

**REPUBLIC OF THE PHILIPPINES  
COURT OF APPEALS  
MANILA**

**EDITA T. BURGOS,**  
Petitioner,

- versus -

CA GR No. \_\_\_\_\_

**Chief of Staff of the Armed Forces of the Philippines,  
GEN. HERMOGENES ESPERON, JR.; Commanding  
General of the Philippine Army, LT. GEN. ALEXANDER  
YANO; Chief of the Philippine National Police,  
DIRECTOR GENERAL AVELINO RAZON, JR.; Chair of  
the Commission of Human Rights, DR. PURIFICACION  
V. QUISUMBING.**

Respondents.

X-----X

**PETITION  
FOR ISSUANCE OF A WRIT OF AMPARO**

Petitioner, by undersigned counsels, respectfully alleges:

**THE PARTIES**

1. **Petitioner** is of legal age, Filipino, with postal address c/o Fernandez & Kasilag – Villanueva Law Offices, 3/F Savana Market, Pablo Ocampo Street, Makati. She is the mother of Jonas Joseph T. Burgos who became a victim of enforced disappearance on April 28, 2007 at the Ever Gotesco Mall in Quezon City.

2. **Respondents** are:

a. **General Hermogenes Esperon, Jr., Chief of Staff of the Armed Forces of the Philippines** (“Respondent Esperon”) holding office and may be served with summons at the General Headquarters of the AFP, Camp Aguinaldo,

Quezon City;

- b. **Lt. Gen. Alexander Yano, Commanding General, Philippine Army** (“Respondent Yano”), holding office and may be served with summons at Fort Bonifacio, Taguig;
- c. **Director General Avelino Razon, Jr., Chief of the Philippine National Police** (“Respondent Razon”), holding office and may be served with summons at Camp Crame, Quezon City;
- d. **Dr. Purificacion V. Quisumbing** (“Respondent Quisumbing”), **Chair of the Commission on Human Rights**, holding office and may be served with summons at SAAC Building, Commonwealth Avenue, UP Diliman, Quezon City;

3. **Jonas Joseph T. Burgos** was a victim of enforced disappearance when on April 28, 2007, at the Ever Gotesco Mall in Quezon City, he was forced into a vehicle with plate no. TAB 194 and taken away. He has not been seen or heard by the petitioner ever since. Jonas has been tagged by Gen. Esperon in his report to the CHR (copy attached and marked as Annex A) as a member of the New People’s Army.

### **THE CONSTITUTIONAL RIGHT VIOLATED AND THE MANNER OF VIOLATION BY RESPONDENTS**

4. The enforced disappearance of Jonas Joseph T. Burgos gravely contravenes the constitutional policy under Section 11, Article II that the State should “value(s) the dignity of every human person and guarantee(s) full respect for human rights”, and violates his constitutionally guaranteed rights, as follows:

- a. his right to liberty, and possibly to life, under Section 1, Article III of the Constitution;
- b. his right to personal security under Section 2, Article III of the Constitution;
- c. his rights under custodial investigation and against torture under Section 12 (1)(2), Article III of the Constitution;
- d. his right to a fair trial and to be presumed innocent until proven guilty and auxiliary

- rights under Section 14(1)(2), Article III of the Constitution;
- e. his right not to be detained for his political beliefs and aspirations under Section 18(1), Article III of the Constitution; and
  - f. his right not be subjected to cruel, degrading or inhuman punishment under Section 19 (1)(2), Article III of the Constitution.

5. Respondent Esperon is impleaded for engaging, by direct participation, or indispensable cooperation with the other respondents, in a criminal conspiracy, by ordering and/or participating in and/or abetting the commission of the crime committed against Jonas, and covering up the same by hiding the identities of the persons who abducted Jonas and their unit assignments in the Armed Forces, the officers who ordered his abduction, and refusing to apprehend the abductors and bring them before a competent court;

6. Respondent Yano is impleaded for engaging, by direct participation or indispensable cooperation, in a criminal conspiracy with the other respondents by ordering and/or participating in and/or abetting the commission of the crime committed against Jonas, and continues to cover up the crime committed against Jonas by his predecessor, retired Gen. Romeo P. Tolentino, in conspiracy with Gen. Esperon and refusing to apprehend the abductors and bring them before a competent court;

