE ARTICLES OF WAR AND OTHER LAWS IN CONNECTION WITH THE OAKWOOD MUTINY, THE MARINES STAND-OFF AND THE PENINSULA MANILA HOTEL INCIDENT."

4.4 Through the said CONCURRENT RESOLUTION, the majority of the members of both houses of Congress expressed

⁹ See: Section 1 (Grant of Amnesty), Proclamation No. 75, series of 2010, **ANNEX "A"** hereof.

their consent and/or concurrent for PROCLAMATION NO. 75, series of 2010, of Pres. Aquino. The same was adopted by the House of Representatives and the Senate on December 13, 2010 and December 14, 2010, respectively. A duly *certified true copy* of the said CONCURRENT RESOLUTION NO. 4 is hereto appended and made an integral part hereof as **ANNEX "B"**.

4.5 On the basis of the said PROCLAMATION NO. 75, SERIES OF 2010, as concurred in by Congress, Petitioner applied with the Ad Hoc Committee created by the DND for the said purpose using the forms prescribed by the said Committee. Petitioner went to the Office of the Ad Hoc Committee at the DND in Quezon City for this purpose on 05 January 2011, where he filed his application and swore to it before the administering officer of the Ad Hoc Committee in accordance with the prescribed rules. Said event was recorded for posterity by members of the media covering the *Senate and Defense Beat*.

4.6 Enclosed for the ready reference of the Honorable Court is the CD containing video footages of the said event, as recorded and aired by DZRH News on 06 January 2011, **ANNEX "C"**, and as recorded and aired by TV 5 NEWS on 06 January 2011, **ANNEX "C-1"** hereof.

4.7 Likewise enclosed for the ready reference of the Honorable Court is the printed copy of the article published on 05 January 2011 by GMA News Online rendering a full account of the event, **ANNEX "D"** hereof.

4.8 In view of the submission by the Petitioner of his application for amnesty duly subscribed before the administering officer of the Committee, his personal appearance before the Ad Hoc Committee of the DND and compliance with all of the requirements under PROCLAMATION NO. 75, SERIES OF 2010 and its implementing rules, the Ad Hoc Committee of the DND recommended the approval of his amnesty application.

4.9 Hence, on 21 January 2011, a **CERTIFICATE OF AMNESTY** was issued by then Secretary of National Defense, the HON. VOLTAIRE GAZMIN, in favor of the Petitioner attesting to the fact that he was granted amnesty for his participation/involvement in the July 27, 2003 Oakwood Mutiny and November 29, 2007 Peninsula Manila Hotel siege in Makati City pursuant to the provisions of PROCLAMATION NO. 75, SERIES OF 2010, a duly certified true copy of which is hereto appended and made an integral part hereof as **ANNEX "E"**.

4.10 On the basis of the approval of the amnesty application by the Ad Hoc Committee of the DND pursuant to PROCLAMATION NO. 75, SERIES OF 2010, as concurred in by CONGRESS, petitioner was allowed to take his **PLEDGE OF ALLEGIANCE** on 27 January 2011 before then DND Secretary VOLTAIRE T. GAZMIN, **ANNEX "F"** hereof.

4.11 Thereafter, herein Petitioner filed with the appropriate **MOTIONS TO DISMISS** in the two (2) cases pending against him at that time relating to the July 27, 2003 Oakwood Mutiny and November 29, 2007 Peninsula Manila Hotel siege in Makati City, particularly:

- a) **CRIM. CASE NO. 07-3126** for Rebellion pending before the REGIONAL TRIAL COURT of MAKATI – BRANCH 150; and
- b) **CRIM. CASE NO. 03-2784** for Coup d'état pending before the REGIONAL TRIAL COURT of MAKATI – BRANCH 148.

4.12 After due proceedings, acting on the Motions to Dismiss filed in the case, including that of the herein Petitioner, the Honorable REGIONAL TRIAL COURT of MAKATI – BRANCH 150 issued an **ORDER** dated 07 September 2011 in CRIM. CASE NO. 07-3126 **DISMISSING** the case as against the Petitioner. A duly *certified true copy* of the ORDER dated 07 September 2011 issued by the Honorable Court duly signed by the HON. ELMO M. ALAMEDA, Presiding Judge, is hereto appended and made an integral part hereof as **ANNEX "G"**.

4.13 Likewise, after hearing and due proceedings and acting on the Motion to Dismiss filed by Petitioner, the Honorable REGIONAL TRIAL COURT of MAKATI – BRANCH 148 issued an **ORDER** dated 21 September 2011 in CRIM. CASE NO. 03-2784 **DISMISSING** the case as against the Petitioner. A duly *certified true copy* of the ORDER dated 21 September 2011 issued by the Honorable Court duly signed by the HON. MA. RITA A. BASCOS-SARABIA, Acting Presiding Judge, is hereto appended and made an integral part hereof as **ANNEX "H"**.

4.14 No motions for reconsideration were filed by the Prosecution or any other party either in CRIM. CASE NO. 07-3126 or in CRIM. CASE NO. 03-2784. Hence, both said ORDERS which

DISMISSED the cases against Petitioner already became final and executory nearly seven (7) years ago.

4.15 For the record, the other case filed against herein Petitioner before a Military Tribunal in connection with the July 27, 2003 Oakwood Mutiny for *alleged violation of Article 96 of the Articles of War* (i.e., Conduct unbecoming of an officer and a gentleman), punishable by mere dismissal from the service, was already *dismissed* as early as in 2007 when it was deemed to be *moot and academic* by reason of the filing by the Petitioner of his Certificate of Candidacy for the position of Senator and his subsequent election as Senator in 2007, pursuant to Section 68¹⁰ of the Omnibus Election Code (Batas Pambansa Blg. 881).

4.16 As a result, Petitioner was in fact formally allowed by the AFP to resign from his former position as Lieutenant Senior Grade (LTSG) of the Philippine Navy in 2007, as can be seen from enclosed duly certified true copies of the **MAJOR SERVICE CLEARANCE, CERTIFICATE OF LAST PAY** and **GENERAL ORDER NO. 515, SERIES OF 2007**, approving his **IPSO FACTUM RESIGNATION, ANNEX "I", "J" & "K"**, hereof, respectively.

4.17 Hence, all of the cases filed against Petitioner in connection with the July 27, 2003 Oakwood Mutiny and the November 29, 2007 Peninsula Manila Hotel incident have long been dismissed.

