Republic of the Philippines
SUPREME COURT
Manila

EN BANC

A. M. No. 08-1-16-SC
January 22, 2008

THE RULE ON THE WRIT OF HABEAS DATA

RESOLUTION

Acting on the recommendation of the Chairperson of the Committee on Revision of the Rules of Court submitting for this Courts consideration and approval the proposed Rule on the Writ of Habeas Data, the Court Resolved to APPROVE the same.

This Resolution shall take effect on February 2, 2008, following its publication in three (3) newspapers of general circulation.

*January 22, 2008.*

THE RULE ON THE WRIT OF HABEAS DATA

Section 1. Habeas Data. - The writ of habeas data is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home and correspondence of the aggrieved party.

Sec. 2. Who May File. - Any aggrieved party may file a petition for the writ of habeas data. However, in cases of extralegal killings and enforced disappearances, the petition may be filed by:

Any member of the immediate family of the aggrieved party, namely: the spouse, children and parents; or

(a)
    (b) Any ascendant, descendant or collateral relative of the aggrieved party within the fourth civil degree of consanguinity or affinity, in default of those mentioned in the preceding paragraph; or

Sec. 3. Where to File. - The petition may be filed with the Regional Trial Court where the

petitioner or respondent resides, or that which has jurisdiction over the place where the data or information is gathered, collected or stored, at the option of the petitioner.

The petition may also be filed with the Supreme Court or the Court of Appeals or the Sandiganbayan when the action concerns public data files of government offices.

Sec. 4. Where Returnable; Enforceable. - When the writ is issued by a Regional Trial Court or any judge thereof, it shall be returnable before such court or judge.

When issued by the Court of Appeals or the Sandiganbayan or any of its justices, it may be returnable before such court or any justice thereof, or to any Regional Trial Court of the place where the petitioner or respondent resides, or that which has jurisdiction over the place where the data or information is gathered, collected or stored.

When issued by the Supreme Court or any of its justices, it may be returnable before such Court or any justice thereof, or before the Court of Appeals or the Sandiganbayan or any of its justices, or to any Regional Trial Court of the place where the petitioner or respondent resides, or that which has jurisdiction over the place where the data or information is gathered, collected or stored.

The writ of habeas data shall be enforceable anywhere in the Philippines.

Sec. 5. Docket Fees. - No docket and other lawful fees shall be required from an indigent petitioner. The petition of the indigent shall be docked and acted upon immediately, without prejudice to subsequent submission of proof of indigency not later than fifteen (15) days from the filing of the petition.

Sec. 6. Petition. - A verified written petition for a writ of habeas data should contain:

> (a)The personal circumstances of the petitioner and the respondent;
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> (b) The manner the right to privacy is violated or threatened and how it affects the right to life, liberty or security of the aggrieved party;
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> (c) The actions and recourses taken by the petitioner to secure the data or information;
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> (d) The location of the files, registers or databases, the government office, and the person in charge, in possession or in control of the data or information, if known;
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> (e) The reliefs prayed for, which may include the updating, rectification, suppression or destruction of the database or information or files kept by the respondent.

In case of threats, the relief may include a prayer for an order enjoining the act complained of; and

(f) Such other relevant reliefs as are just and equitable.

Sec. 7. Issuance of the Writ. - Upon the filing of the petition, the court, justice or judge shall immediately order the issuance of the writ if on its face it ought to issue. The clerk of court shall issue the writ under the seal of the court and cause it to be served within three (3) days from the issuance; or, in case of urgent necessity, the justice or judge may issue the writ under his or her own hand, and may deputize any officer or person serve it.

The writ shall also set the date and time for summary hearing of the petition which shall not be later than ten (10) work days from the date of its issuance.

Sec. 8. Penalty for Refusing to Issue or Serve the Writ. - A clerk of court who refuses to issue the writ after its allowance, or a deputized person who refuses to serve the same, shall be punished by the court, justice or judge for contempt without prejudice to other disciplinary actions.

Sec. 9. How the Writ is Served. - The writ shall be served upon the respondent by a judicial officer or by a person deputized by the court, justice or judge who shall retain a copy on which to make a return of service. In case the writ cannot be served personally on the respondent, the rules on substituted service shall apply.