7. Respondent Razon is impleaded for engaging, by direct participation or indispensable cooperation, in a criminal conspiracy with the other respondents, especially with his Philippine Military Academy class of 1974 'mistah', Gen. Esperon, and Lt. Gen. Yano, in covering up the crime committed against Jonas and by refusing to conduct a thorough and impartial investigation of the case of Jonas, apprehend the abductors, and bring them before a competent court;

8. Respondent Quisumbing is impleaded for having failed and refused to provide the petitioner with evidence critical to the search for and determination of Jonas' whereabouts, by refusing to provide petitioner the transcripts of the testimonies of the witnesses CHR heard in connection with the case of Jonas and other vital documents CHR has gathered.

### **THE "INVESTIGATIONS" CONDUCTED**

9. Investigation of the enforced disappearance of Jonas was conducted by the Philippine

National Police-Criminal Investigation and Detection Group (the “PNP-CIDG”), the Provost Marshal General of the Armed Forces of the Philippines, (the “AFP-Provost Marshall”) and the Commission on Human Rights (the “CHR”).

### **The PNP-CIDG Investigation**

9. The incident happened in Quezon City and was investigated by the Central Metro Manila Criminal Investigation and Detection unit headed by **Police Superintendent Jonnel C. Estomo**. Police investigators interviewed, among others, witnesses Elsa Agasang (“Agasang”), management trainee of Hapag Kainan at Ever Gotesco mall along Commonwealth Avenue Quezon City, where the illegal abduction of Jonas was committed, and Larry Marquez, mall Security Guard (“SG Marquez”).

1.1 In its investigation report, the PNP found that Ms Agasang personally witnessed Jonas having lunch at the restaurant when he was forcibly taken by four men and a woman who represented themselves as policemen. SG Marquez personally witnessed Jonas being dragged out of the mall and forced into a vehicle which he identified as a Toyota Revo with plate no. TAB 194.

9.2 The police tracked plate no. TAB 194 to Mauro B. Mudlong resident of Norzagaray Bulacan. The police found that the vehicle of Mudlong was apprehended in June 2006 by Cpl. Castro Bugalan of the 56 Infantry Battalion based at Bigte Norzagaray Bulacan. The vehicle of Mudlong with plate no. TAB 194 was impounded at the 56IB headquarters. The police also drew a sketch of two of the abductors, a male and a female, based on the description given by witnesses.

9.3 In his report dated June 25, 2007, Supt. Estomo concluded as follows: “xxx late solution or worst the non solution of a particular crime incident happened if the witnesses withheld vital information or non declaration of what was really happened or none cooperation for fear of their lives. This last scenario is what really happened in this case. Another undeniable fact to ponder is at this point in time the “corpus delicti” or the body of the victim is still can not be found which the probe team failed to ascertain if the unidentified male victim at Hapagkainan fast food and restaurant is really JONAS JOSEPH BURGOS”.

9.4 Curiously, the witness Supt. Estomo was referring to as “non-cooperative” is Elsa Agasang who had readily manifested her readiness to cooperate in the police investigation, and even testified before the Court of Appeals on July 30, 2007 in CA GR. Case No. 99839 thus belying Supt. Estomo’s claims of non-cooperation. Even more surprising is the recommendation of Supt Estomo to:

a. to charge Mauro Mudlong “for failure to present himself during the conduct of investigation whom probe team feel and believe that Mr. Mudlong was hiding something, subject person has the capability to get the Plate number TAB-194, since he is know to the community as an active support of the left leaning group. Subject plat nr could used in criminal activity which is detrimental and disadvantageous to the good image of 56<sup>th</sup> IB whom Mauro Mudlong has personal grudge”, and;

b. to file “appropriate charges” against the management of Hapagkainan Fast Food and Restaurant, including witness Agasang, for “their uncooperative attitude in effect hampers the continuous flow of investigation”.

9.5 Hence, for the crime committed against Jonas, the police would charge the owner of plate no. TAB 194 despite of the fact that 56<sup>th</sup> IB had custody of that license plate at the time of the abduction of Jonas and witness Hapagkainan management trainee, Elsa Agasang, for allegedly being uncooperative despite the fact that she testified before the Court of Appeals.

