

LAST-MINUTE TIPS

ni Atty. G



REMEDIAL LAW, LEGAL & JUDICIAL ETHICS

1

WRIT OF AMPARO

Available to any person whose **life, liberty, or security** [1] is violated, or **threatened** [2] with violation, by an unlawful act or omission of a **public official** or employee, or of a **private individual** [2] or entity.

[1] The writ is not available in cases involving commercial or property rights, the custody of minors, or the right to travel;

[2] Actual violation is not required;

[3] Government involvement, whether direct or indirect, is indispensable. Although the writ may be filed against private persons, it must be alleged that they are acting with the direct or indirect acquiescence of the government.

1

WRIT OF AMPARO

Coverage:

- Extra-legal killings;
- Enforce disappearances;
- Threats thereof.

Red-tagging may justify the issuance of a writ of amparo (*Deduro v. Vinoya* [2023]).

Abducted **environmental advocates** are entitled to writ of amparo (*Castro v. Dela Cruz* [2023]).

The writ is not the proper remedy against **Congressional contempt and detention orders** (*Roque, Jr. v. HRep Quad Committee* [2024]).

2

RULES OF PROCEDURE FOR ENVIRONMENTAL CASES

Writs of Continuing *Mandamus* and *Kalikasan*

Continuing *Mandamus*

There is a legal duty or right under an environmental law, rule or regulation

Unlawful neglect in performing a legal duty, or unlawful exclusion of another from the use and enjoyment of right under environmental law, rule or regulation

Public respondent

Petitioner must be directly aggrieved

May include award of damages

Kalikasan

There is threat or violation of the right to balanced and healthful ecology

Unlawful act or omission of any person involving environmental damage of such magnitude as to prejudice the life, health, or property of inhabitants in two or more cities or provinces

Public or private respondent

Petitioner may be those directly aggrieved or by a qualified person or entity on their behalf

Does not allow award of damages

2

RULES OF PROCEDURE FOR ENVIRONMENTAL CASES

Writs of Continuing *Mandamus* and *Kalikasan*

Writ of Continuing Mandamus **applies only to environmental cases** and cannot be invoked to compel the investigation of anti-illegal drug operations (*Baquirin, et al. v. Dela Rosa, et al. [2023]*).

cf.: Writ of Mandamus; Requirements

1. clear legal right of petitioner;
2. correlative duty of respondent to perform a legal duty;
3. respondent neglected to perform such duty;
4. the duty is ministerial, and not discretionary;
5. no other plain, speedy, and adequate remedy in the ordinary course of law.

3

LIBERAL CONSTRUCTION OF PROCEDURAL RULES

These Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding (*Sec. 6, Rule 1*).

Grounds:

- Existence of special circumstances;
- Merits of case;
- Cause for non-compliance is not attributable to the party invoking the liberal interpretation;
- Not done to delay the proceedings;
- Other party will not be unjustly prejudiced.

Filing of pleadings by email may be made even beyond office hours, as long as they are completed within the same day (*De Guzman-Lara v. COMELEC [2024]*).

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EVIDENCE

Competency and Credibility of a Witness

All persons who can perceive, and perceiving, can make their known perception to others, may be witnesses (*Sec. 20, Rule 130*).

General rule: prior qualification is not required.
Exception: in case of expert witnesses.

Not disqualifications:

- Being deaf-mute, if competent;
- Religious or political beliefs;
- Interest in the outcome of the case;
- Conviction of crime, unless disqualified by law;
- Mental incapacity or immaturity;
- Defendant declared in default.

4

EVIDENCE

Competency and Credibility of a Witness

The SC upheld the admission of the testimony of a sole witness to a child's murder. The 28-year-old witness was described as a "special child" with a "speech impediment" and "some mental deficiency." Clinically, he has "moderate mental retardation" with an estimated mental age of 3-7 years.

SC said: a person's ability to testify as a witness depends on their capacity to relay their knowledge. If their testimony is clear and understandable, it can be accepted (*People v. Bragais and Tacuyo* [2024]).

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CRIMINAL PROCEDURE

Venue in Criminal Cases

In criminal cases, **venue is jurisdictional**.

General rule: The case must be filed in the court of the place where the crime was committed or any of its essential elements occurred.

Exception: The SC may order a change of venue or place of trial to avoid a miscarriage of justice.

The possibility of local bias and the possibility that witnesses cannot freely testify due to fear and the influence of the accused are compelling reasons that can justify a change of venue (*A.M. No. 24-04-39-RTC Re: Transfer of Venue of Criminal Case Nos. R-DVO-24-01439-CR and R-DVO-24-01440-CR*).

6

CODE OF PROFESSIONAL RESPONSIBILITY AND ACCOUNTABILITY

Canon II, Propriety
Responsible Use of Social Media

A lawyer shall uphold the dignity of the legal profession in all social media interactions in a manner that enhances the people's confidence in the legal system, as well as promote its responsible use.

The following are CPRA violations:

- Making online posts that degrade the dignity of the legal profession or disrespect the law, even in restricted private setting;
- Maliciously posting or sharing disinformation;
- Using fake or poser accounts to circumvent laws or the CPRA;
- Revealing confidential client information in online posts, unless allowed by law;
- Communicating through social media with court and other public officers to influence the performance of their official duties.

