

MESSAGE

Prosecutors' League of the Philippines-National Capital Region's (PLP-NCR) 2nd Regional Conference
23 November 2018

Hon. Menardo I. Guevarra
Secretary
Department of Justice

It has been a little over seven months since my appointment as Secretary of Justice. A lot has happened in those seven months.

Twelve days after my appointment, the Supreme Court *En Banc* declared unconstitutional Department of Justice Circular No. 41, series of 2010.

As you all know, DOJ Circular No. 41 formed the basis for the issuance by the Department of, among others, Hold Departure Orders and Watchlist Orders to prevent respondents facing criminal complaints from leaving this jurisdiction.

The Circular was designed to prevent those facing criminal complaints from evading possible criminal responsibility and prosecution by the expediency of fleeing from our jurisdiction.

The issuance by the Supreme Court of its decision generated fears – valid fears, if I may add – that the evil sought to be suppressed by DOJ Circular No. 41 will materialize.

The Court's denial of the power to prevent the exit of those on the verge of possible criminal proceedings could cripple the Department in its fight against criminal elements and in deterring crime.

A crippled Department in the aftermath of *Genuino v. De Lima* and *Arroyo v. De Lima* may very well erode our people's trust in our criminal justice system.

And that Department – which is undeniably at the front and center of our criminal justice system – is the Department I am tasked to lead.

Two months ago, a retired general and two other ranking military officers were found guilty of kidnapping and serious illegal detention.

The verdict was handed over six years and nine months after the information against the accused were filed in court.

That verdict has been hailed by many groups – including those who remain very critical of the administration, and of me as well – as justice long overdue.

The verdict restores my belief that despite its flaws, our justice system and the people who run it deserve credit, and more importantly, our trust.

There are many other cases worthy of discussion.

But for me, these two stand out. Let me tell you why.

The first disheartened me not because it took away powers which many Justice Secretaries before me exercised.

Of course, the thought crossed my mind that the Department, stripped of its power to prevent fugitives – suspected or otherwise – is a weakened Department.

But by conscience, I am not one to insist on exercising a power or a prerogative beyond what the law allows.

In any case, *Genuino v. De Lima* and *Arroyo v. De Lima* initially disheartened me because without the power to prevent suspected criminals undergoing investigation from leaving the country could emasculate our prosecution arm.

After all, no prosecution could prosper when the accused, by the expediency of removing himself or herself from our jurisdiction, can effectively evade preliminary investigations.

Under such a circumstance, trial *in absentia* will not even be possible.

Thankfully, the initial fear generated by the Court's decision would prove unfounded.

Soon after invalidating DOJ Circular No. 41, the Court issued the rules on precautionary hold departure orders.

What compelled the court to act the way it did is its recognition that the circular it found to have been issued without sufficient legal basis by those who preceded me was nevertheless grounded on pragmatic concerns and laudable objectives.

In other words, the Court found wisdom in the act, even if it found its authors to be lacking in legal authority to act they way they did.

To be certain, *Genuino v. De Lima* and *Arroyo v. De Lima* cannot be authority for the proposition for us to arrogate powers beyond that which the law grants.

But the lesson it teaches is that no single office or court has monopoly over great ideas and innovative solutions to the problems that beset our legal system.

It teaches us that an idea – if correct – will generate a life of its own and be eventually embraced into circulation.

On the other hand, the case involving General Palparan cannot simply be cast as the embodiment of justice realized notwithstanding significant delays.

That verdict teaches us that cases are won not by the lapse of time but by the hardwork and collaboration between and among dedicated and courageous people – prosecutors, witnesses, and judges – who are willing to shun out loud noises, and face very real threat to their life and limb – so that the truth may come out.

It teaches us that justice demands collective perseverance and a healthy dose of patience.

I entertain no doubt that these lessons are not lost in you.

As prosecutors, you are forced to see on a daily basis how the rigors and strictures of the law may present very real challenges and seemingly insurmountable obstacles in bringing to justice those who violate our laws.

On a daily basis, you are forced to live with your own frustrations when the procedures imposed by those who are not in court impede the speedy disposition of cases.

May the cases of Genuino and Palparan encourage you, as they did, to plod on.

May these cases inspire in you the belief that within our legal system, there remain those who are not only open to but actually await the birth of innovative legal solutions.

May these cases likewise sustain your trust that with perseverance and dedication to your cause, justice is indeed attainable,

Thank you and good morning.