4.18 During the May 2016 National and Local Elections, President RODRIGO ROA DUTERTE was elected and proclaimed President. On 30 June 2016, he took his oath and assumed his Office as President.

4.19 By force of circumstances, in the performance of his duties as a Senator of the Republic and in opposing the numerous policies of the Duterte Administration which he believes are detrimental to the country and the public, foremost of which

¹⁰ Section 66 of the Omnibus Election Code (B.P. Blg. 881) expressly provides:

Section. 66. *Candidates holding appointive office or positions. - Any person holding a public appointive office or position, including active members of the Armed Forces of the Philippines, and officers and employees in government-owned or controlled corporations, shall be considered ipso facto resigned from his office upon the filing of his certificate of candidacy.*

include prevalence of Extra-Judicial Killings (EJKs) involving our poor countrymen incidental to the Administration's War on Drugs, as well as the Administration's defeatists policies regarding our dealings with China particularly concerning the disputed territories in the West Philippine Sea (WPS) and the Panatag Shoal, among others, Petitioner has earned the ire of the Duterte Administration, of which he is considered to be one of the harshest critics.

4.20 Apparently unable to find any legitimate issues which they can use against the Petitioner, President RODRIGO ROA DUTERTE resorted to the desperate act of issuing PROCLAMATION NO. 572, SERIES OF 2018, the caption of which reads as follows:

"PROCLAMATION NO. 572"

"REVOCATION OF DEPARTMENT OF NATIONAL DEFENSE AD HOC COMMITTEE RESOLUTION NO. 2(#1) DATED JANUARY 31, 2011 INSOFAR AS IT GRANTED AMNESTY TO FORMER LTSG ANTONIO TRILLANES IV"

4.21 The basis for the alleged revocation of Department of National Defense Ad Hoc Committee Resolution No. 2(#1) was supposedly because Petitioner *"did not file an Official Amnesty Application Form"* and purportedly *"never expressed his guilt for the crimes committed on occasion of the Oakwood Mutiny and Peninsula Manila Hotel Siege"*, as can be seen from Tenth (10th) and Eleventh (11th) Perambulatory Clauses of PROCLAMATION NO. 572, SERIES OF 2018.

4.22 On the basis of this claims, Pres. Duterte *DECLARED* and *PROCLAIMED* in PROCLAMATION NO. 572, SERIES OF 2018, thus:

"Section 1. The grant of amnesty to former LTSG Antonio Trillanes IV under Proclamation No. 75 is declared void ab initio because he did not comply with the minimum requirements to qualify under the Amnesty Proclamation.

"Section 2. Effects.

*1. As a consequence, the **Department of Justice and Court Martial***

of the Armed Forces of the Philippines are ordered to pursue all criminal and administrative cases filed against former LTSG Antonio Trillanes in relation to the Oakwood Mutiny and the Manila Peninsula Incident.

2. The Armed Forces of the Philippines and the Philippine National Police are ordered to employ all lawful means to apprehend former LTSG Antonio Trillanes so that he can be recommitted to the detention facility where he had been incarcerated for him to stand trial for the crimes he is charged with.

"Section 3. Effectivity. This Proclamation shall take effect immediately.

[Emphasis supplied]

A copy of PROCLAMATION NO. 572, SERIES OF 2018, as *officially published* in the 04 September 2018 edition of the Newspaper Manila Times, is hereto appended and made an integral part hereof as **ANNEX "L"** hereof.

4.23 On the same day of the publication of PROCLAMATION NO. 572, SERIES OF 2018, on 04 September 2018, the Executive Department, led by Respondent HON. MEDIALDEA, as Executive Secretary, and Respondent HON. GUEVARRA, as Secretary of Justice, have attempted to implement the clearly illicit, whimsical and/or capricious provisions the subject proclamation.

4.24 Thus, the PNP and/or the CIDG under leadership of Respondents P/DIR. GEN. ALBAYALDE and CIDG Chief Respondent P/DIR. OBUSAN under the general supervision of Respondent HON. AÑO, as DILG Secretary, as well as the AFP, under the leadership of the AFP Chief of Staff, Respondent GEN. GALVEZ, under the supervision of Respondent HON. LORENZANA, as DND Secretary, no less than forty (40) officers and members of the PNP and/or CIDG, as well as scores of officers and members of the AFP, to the Senate Building in Roxas Boulevard, Pasay City, to act as *arresting teams* and/or to implement the provisions of PROCLAMATION NO. 572, SERIES OF 2018, by attempting to effect the arrest of Petitioner.

4.25 In view of the fact that the supposed *arresting teams* sent by Respondents could not present any legal document to justify the supposed arrest of the Petitioner, apart from a copy of PROCLAMATION NO. 572, SERIES OF 2018, and particularly because of the absence of any lawful warrant of his arrest, the leadership of the Senate refused to allow them into the premises of the Senate and/or to entertain them further.

4.26 As a precautionary measure, in order to protect himself from the arbitrary, illicit and unlawful attempts of the arresting teams sent by Respondents to effect his arrest despite of the absence of any lawful or valid warrant or order for his arrest, Petitioner, with the consent of his colleagues at the Senate and the Senate President, have decided to place himself under the custody of the Senate President pending the filing, consideration and resolution of the instant Petition with this Honorable Court.

5. GROUNDS FOR THE PETITION

Petitioner most respectfully invokes the Honorable Supreme Court's power of judicial review pursuant to Section 1 of Article VII of the 1987 Constitution to correct and/or check the abuses and/or excesses of the Executive Department, which amounts to lack or excess of jurisdiction in issuing and/or implementing **PROCLAMATION NO. 572, SERIES 2018**, particularly on the following specific grounds –

I.

PRES. DUTERTE AND/OR THE RESPONDENTS GRAVELY ABUSED THEIR DISCRETION IN A MANNER AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING AND/OR ATTEMPTING TO IMPLEMENT PROCLAMATION NO. 572, SERIES OF 2018, CONTRARY TO EXISTING JURISPRUDENCE TO THE EFFECT THAT THE AMNESTY GRANTED TO PETITIONER ALREADY COMPLETELY EXTINGUISHED, ABOLISHED AND/OR

PUT INTO OBLIVION THE ALLEGED OFFENSES OF PETITIONER.

II.

