

Republic of the Philippines  
Court of Appeals  
Manila

*Fifteenth Division*

PHILIPPINE PRESS INSTITUTE,  
ET. AL.,

- versus -

CA G.R. SP No. 93529

EXECUTIVE SECRETARY  
EDUARDO E. ERMITA, ET. AL.,

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**URGENT MOTION**

COME NOW PETITIONERS to this Honorable Court, most respectfully aver  
that:

1. They filed the Petition in the case at bar on 8 March 2006.
2. In the Petition, they prayed, *inter alia*, for an immediate hearing on their application for a temporary restraining order and/or preliminary injunction, to stop what Petitioners believe to be an assault by the State on the freedoms of speech, expression and the press.
3. They respectfully reiterate these requests for relief, and wish to emphasize the urgency of the situation:
  - 3.1 Since the filing of the Petition two weeks ago, the respondents have persisted with their direct and thinly veiled threats against the press; only this time, the attacks are becoming more and more virulent, and more ominous:
    - 3.1.1 In an interview on 13 March 2006, respondent NTC Chair Solis reasserted his position to reporters that the NTC could

take over or close down radio and television stations for airing news stories that, in the NTC's own judgment, are "seditious". Citing what he himself called an "antiquated law," respondent Solis said that the Public Service Act of 1936 gave the NTC the power to regulate broadcast content.

3.1.2 On 13 March 2006, during the preliminary investigation in the rebellion cases against the 6 party-list congressional representatives and about 61 other persons at the Department of Justice [I.S. Nos. 2006-225 and 2006-226] a "masked" witness who refused to show his face but who claimed to be a certain "Jaime Beltran Fuentes" was allowed by the panel of investigating prosecutors to submit and affirm an affidavit where he stated, *inter alia*, that a media organization, KODAO PRODUCTIONS, was a front organization of the CPP/NPA/NDF:

"10. X x x Dagdag sa aking mga gawain ay itinalaga ako sa Kodao Production, isa sa mga propaganda yunit ng CPP/NPA."

3.1.3 Just a week before, Kodao's award-winning radio program, "Ngayon Na, Bayan," was axed by the radio station that had been airing the program since 2001; herein Petitioner, Prof. Danilo Arao of the College of Mass Communications of the University of the Philippines, is one of the co-hosts of "Ngayon Na, Bayan."

3.1.4 On 13 March 2006, members of the Philippine National Police together with a certain Jonathan Tiongco attempted to procure a search warrant against the Philippine Center for Investigative Journalism reportedly for "inciting to sedition." The attempt, however, was foiled by the arrival of the press and the lawyers of PCIJ, who saw proceedings taking place inside the courtroom but were not allowed to go inside. ***What is most disturbing, however, is that the following day, when the lawyers of PCIJ went to the trial court to secure copies of the case records, they were informed by court personnel that no application for search warrant had been filed, and that no hearing had taken place the day before.*** The incident is related in the affidavit of Atty. Sandra Marie Olazo Coronel dated 14 March 2006, a copy of which is attached hereto.

3.1.5 Testifying before the Sub-Committee II of the Senate Committees on Justice and Human Rights and on Public Services on 14 March 2006, Ms. Sheila Coronel, PCIJ Executive Director, disclosed that no less than the Presidential Chief of Staff, Secretary Michael Defensor, had confirmed by telephone "that lawsuits were being planned against two media personalities," but said the PCIJ was not included. Ms. Sheila Coronel is also one of the petitioners in this case.