9.6 On August 29, 2007, the PNP-CIDG suddenly changed its theory when it presented Melissa Concepcion Reyes, along with Emerito Lipio and Marlon Manuel, as communist guerillas (collectively, the “detainee-witnesses”) who allegedly confessed to the police that the NPA was behind Jonas’s abduction, who were subsequently exposed as rebel returnees-detainees who had already been in the custody of the AFP’s 56<sup>th</sup> Infantry Battalion (the “56<sup>th</sup> IB”) long before Jonas’ abduction.

9.7 The police has two leads in the investigation of the case of Jonas: a. plate no. TAB 194; and, b. the sketches of two of the abductors. When he testified before the Court of Appeals on August 30, September 6 and 13, 2007, Supt. Estomo said that he has not investigated anyone after August 2, 2007, he did not find out who in the 56 Infantry Battalion had custody of plate

no. TAB 194. Supt. Estomo has not checked the identities of the two suspects with cartographic sketches in the police data base nor in the data base of the Armed Forces of the Philippines.

9.8 In short, the police investigation was shoddy, hardly the thorough and impartial investigation needed in an enforced disappearance case, and falls far short of the extraordinary diligence required in the performance of their official duties.

### **The AFP-Provost Marshal's Investigation**

10. **The AFP-Provost Marshal General**, Col. Arthur Abadilla, conducted his investigation upon orders of the Chief of Staff. The alleged objective of his investigation was to determine the involvement of the 56 IB and plate no. TAB 194 in its custody in the enforced disappearance of Jonas. In the process, he claimed to have investigated 3 battalion commanders, 2 commandants of the 56 IB headquarters, 8 "left behind force", 2 motor pool sergeants, 1 staff driver.

10.1 The 3 battalion commanders were:

a. Lt. Col Noel Clement, ("Lt.Col. Clement") commanding officer of the 56 IB when the vehicle with plate no. TAB 194 was apprehended and impounded at the 56 IB headquarters in June 2006;

b. Lt. Col. Edison Caga, ("Lt.Col. Caga") commanding officer of the 69 IB who secured the headquarters of the 56 IB when the latter went to training at Camp Tecson Bulacan from December 1, 2006 until March 3, 2007; and

c. Lt. Col. Melquiades Feliciano ("Lt.Col. Feliciano") who took over the command of 56 IB from Lt. Col. Clement on January 17, 2007 and who was the 56 IB commanding officer when Jonas was abducted on April 28, 2007.

10.2 All three denied to the AFP-Provost Marshal General any participation or involvement in the enforced disappearance of Jonas. They further denied knowledge how plate no. TAB 194 got to be attached to the vehicle used in the abduction of Jonas.

10.3 The 2 commandants of the 56 IB were:

a. 2Lt Narinel G. Sillonar, commandant of 56 IB from August 16, 2006 to

November 30, 2006; and,

b. 1Lt. Vicente O. Dagdag, commandant of 69 IB from December 1, 2006 up to March 7, 2007.

Both commandants denied any knowledge about TAB 194.

10.4 The motorpool sergeant of the 56 IB, Msg. Florante C. Racca, stated in his statement that the vehicle with plate no. TAB 194 was impounded in June 2006 and he saw the license plate attached to the vehicle. He did not have any record of the vehicle.

10.5 Pfc Florencio L. Tonelada, part of the squad "left behind force" stated that he himself took photographs of the vehicle with plate no. TAB 194 attached front and back.

10.6 The AFP-Provost Marshal General consequently found Lt.Col. Clement as the one who received custody of the vehicle with plate no. TAB 194 and "failed to direct his staff to include this in their inventory". Lt.Col. Caga, commanding officer of 69IB "was given the task to temporarily secure the 56IB AOR during the retraining of the latter was found to be negligent by not making an inventory left behind by the 56IB". Lt.Col. Feliciano was found to have failed "to exercise the diligence required upon him to protect the properties under his responsibility from being lost or dissipated, was diverted to a more important tactical matter thereby contributing to such administrative lapses resulting to such loss".

10.7 All three colonels were then recommended to be administratively admonished by the Commanding General of the Philippine Army. However, Lt. Col. Feliciano was, aside from being administratively admonished, also relieved of his command of the 56IB, the only one meted such a severe punishment. According to the AFP-Provost Marshal General when he testified before the Court of Appeals, Lt. Col. Feliciano was relieved of his command because he committed a "boner" ("a foolish and obvious blunder; a stupid mistake", Random House Unabridged Dictionary, Second Edition).