PRES. DUTERTE AND/OR THE RESPONDENTS GRAVELY ABUSED THEIR DISCRETION IN A MANNER AMOUNTING TO LACK OR EXCESS OF JURISDICTION BY ATTEMPTING TO EFFECT THE ARREST OF THE PETITIONER WHEN THERE IS IN FACT NO VALID WARRANT, NO LAWFUL CAUSE AND NO PENDING CASE AGAINST PETITIONER JUSTIFYING SUCH ARREST.

III.

PRES. DUTERTE AND/OR THE RESPONDENTS GRAVELY ABUSED THEIR DISCRETION IN A MANNER AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN THEY ISSUED AND/OR ATTEMPT TO EFFECT AND/OR IMPLEMENT THE ARREST OF PETITIONER ON THE BASIS OF THE PROCLAMATION OF PRES. DUTERTE, WHO IS NOT AUTHORIZED BY ANY LAW OR THE CONSTITUTION TO ISSUE WARRANTS OR ORDERS OF ARREST;

-AND-

IV.

PRES. DUTERTE'S AND/OR RESPONDENTS' ACT OF ISSUING AND/OR ATTEMPTING TO IMPLEMENT PROCLAMATION NO. 572, SERIES OF 2018, AND ESSENTIALLY REVOKING THE AMNESTY GRANTED TO PETITIONER WITH THE CONCURRENCE OF CONGRESS, IS CLEARLY UNCONSTITUTIONAL BECAUSE:

A.

FIRST, THE ACT OF THE PRESIDENT AND/OR THE RESPONDENTS OF UNILATERALLY WITHDRAWING THE AMNESTY GRANTED TO PETITIONER VIOLATES THE CONSTITUTIONAL DESIGN INTENDING SUCH POWER TO BE A "*SHARED POWER*" BETWEEN THE PRESIDENT AND THE MAJORITY OF THE MEMBERS OF BOTH HOUSES OF CONGRESS;

B.

SECOND, PROCLAMATION NO. 572, SERIES OF 2018, SMACKS OF POLITICAL HARASSMENT AND CLEARLY VIOLATES THE "*DUE PROCESS*" AND "*EQUAL PROTECTION*" CLAUSES OF THE CONSTITUTION;

C.

PROCLAMATION NO. 572, SERIES OF 2018, VIOLATES THE RIGHT OF PETITIONER AGAINST BEING PLACED TWICE IN JEOPARDY OF CONVICTION FOR THE SAME OFFENSE.

-AND-

D.

FINALLY, PROCLAMATION NO. 572, SERIES OF 2018, WHICH ESSENTIALLY ORDERS THE PHILIPPINE NATIONAL POLICE AND THE ARMED FORCES OF THE PHILIPPINES TO ARREST PETITIONER CLEARLY VIOLATES THE CONSTITUTION, WHICH VESTS THE POWER TO ISSUE WARRANTS OR ORDERS OF ARREST UPON THE JUDICIARY.

6. ARGUMENTS/DISCUSSION

IN RE: THE FIRST GROUND –

PRES. DUTERTE AND/OR THE RESPONDENTS GRAVELY ABUSED THEIR DISCRETION IN A MANNER AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING AND/OR ATTEMPTING TO IMPLEMENT PROCLAMATION NO. 572, SERIES OF 2018, CONTRARY TO EXISTING JURISPRUDENCE TO THE EFFECT THAT THE AMNESTY GRANTED TO PETITIONER ALREADY COMPLETELY EXTINGUISHED, ABOLISHED AND/OR PUT INTO OBLIVION THE ALLEGED OFFENSES OF PETITIONER.

5.1 There can be no doubt that Petitioner applied for, and was granted, amnesty under PROCLAMATION NO. 75, SERIES OF 2007, as evidenced by the fact that not only was he issued his CERTIFICATE OF AMNESTY by then DND Secretary VOLTAIRE GAZMIN, **ANNEX "E"** hereof, all of the cases pending against him at that time were dismissed on the basis of the said grant of amnesty.

5.2 Hence, the Honorable REGIONAL TRIAL COURT of MAKATI – BRANCH 150 issued an ORDER dated 07 September 2011 in CRIM. CASE NO. 07-3126 DISMISSING the case as against the Petitioner upon motion duly filed with the Court, as evidenced by the *certified true copy* of the ORDER dated 07 September 2011 issued by the Honorable Court duly signed by the HON. ELMO M. ALAMEDA, Presiding Judge, **ANNEX "G"**.

5.3 Likewise, after hearing and due proceedings and acting on the Motion to Dismiss filed by Petitioner, the Honorable REGIONAL TRIAL COURT of MAKATI – BRANCH 148 issued an ORDER dated 07 September 2011 in CRIM. CASE NO. 03-2784 DISMISSING the case as against the Petitioner, as evidenced by *duly certified true copy* of the ORDER dated 21 September 2011 issued by the Honorable Court duly signed by the HON. MA. RITA A. BASCOS-SARABIA, Acting Presiding Judge, **ANNEX "H"**.

5.4 Apart from the fact that Petitioner has in his favor the *legal presumption*¹¹ of regularity in the performance of his official duties when Sec. Gazmin issued the CERTIFICATE OF AMNESTY in favor of the Petitioner, **ANNEX "E"** hereof, the claim that Petitioner did not file an official amnesty application form and/or never expressed his guilt for the crimes that were committed on occasion of the Oakwood Mutiny and Peninsula Manila Hotel Siege is simply belied the facts, as evidenced by **ANNEXES "C", "C-1" & "D"** hereof.

5.5 Moreover, it cannot be denied that the grant of amnesty to Petitioner was an operative fact. When the Honorable Trial Courts, particularly RTC MAKATI – BRANCH 150 and RTC MAKATI – BRANCH 148 granted the motions of Petitioner and dismissed the cases against him on the basis of the amnesty granted to the Petitioner, it can reasonably and legally be presumed that said courts also reviewed and passed upon the legality and validity of the amnesty proclamation in favor of the Petitioner.

5.6 *Amnesty is a public act of which the court should take judicial notice*¹².

5.7 Thus, **the rights to the benefits of amnesty, once established by evidence presented, either by the complainant or prosecution or by the defense, cannot be waived, because it is of public interest that a person who is regarded by the Amnesty Proclamation, which has the force of law, is not only innocent, for he stands in the eyes of the law as if he had never committed any punishable offense because of the amnesty, but as a patriot or hero, and not to be punished as a criminal**¹³.