- 3.1.6 In an interview, however, with the ABS-CBN News Channel (ANC) on 15 March 2006, Secretary Gonzalez announced that the government was monitoring the Philippine Center for Investigative Journalism. He is quoted as saying, ***"It is very clear that they have been posting on their website many things I consider inciting to sedition. We are studying them."***
- 3.1.7 At the same Senate hearing last 14 March 2006, Daily Tribune publisher Ninez Cacho-Olivarez testified that despite the physical departure of the PNP from the premises of her newspaper, they continued to be monitored by electronic means or "bugged."
- 3.1.8 On 15 March 2006, Press Secretary Ignacio Bunye told the press that they would not be given any "special treatment" in the crackdown against those suspected to be engaged in destabilization, but warned them that they should police their ranks and be watchful over "interest groups" out to abuse the freedom of the press for their own personal gain.
- 3.1.9 On 15 March 2006, Secretary Defensor publicly announced that two media personalities were being investigated by the Department of Justice. He was quoted by ABS-CBN's TV Patrol newscast as saying, "I just know of at least two media personalities but you have to ask the DOJ." He also said, *"Posibleng marami pang ibang mga personalities sa*

*media at kumpanya ng media na iniimbestigahan, pero di pa naman kumpleto ang ebidensiya ng DOJ."*

3.1.10 On 20 March 2006, the Manila Times reported that a source from the intelligence community, who asked not to be named, disclosed that a news editor and a female reporter from a Manila-based newspaper were seen meeting with a Chinese-Filipino believed to be financing destabilization efforts, on several occasions before they came out with exposes on alleged anomalies in the government.

3.1.7 Even the military has gotten into the picture. On or about 12 March 2006, Col. Tristan Kison, then the spokesman of the Armed Forces of the Philippines, publicly warned the Philippine Daily Inquirer against publishing articles on the AFP and said the military was considering the filing of appropriate charges against the newspaper. He is quoted as saying, *"It will be up to the lawyer. I cannot tell yet. If it's libel, if the lawyer thinks inciting to sedition, that is what will be written (in the charge sheet)."*

4. The foregoing acts, coming within days of each other and without let-up, show a deliberate pattern by the government to muzzle the press and gag protected speech.

5. The foregoing acts have also constricted the breathing space the press needs to do its job properly. The respondents have deliberately thickened the air with uncertainty, insecurity apprehension and even fear. As a

result, the public's right to know and the people's right of access to information of public concern have been, and continue to be, denied.

6. The foregoing acts are but a continuation of the acts alleged in the Petition. To the Petitioners, these acts are an insidious form of prior restraint deliberately intended to cow the media into submission.

7. While no good journalist would admit to being intimidated by the threats of these government officials, as this would adversely affect his reputation, a threat is a threat regardless of its effect on the person threatened. If a person shoots another intending to kill him, does the fact that he missed make it less of a wrong? If the government officials here deliberately create a climate of uncertainty, insecurity and fear to muzzle the press, but some members of the press are not intimidated, does that mean that they can keep on doing it?

8. We submit that they cannot, and that this Honorable Court is the only tribunal that can stop them.

9. For these reasons, we ask the Honorable Court to immediately set a hearing on our application for a temporary restraining order/preliminary injunction.

## **P R A Y E R**

WHEREFORE, foregoing premises considered, Petitioners respectfully pray the Honorable Court:

2. Set a hearing on Petitioners' application for temporary restraining order/preliminary injunction at the soonest possible time;
3. After notice and hearing, grant Petitioners' application, and issue a temporary restraining order/preliminary injunction, on such terms as it

may deem just, to restrain the respondents, and their officers, agents or other persons acting under their authority or supervision, from stopping, prohibiting or censoring the publication or airing of speech based upon its message, subject matter or political color or content, and/or from imposing any prior restraint on the press, be it formal or informal, direct or in the form of thinly veiled threats of administrative sanction or criminal prosecution.

Petitioners likewise pray for such other or further relief as may be just and equitable under the premises.

Quezon City for Manila, 21 March 2006.

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[ F L A G ]  
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DIRECTOR GENERAL ARTURO LOMIBAO  
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**Explanation**

This Urgent Motion is being personally filed with the Honorable Court; but due to time and personnel constraints, it is being served on respondents by registered mail.

This explanation is submitted in compliance with the requirements of the Rules of Court, as amended.

Jose Manuel I. Diokno