10.8 Based on the foregoing, petitioner has good reason to believe that it was Lt.Col. Feliciano who ordered the abduction of Jonas and either ordered and/or allowed the abductors to take plate no. TAB 194 from the impounded vehicle and to attach the same to the maroon

Toyota Revo where Jonas was loaded into by his abductors as testified to by security guard Larry Marquez. His “boner” was using property under his custody, plate no. TAB 194 in the crime of abducting Jonas in a mall in the city and the crime witnessed by several persons.

10.9 Significantly, the AFP-Provost Marshal’s report does not indicate that any investigation was conducted at all regarding the possible military involvement in the disappearance of Jonas, but limits itself to the loss of plate no. TAB 194, a fact admitted by the AFP-Provost Marshal himself. Such omission is not only highly suspicious, it strongly suggests to the petitioner that they already have found out who committed the crime and are covering it up. The refusal of respondent Esperon to meet with petitioner who intended to ask for his personal assistance in the AFP’s investigation, despite direct orders from his Commander-In-Chief, Gloria Macapagal-Arroyo, only bolsters the inevitable conclusion that the AFP is responsible for Jonas’ disappearance. Its refusal to conduct a thorough and impartial investigation and to exercise extraordinary diligence in the performance of its official duties are, by themselves, sufficient grounds to issue the writ of amparo.

### **The CHR’s Investigation**

11. The Commission on Human Rights conducted its own investigation into Jonas’ enforced disappearance but subsequently suspended the same on the false ground that petitioner refused to cooperate in its investigation. Also, on June 20, 2007, petitioner (through her lawyer) wrote the Chair of the Commission on Human Rights to request for a copy of the CHR report together with copies of the following:

- a. progress report of the police;
- b. progress report of the army investigators;
- c. sworn statements of Lt.Col. Melquiades Feliciano, Lt.Col. Noel Clement, Lt.Col. Edison Caga, Pfc. Jose Villena, Cpl. Castro Bugalan;
- d. transcript of the stenographic notes (TSN) of the testimonies of Maj. Gen. Delfin Bangit, Lt.Col. Melquiades Feliciano, Lt.Col. Noel Clement, Lt.Col. Edison Caga, Pfc. Jose Villena, Cpl. Castro Bugalan;
- e. report of the Army Provost Marshal and Inspector General.

11.1 On June 28, 2007 the Chairperson replied that “the Commission will provide you with the pertinent documents in the subject case, together with the official findings of the Commission, once the investigation is completed and the corresponding en banc resolution promulgated”.

11.2 However, much to petitioner’s shock and dismay, she received on October 9, 2007 the Resolution of the Commission “that the proceedings in the Commission be temporarily closed” in view of “Mrs. Edita Burgos’ non-cooperation”. Nothing can be further from the truth. Petitioner as the mother of the disappeared would welcome all support and assistance to find her missing son. She has no reason to refuse to cooperate in its investigation.

11.3 To make matters worse, the CHR even abdicated its duty and constitutional mandate to the Intelligence Service of the Armed Forces of the Philippines (“ISAFP”), the very arm of the AFP which would have the least interest in conducting any investigation at all of Jonas’ disappearance, if not directly involved in the same, when it “called” upon the ISAFP to “continue” the search for Jonas in its Resolution suspending its investigation.

11.4 As a result thereof, petitioner filed a letter with the CHR belying its claim about her alleged “non-cooperation”, and demanding once more that she and/or her counsel be furnished with the evidence gathered by the CHR in its investigation. To date, CHR has not responded.

11.5 As the government agency with a constitutional mandate to protect human rights, the CHR’s duty is to do everything it can to investigate cases of human rights violations, identify the violator, and specify the government agency or unit responsible, and to render all possible assistance to victims thereof. Its failure to act decisively on the enforced disappearance of Jonas Burgos, made worse by its inexplicable shirking of responsibility by suspending its investigation on false premises and thereafter surrendering its mandate to the ISAFP show that the CHR has failed to properly observe extraordinary diligence in the performance of its duties. Its continued refusal to at least furnish the petitioner with whatever evidence it had gathered in its “investigation” show disturbing lack of enthusiasm in performing its mandate under the constitution to protect

human rights in the country, and worse, may now even be a part of the cover-up of the enforced disappearance of Jonas Burgos

A copy of the CHR Resolution is hereto attached as Annex B. A copy of petitioner's letter to the CHR dated and received by the CHR on November 20, 2007 is attached and marked as Annex C.