5.8 In the instant case, any criminal liability on the part of the Petitioner has already been *completely extinguished* by virtue of the amnesty granted to him pursuant to PROCLAMATION NO. 75, SERIES OF 2010. **It has been ruled by this Court that amnesty looks backward and abolishes and puts into oblivion the offense itself, it so overlooks and obliterates the offense with which he is charged; that the person released by amnesty stands before the law precisely as though he had committed no offense**¹⁴.

¹¹ Under Section 3 (m), Rule 131 [Burden of Proof and Presumptions], Rules of Evidence.

¹² *People v. Vera*, G.R. No. L-26539, February 28, 1990.

¹³ *Barrioquinto v. Fernandez*, 82 Phil. 642 (1949); En Banc; Emphasis supplied.

¹⁴ *Vera v. People*, supra.; *State v. Blalock*, 62 N.C., 242, 247; *In re: Briggs*, 135 N.C., 118; 47 S.E. 402, 403; *Ex parte Law*, 35 GA., 285, 296; *State ex rel Anheuser-Busch Brewing Ass'n. vs. Eby*,

5.9 In the more recent case of *People v. Casido* (1997), the Honorable Supreme Court held:

"Xxx. Xxx *amnesty looks backward and abolishes and puts into oblivion the offense itself, it so overlooks and obliterates the offense with which he is charged that the person released by amnesty stands before the law precisely as though he had committed no offense.*"¹⁵

[Emphasis supplied]

5.10 As can be seen from the foregoing, aside from the fact that there was utterly no basis for Pres. Duterte and/or Respondents' act of revoking the grant of amnesty to Petitioner, under prevailing jurisprudence, supposed offenses of the Petitioner having already been *abolished, put into oblivion and obliterated*, the same cannot anymore be *revived, reinstated and/or pursued* by the Pres. Duterte, the Respondents and/or any persons acting under their orders or instructions.

5.11 Moreover, any criminal liability on the part of the Petitioner has already been *completely extinguished* by the amnesty granted to him under PROCLAMATION NO. 75, SERIES OF 2010, under Section 4 thereof, which provides that:

"SECTION 4. **Effects.** –

- (a) **Amnesty pursuant to this proclamation shall extinguish any criminal liability for acts committed in connection, incident or related to the July 27, 2003 Oakwood Mutiny, the February 2006 Marines Stand-Off and the November 29, 2007 Peninsula Manila Hotel Incident**
xxx."

[Emphasis supplied]

170 Mo., 497; 71 S.W. 52, 61; *Burdick vs. United States*, N.Y., 35 S. Ct., 267; 271; 236 U.S., 79; 59 Law ed., 476; as cited in *Barrioquinto v. Fernandez*, supra.

¹⁵ G.R. No. 116512; March 7, 1997.

5.12 Needless to state, the grant of amnesty to the Petitioner having already effectively extinguished any criminal liability for his supposed acts committed in connection, incident or related to the July 27, 2003 Oakwood Mutiny, the February 2006 Marines Stand-Off and the November 29, 2007 Peninsula Manila Hotel Incident, there is obviously nothing more to revive, reinstate and/or pursue.

5.13 The acts of Pres. Duterte and/or Respondents relating to PROCLAMATION NO. 572, SERIES OF 2018 ordering the DOJ and Court Martial of the AFP to pursue "*all criminal and administrative cases filed against*" Petitioner "*in relation to the Oakwood Mutiny and the Manila Peninsula Incident*" is clearly diametrically opposed to the prevailing jurisprudence on the matter, as cited above.

5.14 Clearly, this arbitrary, whimsical and capricious acts on the part of Pres. Duterte and/or Respondents were clearly done in grave abuse of their discretion in a manner amounting to lack and/or excess of jurisdiction on their part.

***IN RE: THE SECOND,
THIRD AND FOURTH GROUNDS –***

PRES. DUTERTE AND/OR THE RESPONDENTS GRAVELY ABUSED THEIR DISCRETION IN A MANNER AMOUNTING TO LACK OR EXCESS OF JURISDICTION BY ATTEMPTING TO EFFECT THE ARREST OF THE PETITIONER WHEN THERE IS IN FACT NO VALID WARRANT, NO LAWFUL CAUSE AND NO PENDING CASE AGAINST PETITIONER JUSTIFYING SUCH ARREST.

PRES. DUTERTE AND/OR THE RESPONDENTS GRAVELY ABUSED THEIR DISCRETION IN A MANNER AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN THEY ISSUED AND/OR ATTEMPT TO EFFECT AND/OR IMPLEMENT THE ARREST OF PETITIONER ON THE BASIS OF THE PROCLAMATION OF PRES. DUTERTE, WHO IS NOT AUTHORIZED BY ANY LAW TO ISSUE WARRANTS OF ARREST;

-AND-

PRES. DUTERTE'S AND/OR RESPONDENTS' ACT OF ISSUING AND/OR ATTEMPTING TO IMPLEMENT PROCLAMATION NO. 572, SERIES OF 2018, AND ESSENTIALLY REVOKING THE AMNESTY GRANTED TO PETITIONER WITH THE CONCURRENCE OF CONGRESS IS CLEARLY UNCONSTITUTIONAL.

5.15 Petitioner most earnestly begs leave of the Honorable Supreme Court to discuss the Second, Third and Fourth Grounds for this Petition jointly because of the fact that the same are inter-related and intertwined.

5.16 As already alleged elsewhere above, the two (2) cases pending against Petitioner at the time PROCLAMATION NO. 75, SERIES OF 2010 was issued were already DISMISSED, particularly:

- a) **CRIM. CASE NO. 07-3126** for Rebellion which was then pending before the REGIONAL TRIAL COURT of MAKATI – BRANCH 150; and
- b) **CRIM. CASE NO. 03-2784** for Coup d'état which was then pending before the REGIONAL TRIAL COURT of MAKATI – BRANCH 148.

5.17 **CRIM. CASE NO. 07-3126** was **DISMISSED** by virtue of the ORDER dated September 7, 2011 on the Honorable Court, duly signed by the HON. ELMO M. ALAMEDA, Presiding Judge of REGIONAL TRIAL COURT of MAKATI- BRANCH 150, **ANNEX "G"**.

5.18 **CRIM. CASE NO. 03-2784** was **DISMISSED** by virtue of the ORDER dated September 21, 2011 as issued by the HON. MA. RITA A. BASCOS – SARABIA, Acting Presiding Judge of REGIONAL TRIAL COURT of MAKATI – BRANCH 148, **ANNEX "H"**.