Sec. 10. Return; Contents. - The respondent shall file a verified written return together with supporting affidavits within five (5) working days from service of the writ, which period may be reasonably extended by the Court for justifiable reasons. The return shall, among other things, contain the following:

(a) The lawful defenses such as national security, state secrets, privileged communications, confidentiality of the source of information of media and others;

(b) In case of respondent in charge, in possession or in control of the data or information subject of the petition;

(i) a disclosure of the data or information about the petitioner, the nature of such data or information, and the purpose for its collection;

(ii) the steps or actions taken by the respondent to ensure the security and confidentiality of the data or information; and

(iii) the currency and accuracy of the data or information held; and,

(c) Other allegations relevant to the resolution of the proceeding.

A general denial of the allegations in the petition shall not be allowed.

Sec. 11. Contempt. - The court, justice or judge may punish with imprisonment or fine a

respondent who commits contempt by making a false return, or refusing to make a return; or any person who otherwise disobeys or resist a lawful process or order of the court.

Sec. 12. When Defenses May be Heard in Chambers. - A hearing in chambers may be conducted where the respondent invokes the defense that the release of the data or information in question shall compromise national security or state secrets, or when the data or information cannot be divulged to the public due to its nature or privileged character.

Sec. 13. Prohibited Pleadings and Motions. - The following pleadings and motions are prohibited:

(a) Motion to dismiss;

(b) Motion for extension of time to file return, opposition, affidavit, position paper and other pleadings;

(c) Dilatory motion for postponement;

(d) Motion for a bill of particulars;

(e) Counterclaim or cross-claim;

(f) Third-party complaint;

(g) Reply;

(h) Motion to declare respondent in default;

(i) Intervention;

(j) Memorandum;

(k) Motion for reconsideration of interlocutory orders or interim relief orders; and

(l) Petition for certiorari, mandamus or prohibition against any interlocutory order.

Sec. 14. Return; Filing. - In case the respondent fails to file a return, the court, justice or judge shall proceed to hear the petition ex parte, granting the petitioner such relief as the petition may warrant unless the court in its discretion requires the petitioner to submit evidence.

Sec. 15. Summary Hearing. - The hearing on the petition shall be summary. However,

the court, justice or judge may call for a preliminary conference to simplify the issues and determine the possibility of obtaining stipulations and admissions from the parties.

Sec. 16. Judgment. - The court shall render judgment within ten (10) days from the time the petition is submitted for decision. If the allegations in the petition are proven by substantial evidence, the court shall enjoin the act complained of, or order the deletion, destruction, or rectification of the erroneous data or information and grant other relevant reliefs as may be just and equitable; otherwise, the privilege of the writ shall be denied.

Upon its finality, the judgment shall be enforced by the sheriff or any lawful officers as may be designated by the court, justice or judge within five (5) working days.

Sec. 17. Return of Service. - The officer who executed the final judgment shall, within three (3) days from its enforcement, make a verified return to the court. The return shall contain a full statement of the proceedings under the writ and a complete inventory of the database or information, or documents and articles inspected, updated, rectified, or deleted, with copies served on the petitioner and the respondent.

The officer shall state in the return how the judgment was enforced and complied with by the respondent, as well as all objections of the parties regarding the manner and regularity of the service of the writ.

Sec. 18. Hearing on Officer-s Return. - The court shall set the return for hearing with due notice to the parties and act accordingly.

Sec. 19. Appeal. - Any party may appeal from the final judgment or order to the Supreme Court under Rule 45. The appeal may raise questions of fact or law or both.

The period of appeal shall be five (5) working days from the date of notice of the judgment or final order.

The appeal shall be given the same priority as in habeas corpus and amparo cases.

Sec. 20. Institution of Separate Actions. - The filing of a petition for the writ of habeas data shall not preclude the filing of separate criminal, civil or administrative actions.

Sec. 21. Consolidation. - When a criminal action is filed subsequent to the filing of a petition for the writ, the latter shall be consolidated with the criminal action.

When a criminal action and a separate civil action are filed subsequent to a petition for a writ of habeas data, the petition shall be consolidated with the criminal action.

After consolidation, the procedure under this Rule shall continue to govern the disposition of the reliefs in the petition.

Sec. 22. Effect of Filing of a Criminal Action. - When a criminal action has been commenced, no separate petition for the writ shall be filed. The relief under the writ shall be available to an aggrieved party by motion in the criminal case.

The procedure under this Rule shall govern the disposition of the reliefs available under the writ of habeas data.

Sec. 23. Substantive Rights. - This Rule shall not diminish, increase or modify substantive rights.

Sec. 24. Suppletory Application of the Rules of Court. - The Rules of Court shall apply suppletorily insofar as it is not inconsistent with this Rule.

Sec. 25. Effectivity. - This Rule shall take effect on *February 2, 2008*, following its publication in three (3) newspapers of general circulation.