**THE ACTIONS TAKEN BY PETITIONER TO DETERMINE THE FATE/WHEREABOUTS OF HER SON, JONAS JOSEPH T. BURGOS, AND THOSE RESPONSIBLE FOR HIS ENFORCED DISAPPEARANCE**

12. Petitioner has so far taken the following actions to determine the fate and/or whereabouts of her son, Jonas Burgos and those responsible for his disappearance:

- b. She has a filed petition before the Supreme Court which has since been referred to the Court of Appeals, which continues to hear the case.
- c. Petitioner has also brought Jonas' case before the UN Working Group for Enforced and Involuntary Disappearance in September 2007 in the hopes that international pressure may be brought to bear on the government to disclose the fate/whereabouts of Jonas and the identities of those responsible for his enforced disappearance;
- d. Petitioner has also personally spoke with President Gloria Macapagal-Arroyo who told petitioner to go meet with respondent Esperon because Gen. Esperon can help speed up finding her son;
- e. As a result of the foregoing, petitioner tried to meet with respondent Esperon at his office but the latter failed to make himself available, in gross violation of President Arroyo's direct order.
- f. Petitioner has sought the assistance of family and friends, particularly those in media who have continued to report news about developments in the Jonas' enforced disappearance case in the hope that such continued publicity will eventually compel those with knowledge of Jonas' disappearance to come forward and provide information that will assist in determining his whereabouts.

13. Unfortunately, despite all the foregoing, petitioner has been without relief and continues to

search for her son. Petitioner believes that issuance of the writ prayed for will be of utmost significant assistance to find Jonas, arrest the abductors and bring them before a competent court.

### **OTHER ALLEGATIONS IN SUPPORT OF THE PETITION**

14. Petitioner believes that the three investigating agencies, the police, the army, the CHR already know the facts about the disappearance of Jonas. They know who abducted Jonas, who ordered his abduction, why he was abducted and what they have done to him, whether he still alive, where he is or where his body is buried. However, the three investigating agencies now appear to have conspired to cover up the truth.

15. Petitioner has been receiving information about the disappearance of her son. She received an email from an anonymous source who claims to have personally witnessed the abduction and followed the vehicle with plate no. TAB 194 to the Philippine Army headquarters at Fort Bonifacio particularly to the quarters of the Commanding General (“White House”) and to the compound of the Intelligence Service Group (“ISG”). He further said that the crime was a “joint operations between ISG, PA (Philippine Army) and MIG 15 with 69IB as support”. The abduction team was led by “an Army Captain (promotable to Major) they sometime called ‘Captain Starstruck’, is assigned with Commanding General, Phil Army as admin & security detail but also organic to ISG, PA”. He mentioned the names of “Tsgt Roxas, Cpl Joana Francisco and Msgt Arroyo”. Copy of the email print out is attached and marked as Annex D.

16. The Philippine Daily Inquirer in its August 4, 2007 issue published the report of Fe Zamora that the “AFP has shielded the men from the 56<sup>th</sup> Infantry Battalion from the media’s prying eyes, especially Lt. Col. Noel Clement and Lt. Jaime Mendaros Jr. Clement was the former battalion commander; Mendaros was said to be battalion intelligence chief. The AFP has also failed to explain clearly the role of a certain 2<sup>nd</sup> Lt. Dick Abletes, or even whether the name can be found in the Army roster. According to an Inquirer source, Abletes is facing a court martial for allegedly passing off military information on Burgos”. A copy of this news item is attached and marked as Annex E.