5.19 Hence, the directive contained in PROCLAMATION NO. 572, SERIES OF 2018 issued by Pres. Duterte and/or being implemented by Respondents directing the PNP and AFP "*to employ all lawful means to apprehend*" Petitioner "*so that he can be recommitted to the detention facility where he had been incarcerated for him to stand trial for the crimes he is charged with*" as provided in Section 2 (2) thereof, is clearly whimsical, malicious

and/or capricious, in the light of the fact that there are actually no valid warrants, no lawful causes and/or no pending cases against Petitioner justifying such arrest.

5.21 In effect, Pres. Duterte and/or Respondents have acted to cause the *warrantless arrest* of the herein Petitioner not only without any valid or lawful basis but despite the fact that there are actually no cases and no lawful pending against Petitioner.

THE ACTS OF THE PRESIDENT AND/OR THE RESPONDENTS OF ORDERING AND/OR ATTEMPTING TO EFFECT THE ARREST OF THE PETITIONER ARE CLEARLY ILLEGAL AND CONSTITUTIONAL.

5.22 Clearly, the acts of Pres. Duterte and/or Respondents are clearly illegal. Verily, there is nothing in the 1987 Constitution nor in any of our existing laws which would authorized the President and/or the Respondents to issue and/or implement warrantless arrest of civilians like Petitioner except as provided in the 2000 Revised Rules on Criminal Procedure, which obviously do not apply to the instant case of Petitioner.

5.23 The actions and/or actuations of Pres. Duterte and/or Respondents, of attempting to order and/or effect the arrest of the Petitioner, without any lawful warrant of arrest against him, and lawful cause and without any cases actually pending against him which would justify such arrest clearly smacks of grave abuse of discretion amounting to lack or excess of jurisdiction, which would be the proper subject of the issuance of certiorari, prohibition and/or injunction and injunctive reliefs by the Honorable Supreme Court.

THE ACTS OF THE PRESIDENT AND/OR THE RESPONDENTS IN ISSUING AND/OR ATTEMPTING TO IMPLEMENT PROCLAMATION ON. 572, SERIES OF 2018, CLEARLY VIOLATE THE PETITIONER'S RIGHT TO DUE PROCESS OF LAW AND TO

EQUAL PROTECTION OF THE LAW.

5.24 Moreover, the same are not only illegal but are also likewise unconstitutional. For one, the attempt of the Respondents to cause the arrest of herein Petitioner without just cause and due process of law is clearly violates Petitioner's right to due process of law, as guaranteed by the 1987 Constitution.

5.25 Thus, **Article III, Section 1** of the **1987 Constitution** reads:

*"Section 1. **No person shall be deprived of life, liberty, or property without due process of law**, nor shall any person be denied the equal protection of the laws."*

[Emphasis supplied]

5.26 Under the circumstances where Pres. Duterte and/or the Respondents have issued and/or are attempting to implement PROCLAMATION NO. 572, SERIES 2018, which orders the arrest of the Petitioner without any trial or proceedings and without giving him the due process guaranteed by the Constitution. The same must clearly be declared as unconstitutional because it clearly runs afoul with this preferred basic and fundamental right guaranteed to all persons.

5.27 Apart from this, a review of the subject proclamation would readily show that the Petitioner was specifically named and mentioned (**LTSG. ANTONIO TRILLANES IV**) in PROCLAMATION NO. 572, SERIES OF 2018, at least **EIGHT (8) TIMES** and was specifically named and mentioned therein to the one and only person who will be adversely affected by the said PROCLAMATION.

5.28 Petitioner submits that under the same principles for which our courts and jurisprudence prohibits "*class legislation*", PROCLAMATION NO. 572, SERIES OF 2018 should be stricken down as unconstitutional for being violative of the ***equal protection clause*** of the Constitution as embodies in **Article III, Section 1** of the **1987 Constitution**.

5.29 Much worse than "*class legislation*", it is obvious from even a cursory reading of PROCLAMATION NO. 572, SERIES OF

2018, that Petitioner, whose name has been repeatedly mentioned in the text of the proclamation as LTSG. ANTONIO TRILLANES IV, is being *singled out* and *specifically targeted* by the proclamation, thus, clearly showing the illicit and malicious nature thereof.

5.30 For this reason, Petitioner submits that PROCLAMATION NO. 572, SERIES OT 2018, should only be declared as illegal but unconstitutional as well as it clearly violates the right of Petitioner to equal protection of the law.

**PROCLAMATION NO. 572,
SERIES OF 2018, WHICH
ESSENTIALLY ORDERS THE
PHILIPPINE NATIONAL POLICE
AND THE ARMED FORCES OF
THE PHILIPPINES TO ARREST
PETITIONER CLEARLY
VIOLATES THE CONSTITUTION,
WHICH VESTS THE POWER TO
ISSUE WARRANTS OR ORDERS
OF ARREST UPON THE
JUDICIARY.**

5.31 Likewise, the attempt of Pres. Duterte and/or the Respondents to order and/or cause the arrest of Petitioner on the basis of the a mere proclamation, without a valid warrant of arrest and without any lawful cause or any cases pending against him which would justify his arrest likewise clearly violates **Article III, Section 2 of the 1987 Constitution**, which expressly provides:

*"Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and **no** search warrant or **warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce,** and particularly describing the place to be searched and the persons or things to be seized.*

[Emphasis supplied]

5.32 Apart from the fact that the President is not authorized under the Constitution or any law to issue warrants of arrests, Section 2 of Article III of the Constitution clearly provides that "no warrant of arrest shall be issued except upon probable cause to be determined personally by the judge", as quoted above.

5.33 As can be seen from the foregoing, the clear intent of the framers of our Constitution, particularly under the doctrine of separation of powers which is written into our fundamental law, is to vest the power of issuing warrants of arrest and search warrants upon the Judiciary. This is an elementary concept taught at Law School even to first year law students.

5.34 Not being a judge, it is clear that the President is not authorized to issue any warrant and/or order of arrest and/or is not authorized to order or effect the arrest of any person, particularly when there are lawful causes and there are no cases pending against such person justifying such arrest.

5.35 Needless to state, since this is exactly what Pres. Duterte and/or the Respondents are attempting to do in their acts of issuing and/or trying to implement PROCLAMATION NO. 527, SERIES OF 2018, said proclamation must be clearly declared to be illegal and/or unconstitutional.