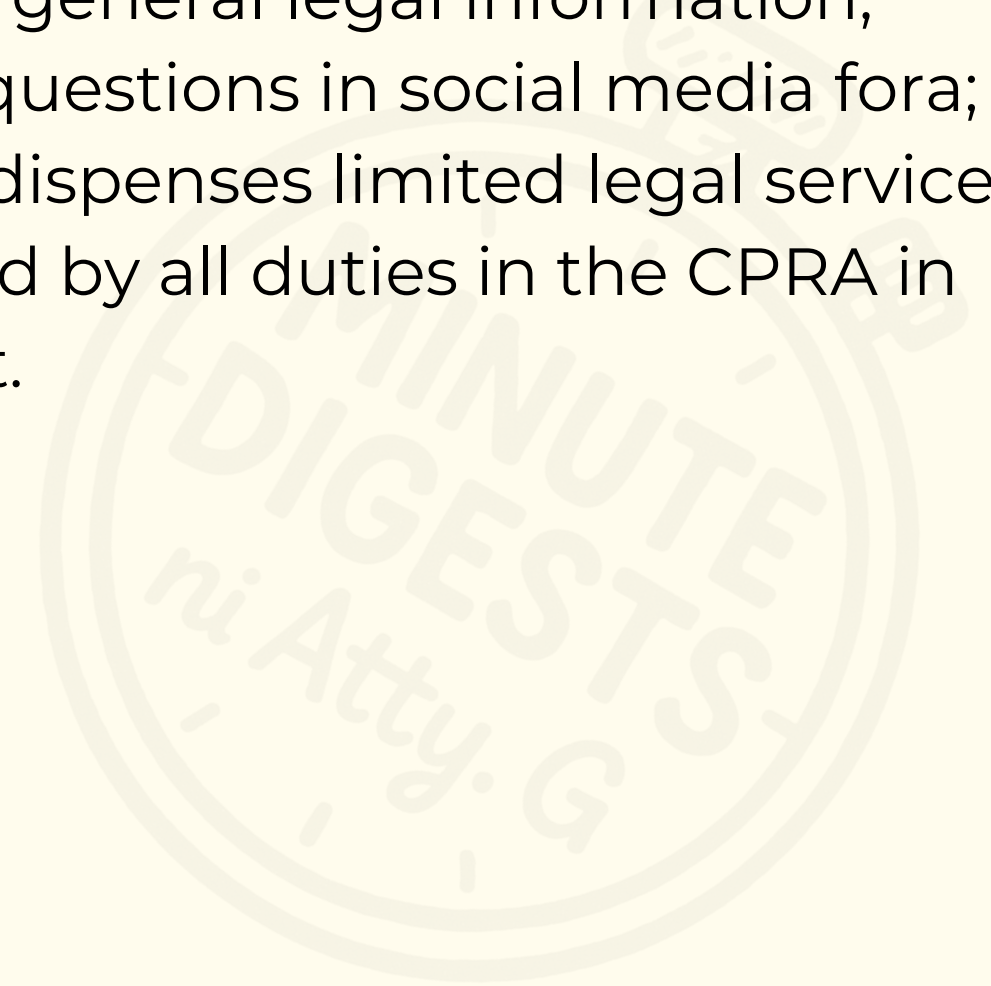
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CODE OF PROFESSIONAL RESPONSIBILITY AND ACCOUNTABILITY

Canon II, Propriety
Responsible Use of Social Media

Limited Legal Service

- Provision of general legal information, answering questions in social media fora;
- The lawyer dispenses limited legal service and is bound by all duties in the CPRA in relation to it.



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CODE OF PROFESSIONAL RESPONSIBILITY AND ACCOUNTABILITY

Canon II, Propriety

Lawyers' right to privacy vis-à-vis online activities, not absolute. Disrespectful remarks towards court officers on social media posts, even those done under restricted privacy settings, are a breach of the lawyers' duty to use respectful language and duty to observe due respect for the courts and their officers (*Re: Disturbing Social Media Posts of Lawyers/Law Professors [2023]*).

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CODE OF PROFESSIONAL RESPONSIBILITY AND ACCOUNTABILITY

Canon II, Propriety

Under the CPRA, lawyers must act with propriety and maintain the appearance of propriety in both personal and professional dealings. **Sponsoring lavish gifts, trips, or benefits creates an appearance of impropriety** because such acts engender a sense of obligation or indebtedness that may compromise a lawyer's independence, fairness, and integrity (*Re: Illegal Campaign and Activities in Integrated Bar of the Philippines Central Luzon Allegedly Perpetrated by Atty. Nilo Divina [2024]*).

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CODE OF PROFESSIONAL RESPONSIBILITY AND ACCOUNTABILITY

Canon VI, Accountability

Lawyers must respect the courts, promote respect for the law, and use social media responsibly. Publicly attacking the Court, attributing improper motives to it, or encouraging disobedience to its rules constitutes **Grossly Undignified Conduct Prejudicial to the Administration of Justice** under the CPRA. Grievances against the Judiciary must be pursued only through proper remedies before appropriate authorities, never through public campaigns or unfounded statements that erode public confidence in the courts (*Re: Request of the Public Attorney's Office to delete Section 22, Canon III of the Proposed Code of Professional Responsibility and Accountability [2024]*),

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CODE OF PROFESSIONAL RESPONSIBILITY AND ACCOUNTABILITY

Canon VI, Accountability

A lawyer who makes false statements under oath or includes allegations in a verified pleading without personal knowledge or authentic records commits perjury and is guilty of **gross misconduct** under the CPRA. Such acts violate Canon II, Section 11, which prohibits lawyers from making false statements, as they undermine the integrity of legal processes and maliciously injure reputations. The verification requirement in pleadings, including impeachment complaints, is a substantive safeguard that cannot be disregarded or used to advance personal or political agendas (*Garrido, Jr. v. Gadon* [2024]).

Good!
Luck!