17. Recently, Newsbreak published in its December 2007/February 2008 issue the article written by Glenda M. Gloria. Ms. Gloria wrote:

“On that fateful day of April 28, 2007, Jonas prepared to meet two people by the Ever Gotesco mall in Quezon City – Melissa Reyes, a rebel returnee (or RR in the parlance of activists), and a certain “Reggie”. Sources close to Jonas say that Jonas knew Reggie, but it would be his first time to see Reyes. Before “surrendering” to the military, Reyes was reportedly a student organizer for the League of Filipino Students in Bulacan. But she was forced to report regularly to the Army’s 56<sup>th</sup> infantry battalion headquarters in Norzagaray, Bulacan, at the height of the Army’s campaign against the Left in Central Luzon. Still, she allegedly maintained her good standing among NPA allies for she had an aunt who was active in one of the leftist organizations in the province, according to a source who had spoken to her. Reyes and Reggie went “missing,” too, after Jonas’s April 28 abduction. In fact, Reyes’s relative reported this to the human rights group Karapatan on April 30. On the other hand, Reggie’s relative had chosen to keep quiet, for fear that blowing the horn might further endanger him. Reyes told our source sometime last May that she and Reggie first met before going to their rendezvous with Jonas at the Hapag Kainan fastfood restaurant in Ever Gotesco. Reyes revealed that she was to meet Jonas and a certain Ka Jo at the mall to discuss the possibility of meeting with a “contact in the military.” That contact could be 2<sup>nd</sup> Lt. Dick Abletes of the 56IB who was arrested and detained at Fort Bonifacio on charges that he was spying for the NPA. Abletes is the first officer in recent memory to be investigated for espionage, a crime punishable in military courts by death in wartime. At least six retired and active Army officers have confirmed to us Ablete’s arrest and investigation. He is now detained at the custodial management unit in Fort Bonifacio and was set to be arraigned before we went to press. Former Army chief Lt. Gen. Romeo Tolentino, before he retired last August, candidly talked to Newsbreak about a case of an officer based in Central Luzon who was arrested in an “entrapment” operation, where “we caught him providing information about his battalion and [details] of the OB [Order of Battle] to the enemy.” When we asked if this was related to Jonas’s abduction, Tolentino said, “I don’t know yet... because we’re still studying the background of Jonas. We did not know how Jonas looked, because what we only knew was a certain Ka Ramon, but we didn’t know how Ka Ramon looked also. It seems he led a complicated life.” A general told Newsbreak that it was the Army’s Intelligence Security Group (ISG) that was privy to the details of Abletes’s arrest, the ISG being also the counterintelligence unit of the Army. The ISG is headed by Col. Ed Ano, a 1983 graduate of the Philippine Military Academy who, incidentally, is a classmate of Senior Supt. Ashner Dolina, police chief of Bulacan whose men “arrested” Lipio last August. In a text message coursed through another officer, Ano told Newsbreak that Abletes was caught on March 7 “giving classified documents to a CPP cadre.” When we asked him Abletes had dealt with Jonas, Ano said: “[Abletes] relationship to [Jonas] is uncertain.” He refused to answer other questions, saying they’re classified. Sources close to Jonas, however, say they have information that Abletes was arrested days after Jonas’s disappearance. We tried our best efforts to get Abletes’s side and locate his family in Leyte to no avail. Newsbreak learned that Abletes finished his bachelor’s degree in architecture in 1999 from the Leyte Institute of Technology (now Eastern Visayas State University) in Tacloban City. Five years later, he decided to join the Army, finishing the Army’s Officers Candidate Course in 2003. He was first assigned at the 525<sup>th</sup> engineering construction battalion based in Fort Bonifacio, before his transfer to the 7<sup>th</sup> infantry division based in Nueva Ecija. He served as platoon leader of the 56<sup>th</sup> IB in Bulacan, a fact confirmed by his former battalion commander Lt. Col. Noel Clement. “

18. Petitioner has received information that 1Lt. Jaime M. Mendaros, Jr. 56IB Intelligence Officer had recommended to the Commander General of the 703<sup>rd</sup> Infantry Brigade to delete from the Order of Battle (“OB 2<sup>nd</sup> QTR 07”) , among other persons, “RAMON/RAYMOND/MON/SIMON (TN: Jonas Joseph Burgos y Tronqued), with position of “Prov’l Intel Dept of BPCOM – Head, with address at Brgy Tartaro, San Miguel, Bulacan, with the remark “Neutralized”.