THE ACT OF THE PRESIDENT AND/OR THE RESPONDENTS OF UNILATERALLY WITHDRAWING THE AMNESTY GRANTED TO PETITIONER VIOLATES THE CONSTITUTIONAL DESIGN INTENDING SUCH POWER TO BE A "SHARED POWER" BETWEEN THE PRESIDENT AND MAJORITY OF THE MEMBERS OF BOTH HOUSES OF CONGRESS.

5.36 Likewise, there is also this very important legal and/or constitutional issue of whether or not Pres. Duterte and/or Respondent can unilaterally revoked the amnesty granted to the Petitioner when the same was granted to him with the concurrence of Congress.

5.37 The power to grant amnesty is not just the sole prerogative of the Executive. Under the Constitution, this power, to be validly exercised, requires the concurrence of both houses of Congress. This can be clearly gleaned from the relevant provisions of the **1987 Constitution**, particularly **Article VII [Executive Department], Section 19**, thus:

Section 19. Except in cases of impeachment, or as otherwise provided in this Constitution, the President may grant reprieves, commutations, and pardons, and remit fines and forfeitures, after conviction by final judgment.

He shall also have the power to grant amnesty with the concurrence of a majority of all the Members of the Congress.

[Emphasis supplied]

5.38 In the case of the amnesty granted to Petitioner, the formal concurrence of both houses of Congress was obtained in the form of CONCURRENT RESOLUTION NO. 4, the caption of which reads as follows, to wit:

"CONCURRENT RESOLUTION NO. 4"

"CONCURRENT RESOLUTION CONCURRING WITH PROCLAMATION NO. 75 OF THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES DATED 24 NOVEMBER 2010 ENTITLED: 'GRANTING AMNESTY TO ACTIVE AND FORMER PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES, PHILIPPINE NATIONAL POLICE AND THEIR SUPPORTERS WHO MAY HAVE COMMITTED CRIMES PUNISHABLE UNDER THE REVISED PENAL CODE, THE ARTICLES OF WAR AND OTHER LAWS IN CONNECTION WITH THE OAKWOOD MUTINY, THE MARINES STAND-OFF AND THE PENINSULA MANILA HOTEL INCIDENT."

The same was adopted by the House of Representatives and the Senate on December 13, 2010 and December 14, 2010, respectively. A duly certified true copy of the said CONCURRENT

RESOLUTION NO. 4 is hereto appended and made an integral part hereof as **ANNEX "B"**.

5.39 Petitioner submits that there is a reason why the framers of the fundamental law decided to make the awesome power of granting amnesty as a shared power of the President and the members of both houses of Congress. Obviously, the power to grant amnesty, which essentially includes the power to condone and absolve even the most horrific crimes committed by persons or certain groups of persons, is too delicate a power to entrusted to one person only.

5.40 Since the power to grant amnesty is a power shared by the President with the members of both houses of Congress, it is most respectfully submitted that Pres. Duterte's and/or Respondents act of issuing and/or implementing PROCLAMATION 572, SERIES 2018, which unilaterally attempts to revoke the amnesty jointly granted by the former President and majority of the members of both houses of Congress to the Petitioner, is clearly unconstitutional as it violates the constitutional design clearly making the said power a joint power of the President and the members of both houses of Congress.

5.41 It is most respectfully submitted that for the President to revoke and/or recall the amnesty proclamation previously issued by the former President with the concurrence of majority of the members of both houses of Congress, he must likewise obtain the concurrence of majority of the members both houses of Congress for the said revocation and/or recall.

5.42 Obviously, what the President could not do on his own, he should not also be allowed to undo on his own. Otherwise, the said attempt to revoke and/or recall the Petitioner's amnesty proclamation must be stricken down as illegal if not clearly unconstitutional.

**PROCLAMATION NO. 572,
SERIES OF 2018, VIOLATES THE
RIGHT OF PETITIONER
AGAINST BEING PLACED TWICE
IN JEOPARDY OF CONVICTION
FOR THE SAME OFFENSE.**

5.43 Finally, the specific provisions of Section 2 (1) of PROCLAMATION NO. 572, SERIES OF 2018, as issued by Pres.

Duterte and/or being implemented by the Respondents expressly provides for the revival of the cases previously filed against the Petitioner, thus:

"Section 2. Effects.

1. The Department of Justice and Court Martial of the Armed Forces of the Philippines to pursue all criminal and administrative cases filed against LTSG Antonio Trillanes [Petitioner] in relation to the Oakwood Mutiny and the Manila Peninsula Incident."

[Emphasis supplied]

5.44 Since, as already pointed out above, the two (2) cases pending against the Petitioner, CRIM. CASE NO. 07-3126 previously pending before the REGIONAL TRIAL COURT of MAKATI – BRANCH 150 and CRIM. CASE NO. 03-2734 previously pending before the REGIONAL TRIAL COURT of MAKATI – BRANCH 148 were both ***DISMISSED*** on the basis of the amnesty granted to Petitioner pursuant to PROCLAMATION NO. 75, SERIES OF 2010, long after the Petitioner was arraigned in both cases, the same constitute the dismissal on the merits of these two (2) cases, which have long become final and executory.

5.45 In view thereof, the above-quoted provisions of the proclamation ordering the revival of said cases clearly and specifically violates the constitutional guarantee against *double jeopardy*, specifically Article III, Section 21 of the 1987 Constitution, thus:

*"Section 21. **No person shall be twice put in jeopardy of punishment for the same offense.** If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act."*

[Emphasis supplied]

5.46 Viewed in the light of all the foregoing, it is very clear that Pres. Duterte's act of issuing and/or Respondents' act of attempting to implement, PROCLAMATION NO. 572, SERIES OF

2018, is clearly illegal and/or unconstitutional, as extensively discussed above.

5.47 Clearly, PROCLAMATION NO. 572, SERIES OF 2018, must be declared as *illegal* and/or *violative* of the 1987 Constitution.

THE ALLEGED GROUNDS CITED BY PROCLAMATION NO. 572, SERIES OF 2018, FOR THE ALLEGED REVOCATION OF THE AMNESTY GRANTED TO PETITIONER ARE CLEARLY FALSE.