19. In the principal action filed by the petitioner at the Supreme Court (G.R.No. 178497/CA-G.R. SP No. 99839), a writ of habeas corpus was issued by the Supreme Court returnable to this Honorable Court of Appeals ordering the respondents in that case, among others, to bring Jonas Joseph T. Burgos at the hearing held on July 27, 2007. At that hearing, herein respondent General Esperon filed his return denying that he has custody of Jonas Joseph T. Burgos. (The other respondents in that case filed similar returns that they do not HAVE Jonas in their custody). General Esperon defense in the principal petition is that pursuant to the ruling of the Supreme Court in the case of Martinez v. Mendoza, the petition must be denied because the respondents have denied that they have custody of the disappeared.

20. Under the Rule on the Writ of Amparo, “a general denial of the allegations in the petition shall not be allowed”. “Within 72 hours after service of the writ, the respondent shall file a verified written return together with supporting affidavits which shall, among other things, contain the following:

(a) The lawful defenses to show that the respondent did not violate or threaten with violation the right to life, liberty and security of the aggrieved party, through any act or omission;

(b) The steps or actions taken by the respondent to determine the fate or whereabouts of the aggrieved party and the person or persons responsible for the threat, act or omission;

(c) All relevant information in the possession of the respondent pertaining to the threat, act or omission against the aggrieved party; and

(d) If the respondent is a public official or employee, the return shall further state the actions that have been or will still be taken;

(i) to verify the identity of the aggrieved party;

(ii) to recover and preserve evidence related to the death or disappearance of the person identified in the petition which may aid in the prosecution of the person or persons responsible;

- (iii) to identify witnesses and obtain statements from them concerning the death or disappearance;
- (iv) to determine the cause, manner, location and time of death or disappearance as well as any pattern or practice that may have brought about the death or disappearance;
- (v) to identify and apprehend the person or persons involved in the death or disappearance; and
- (vi) to bring the suspected offenders before a competent court.

The return shall also state other matters relevant to the investigation, its resolution and the prosecution of the case.”

21. Evidence point to the fact that at one time or another, the respondents HAD custody of Jonas. The facts have been established that license plate no. TAB 194 used in the abduction has been in the custody of the 56<sup>th</sup> IB under the watch of Lt. Col. Feliciano. This fact creates a direct link between the abductors and the Philippine Army.

22. The issuance by General Hermogenes Esperon, Jr. of the AFP’s Special Report on Jonas Burgos proves that the military has tagged Jonas as a member of the CPP-NPA, and thus establishes the motive for the abduction.

23. The police has not followed its 2 leads - the plate and sketches. First, it points to Mauro B. Mudlong as the suspect and then the NPA. Police refused to investigate Lt. Col. Feliciano, Mendaros and Tolentino.

24. CHR has unreasonably withheld the transcripts requested some six months ago.

25. Petitioner believes that respondents are covering up the crime. She is filing this petition for writ of amparo to seek the intervention of this Honorable Court to uncover the crime committed against his son, get the perpetrators arrested and brought to justice.

## **PRAYER**

WHEREFORE premises considered, it is respectfully prayed of this Honorable Court that a Writ

of Amparo be issued, directing respondents as follows:

2. that respondents General Hermogenes Esperon, Jr. as Chief of Staff of the Armed Forces of the Philippines and Lt. Gen. Alexander Yano as Commanding General of the Philippine Army which includes the 56IB, acting with extraordinary diligence:
  - a. fully disclose to petitioner and provide copies of, all the facts, information, statements, records, photographs, dossier and all other evidence, documentary or otherwise, pertaining to Jonas Joseph T. Burgos before and after April 28, 2007 ;
  - b. order all their subordinates, from and in whatever arm and command of the AFP, to render full and unrestricted cooperation to petitioner and/or her representatives and legal counsel(s) in her search for her son, Jonas Burgos;
  - c. that full and unrestricted access to any and all AFP personnel, regardless of rank, who may have any information regarding Jonas' enforced disappearance, be granted to petitioner and/or her representatives and legal counsel(s) and to order said personnel to extend their full and absolute cooperation to petitioner, including the disclosure and provision of copies of investigation reports, supporting documents and records thereto and other such pertinent records as may be determined by petitioner;
  - d. That full and unrestricted access be granted to petitioner, to any military camp and/or installation where Jonas Joseph P.Burgos may be located and/or, at one time or another, been held in custody, as determined by petitioner; and
  - e. To preserve any and all evidence, in whatever form, that the AFP and or its various commands and organs, may have in their possession and to provide access to and copies thereof to petitioner, her representatives and legal counsel(s).
3. that respondent Director General Avelino Razon, Jr. as Chief of the Philippine

National Police, acting with extraordinary diligence:

- a. to continue the investigation of the crime committed against Jonas in a more thorough and impartial manner;
  - b. order all his subordinates, from and in whatever arm and command of the PNP, to render full and unrestricted cooperation to petitioner and/or her representatives and legal counsel(s) in her search for her son, Jonas Joseph T. Burgos; and
  - c. To preserve any and all evidence, in whatever form, that the PNP and or its various commands and organs, may have in their possession and to provide access to and copies thereof to petitioner, her representatives and legal counsel(s);
  - d. To summon Gen. Esperon, Lt. Gen. Yano and such other officers of the Armed Forces of the Philippines whether in the service or retired for investigation in connection with the crime committed against Jonas.
4. That the Commission on Human Rights, through its Chairperson, Purificacion Quisumbing, provide the petitioner with the following:
- a. copies of statements of Lt.Col. Melquiades Feliciano, Lt.Col. Noel Clement, Lt.Col. Edison Caga, Pfc. Jose Villena, Cpl. Castro Bugalan;
  - b. transcript of the stenographic notes (TSN) of the testimonies of Maj. Gen. Delfin Bangit, Lt.Col. Melquiades Feliciano, Lt.Col. Noel Clement, Lt.Col. Edison Caga, Pfc. Jose Villena and Cpl. Castro Bugalan.
5. Order any respondent who refuses to make a return, or who makes a false return, or any person who otherwise disobeys or resists a lawful process or order of the court to be punished for contempt. The contemnor may be imprisoned or imposed a fine. [Rule on the Writ of Amparo, Section 16]

Other just and equitable reliefs are also prayed for.

Makati City for Manila, December 18, 2007

**Fernandez & Kasilag-Villanueva**  
3/F Savana Market, 1203 P. Ocampo Ext.  
(formerly Vito Cruz Ext.), Makati City, 1205  
Tel No. 897-1374; Fax: 897-1375

By:

**RICARDO N. FERNANDEZ**  
Roll No. 28449  
IBP No. 698564; 01-05-07; Cavite  
PTR No. 0300629; 01-05-07; Makati

&

**MA. VERENA KASILAG-VILLANUEVA**  
Roll No. 39833  
IBP No. 698565; 01-05-07; Manila 2  
PTR No. 0300628; 01-05-07; Makati

**ROBERTO M.J. LARA**  
Roll No. 35225, Pasay  
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Ortigas Center, Pasig City 1605

**VERIFICATION  
CERTIFICATION OF NON-FORUM SHOPPING**

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

I, **EDITA T. BURGOS**, of legal age, Filipino, with postal address c/o Fernandez & Kasilag – Villanueva Law Offices, 3/F Savana Market, Pablo Ocampo Street, Makati, after having been sworn to in accordance with law, hereby depose and state that:

1. I am the Petitioner in the above-captioned case;
2. I have caused the preparation of the foregoing Petition and that the allegations contained therein are true and correct based on my own personal knowledge and on authentic records.
3. Except for two cases being heard by the Court of Appeals docketed as CA-G.R. SP Nos. 99839 and 100230, I have not heretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of my knowledge, no other action or claim is pending in such other court, tribunal or quasi-judicial agency; and
4. If I should learn that the same or similar action or claim has been filed or is pending, I shall report this fact within five (5) days therefrom to this Honorable Court.

IN WITNESS WHEREOF, I have hereunto affixed my signature this 18<sup>th</sup> day of December 2007, at Makati City.

**EDITA T. BURGOS**

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of December 2007, at Makati, affiant showing to me her CTC. No 20070425864 issued on June 21, 2007 at Quezon City.

Notary Public

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Series of 2007.

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General Headquarters of the AFP  
Camp Aguinaldo, Quezon City

**Lt. Gen. Alexander Yano**

Commanding General, Philippine Army  
Fort Bonifacio, Taguig

**Director General Avelino Razon, Jr.**

Chief of the Philippine National Police  
Camp Crame, Quezon City

**Dr. Purificacion V. Quisumbing**

Chair, Commission on Human Rights  
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