5.48 As can be seen from the text of the subject proclamation itself, the basis for the alleged revocation of Department of National Defense Ad Hoc Committee Resolution No. 2(#1) was supposedly because Petitioner "*did not file an Official Amnesty Application Form*" and purportedly "*never expressed his guilt for the crimes committed on occasion of the Oakwood Mutiny and Peninsula Manila Hotel Siege*", as can be seen from Tenth (10th) and Eleventh (11th) Perambulatory Clauses of PROCLAMATION NO. 572, SERIES OF 2018.

5.49 These claims are clearly debunked by the *official documents* issued by the DND clearly showing that Petitioner applied for and was granted amnesty under **PROCLAMATION NO. 75, SERIES 2010**, particularly the **CERTIFICATE OF AMNESTY** issued to the Petitioner on 21 January 2011, duly signed by then DND Secretary VOLTAIRE GAZMIN, and the copy of **PLEDGE OF ALLEGIANCE** the Petitioner was asked to take after being granted amnesty also duly signed by then DND Secretary VOLTAIRE GAZMIN, duly certified true copies of which are hereto appended and made integral parts hereof as **ANNEXES "E" & "F"**.

5.50 Moreover, the claim that Petitioner did not file an official amnesty application form and/or never expressed his guilt for the crimes that were committed on occasion of the Oakwood Mutiny and Peninsula Manila Hotel Siege is simply belied the facts, as evidenced by **ANNEXES "C", "C-1" & "D"** hereof.

5.51 Likewise, the DND itself has recently released an official statement clarifying that in fact Petitioner did file his application for amnesty and in fact released an official document clearly showing

this fact, particularly a **MEMORANDUM** addressed to the then Secretary of the DND and Chairman of the DND Ad Hoc Committee dated 05 January 2011 submitting the list of applicants who applied for amnesty under PROCLAMATION NO. 75, SERIES OF 2010, on that day, duly signed by **LTC. JOSEFA C. BERBIGAL** of the Judge Advocate General's Office (JAG) who was then the Head of the Secretariat of the DND Ad Hoc Committee, **ANNEX "M"** hereof.

5.52 As regards the claim that Petitioner "*never expressed his guilt for the crimes committed on occasion of the Oakwood Mutiny and Peninsula Manila Hotel Siege*", it impossible to apply for amnesty under PROCLAMATION NO. 75, SERIES OF 2010, without doing so because the **APPLICATION FORM** for amnesty under said proclamation itself, which Petitioner filled up and submitted, particularly and specifically requires such admission.

5.53 Thus, the text contained in the said application form specifically states:

"I hereby acknowledge that my involvement/participation in the subject incident constitutes a violation of the 1987 Constitution, criminal laws and the Articles of War. I hereby recant my previous statements that are contrary, if any, to this express admission of involvement/participation and guilt."

The applicant is required to sign and indicate his rank and date right below statement, as can be seen from the copy of the subject **APPLICATION FORM** for amnesty under PROCLAMATION NO. 75, SERIES 2010, a sample copy of which is hereto appended as **ANNEX "N"**.

5.54 All of the foregoing should clearly show and illustrate to the Honorable Court that in fact, **PROCLAMATION NO. 572, SERIES 2018**, is nothing but a cheap political stunt designed to harass, prejudice and punished a political opponent of the administration.

6. APPLICATION FOR THE ISSUANCE OF A WRIT OF PRELIMINARY INJUNCTION AND/OR TEMPORARY RESTRAINING ORDER (TRO)

Petitioner repleads by way of reference and/or reiterates all of the allegations and averments above, and states: That –

6.1 As can be seen from all of the foregoing allegations, Petitioner is entitled to the reliefs and/or remedies he is praying for above.

6.2 Part and parcel of the said reliefs and/or remedies consists of enjoining, prohibiting and/or restraining the Respondents and all persons acting under their orders from implementing PROCLAMATION NO. 572, SERIES OF 2018, specifically the provisions under Section 2 thereof ordering:

- a. The Department of Justice and Court Martial of the Armed Forces of the Philippines *"to pursue all criminal and administrative cases filed against" Petitioner "in relation to the Oakwood Mutiny and the Manila Peninsula Incident";* and –
- b. The AFP and the PNP *"to employ all lawful means to apprehend" Petitioner "so he can be recommitted to the detention facility where he had been incarcerated for him to stand trial for the crimes he is charged with".*

6.3 This is true particularly in the light of the fact that the orders, directives and/or contemplated actions of Pres. Duterte and/or the Respondents would be contrary to prevailing laws and jurisprudence, as well as the fact that there are actually no pending cases against Petitioner, there are no lawful warrants for his arrest and/or Pres. Duterte and/or Respondents are not authorized either by the 1987 Constitution or any laws to order and/or effect the arrest of civilians like Petitioners without any lawful warrants issued by the Courts.

6.4 Needless to state, Petitioner stands to suffer grave and/or irreparable damages if the Respondents are not restrained, enjoined and/or prohibited from their contemplated actions and/or actuations, to wit:

- a. Petitioner is under threat being detained, deprived of his personal freedom and/or incarcerated without any valid or lawful cause;

- b. Petitioner stands be unduly deprived of his personal liberty without due process of law;
- c. Worse, Petitioner will be detained against his will, in violation of all his rights, when there are in fact no cases filed against him; and –
- d. Petitioner is under threat of being arrested by the Respondents and/or persons acting under their orders and/or directives when there is in fact no lawful warrant for his arrest.

6.5 As can be seen from all of the foregoing, the damages the Petitioner stands to suffer are clearly grave and are irreparable in nature and/or incapable of pecuniary estimation, and are far graver than any possible damages which Respondents may suffer if a writ of injunction and/or temporary restraining order (TRO) is issued and in turns out later that the Petitioner is not really entitled to one.

6.6 Petitioner manifests that in view of the threat of his arrest poised by the Respondents' immediate attempts and/or desire to immediately implement the assailed provisions of PROCLAMATION NO. 527, SERIES OF 2018, there is no motion for reconsideration and/or appeal or any other just, adequate and/or speedy remedies available to him under the ordinary course of law.

6.7 Petitioner further submits that there is an extreme and urgent necessity for the Honorable Court to issue injunctive relief under the premises to protect and/or vindicate the rights of the Petitioner and/or to prevent the same from being rendered moot and academic by the actions and/or actuations of Respondents.

6.8 Petitioner manifest that he is willing, ready and able to post and/or put up a bond in such amount as may be pegged and/or required by the Honorable Court to secure the Respondents from any and/or all damages they may suffer as a result of the injunctive reliefs prayed for in the case, should it turn out latter that Petitioner was not really entitled to the same.

PRAYER/RELIEF

WHEREFORE, premises considered, Petitioner most respectfully prays of the Honorable Supreme Court: That –

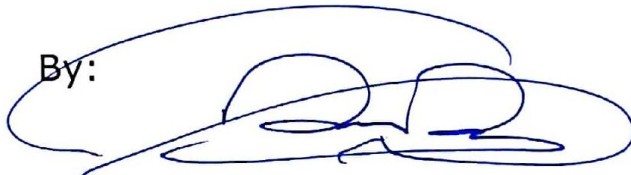
1. Immediately upon the filing of the instant case, a **WRIT OF PRELIMINARY INJUNCTION** and/or **TEMPORARY RESTRAINING ORDER ("TRO")** be **ISSUED** by the Honorable Court **ENJOINING, PROHIBITING** and/or **RESTRAINING** the Respondents and/or any and all persons acting in their behalf and/or under their orders from implementing PROCLAMATION NO. 572, SERIES OF 2018, specifically the provisions under Section 2 thereof ordering:
 - a. The Department of Justice and Court Martial of the Armed Forces of the Philippines "*to pursue all criminal and administrative cases filed against*" Petitioner "*in relation to the Oakwood Mutiny and the Manila Peninsula Incident*"; and –
 - b. The AFP and the PNP "*to employ all lawful means to apprehend*" Petitioner "*so he can be recommitted to the detention facility where he had been incarcerated for him to stand trial for the crimes he is charged with*".
2. After hearing and due proceedings, **JUDGEMENT** be rendered, for the Petitioner and against the Respondents, **GRANTING** the petition for **CERTIORARI, PROHIBITION** and/or **INJUNCTION** and **NULLIFYING** and/or **DECLARING** as **NULL AND VOID AB INITIO** Pres. Duterte's and/or Respondents' act of issuing and/or implementing **PROCLAMATION NO. 572, SERIES 2018** for being contrary to existing jurisprudence, to the law and/or the 1987 Constitution and **PROHIBITING** and/or **ENJOINING** the Respondents' from implementing the same and –
3. **DECLARING** the **WRIT OF PRELIMINARY INJUNCTION** and/or **TEMPORARY RESTRAINING ORDER** as previously prayed for by the Petitioner and/or issued by the Honorable Court to be considered as **PERMANENT**.

OTHER RELIEF AND REMEDIES as may be just and equitable under the premises are also prayed for.

Pasig City for the City of Manila, 05 September 2018.

**THE
LAW FIRM
OF
CHAN ROBLES AND ASSOCIATES**
Counsel for Petitioner Senator Antonio F. Trillanes IV
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By:

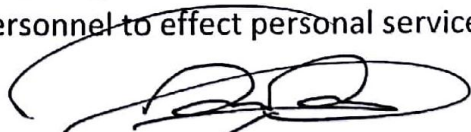


REYNALDO BUSTOS ROBLES
PTR No. 3865424; 01.06.18; Pasig City
IBP-LRN No. 04309; 01.10.03; Makati City
MCLE Compliance No. V- 0022154; 05.30.16
Roll of Attorney No. 37366

COPY FURNISHED:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legaspi Village
Makati City

EXPLANATION: A copy of the foregoing Petition is being served to the Office the Solicitor General through registered mail with return card due to lack of material time and necessary personnel to effect personal service thereof.



REYNALDO BUSTOS ROBLES

REPUBLIC OF THE PHILIPPINES)
CITY OF PASAY CITY)S.S.

**VERIFICATION
AND CERTIFICATION
OF NON-FORUM SHOPPING**

I, **SEN. ANTONIO "SONNY" F. TRILLANES IV**, Filipino, of legal age and with address at Room 319, Senate of the Philippines, GSIS Financial Center, Roxas Boulevard, Pasay City, after having been sworn to in accordance with law, depose and state: That - -

1. I am the Petitioner in the above-captioned case;
2. I have caused the preparation of the foregoing **PETITION FOR CERTIORARI, PROHIBITION AND/OR INJUNCTION WITH APPLICATION FOR THE ISSUANCE OF A WRIT OF PRELIMINARY INJUNCTION AND/OR TEMPORARY RESTRAINING ORDER (TRO)**;
3. I have read all the allegations contained therein and the same are true and correct to the best of my own personal knowledge and as culled from authentic records;
4. I hereby **CERTIFY** that I have not heretofore commenced any action or proceeding with the Supreme Court, Court of Appeals or any Division thereof, any other tribunal or agency, and that to the best of my knowledge, there is no other action or proceeding that is pending with the Supreme Court, Court of Appeals or any Division thereof, or any other tribunal or agency, involving the same parties and the same issues as in the instant case, and should I learn later that such an action or proceeding is pending or commenced with the Supreme Court, Court of Appeals or any Division thereof, or any other tribunal or agency, I shall promptly report the same within five (5) days from such notice.

IN WITNESS WHEREOF, I have hereunto affixed my signature this _____ day of September 2018 at the City of PASAY CITY, Metro Manila.


SEN. ANTONIO "SONNY" F. TRILLANES IV
Petitioner-Affiant

SUBSCRIBED AND SWORN to before me, a Notary Public commissioned in and for PASAY CITY this 5th day of September 2018, by **SEN. ANTONIO "SONNY" F. TRILLANES IV**, who has satisfactorily proven to me his identity through his SENATE ID with ID Number 2007-2006 effective up to June 2019, bearing his photograph and signature, here acknowledged to me and that he is the same person who appeared and signed the foregoing instrument in my presence and within my jurisdiction, and who avowed to the truth of its content under penalty of law.

NOTARY PUBLIC



ATTY. JOVINO R. ANGEL

NOTARY PUBLIC

NOTARIAL COMMISSION 17-08

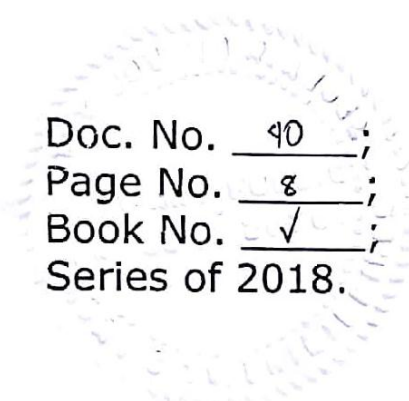
UNTIL DECEMBER 31, 2018

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