



## MARLENE GARCIA ESPERAT, 45

**Place of Death:** Sultan Kudarat

**Date of Death:** 24 March 2005

**Family Background / Civil Status:** Married, with three children

**News Organization/s (position/s):** *The Midland Review*, columnist

**Job/Employment Classification:** Columnist

**Affiliated Organizations:** President, Region 12's Tri-Media Association

### **Academic / Professional Background:**

Esperat finished with a degree in Chemistry in Iloilo, where she met her first husband radio journalist Severino Arcones early 1980s. Arcones was a hard-hitting commentator who lambasted local government officials in the said province. He, himself, was killed in 1989 for his work as a journalist. It was Arcones who stirred Esperat's interest in using journalism as a tool to fight off corruption in the society.

Prior to her work as a journalist in 1999, Esperat worked as a chemist, and later as a resident ombudsman for the DA. While inside the DA, Esperat discovered that the fertilizers that the regional office were giving to the local farmers were insufficient, inferior, and far cheaper than what was originally listed at the official budget of the department.

Marlene Esperat was a columnist for Sultan Kudarat paper *The Midland Review*. She also had a stint as a block-time radio broadcaster.

### **Circumstances:**

Tacurong City police chief Raul Supiter said an unidentified gunman barged into the house of Esperat, a columnist for the local weekly *The Midland Review*, around 7 p.m. (Manila time) and shot her once in the head in front of her shocked children on 24 March 2005.

Supiter said the gunman, who was accompanied by another male cohort who served as lookout, casually walked out of the house like a professional killer shortly after shooting the victim. He described the suspects to be in their 20s.

The gunman, according to Supiter, even managed to say "Good evening ma'm," in Ilonggo, before firing his gun at the victim. A spent shell of a .45 caliber pistol was recovered AT the crime scene by investigators, the police chief added.

Citing witnesses, Supiter said that the suspect, who served as lookout, earlier gave his name as "Jake". He was seen days before the attack observing the Esperat compound, at a sari-sari store in front of the house, at Purok Ilang-Ilang, Barangay Isabela, about 40 kilometers northwest from Koronadal, South Cotabato.

Supiter said that a police artist was able to sketch the identities of the suspects but only the lookout's face was drawn clearly as the gunman was wearing a cap at the time of the incident.

Supiter noted that Esperat has been assessed by the city police as having "a real threat on her life" due to her stinging exposes about alleged malfeasances of local government officials. A hand grenade was lobbed about two years ago at the victim's house but she was not around at that time, according to the police official.

Esperat was assigned two police security escorts owing to threats on her life, but Supiter said the victim asked them to have a day-off last Thursday in line with the observance of the traditional Holy Week, but with a condition that they would be available anytime she needs them.

### **Case Status/Updates:**

The Court of Appeals Cebu issued on May 14, 2008 a writ of preliminary injunction prohibiting the Cebu City Regional Trial Court (RTC) from proceeding with the case against the suspected masterminds in the 2005 murder of journalist Marlene Esperat.

The issuance of the injunction follows the 60-day temporary restraining order (TRO) issued on March 25, 2008 also by the Court of Appeals Cebu.

In a five-page resolution penned by Associate Justice Francisco Acosta and co-signed by Associate Justices Amy Lazaro-Javier and Florito Macalino, the Cebu Court of Appeals granted the May 7, 2008 petition for a writ of preliminary injunction filed by the defense, preventing Cebu City RTC Branch 7 Judge Simeon Dumdum Jr. from hearing the case for an indefinite period. It also stopped the Feb. 4, 2008 warrants of arrest against Montañer and Sabay from being served.

The Appellate Court in Cebu said Cebu RTC has no jurisdiction over the murder case filed against the two accused since it happened in Tacurong City, Sultan Kudarat. It cited the OSG's comment filed on April 3, 2008 that the Supreme Court Nov. 23, 2005 order transferring the venue of Criminal Case No. 2568 from Tacurong RTC to Cebu City RTC does not apply to the present case against Montañer and Sabay.

"Criminal Case No. 2568 against petitioners as accused in [Criminal] Case No. CBU-82237... had already become final and can no longer be disturbed by the courts. The filing therefore of the Information against petitioners cannot be said to be a continuation of Criminal Case no. 2568," the OSG explains.

Criminal Case No. 2568 pertains to the case against Randy Grecia, Gerry Cabayag and Estanislao Bismanos. The three were convicted and sentenced to reclusion perpetua by Cebu City RTC Judge Eric Menchavez on Oct. 6, 2006 through the help of the testimony of suspect-turned-state witness Rowie Barua. Criminal Case No. CBU-82237 meanwhile refers to the ongoing case against Sabay and Montañer.

When the Supreme Court issued the resolution granting the transfer of venue, Tacurong City RTC Judge Francis Palmones had already dismissed the case against Montañer and Sabay. Palmones dismissed the case even before the prosecution's presentation of evidence.

The OSG suggested that it would only be possible to hear the case in Cebu if the prosecution withdraws the charges filed before the Cebu RTC, files it before the Tacurong RTC, and asks the Supreme Court to again transfer the venue of the case from Tacurong to Cebu.

The Freedom Fund for Filipino Journalists (FFFJ) filed on July 4, 2005 the petition to transfer the case to Cebu in response to security concerns of the witnesses and considering the clout of the accused which could unduly influence the case if heard in Tacurong. FFFJ is a coalition of six media organizations working to promote and protect press freedom. The Center for Media Freedom and Responsibility is a founding member of FFFJ and serves as its secretariat.

Nena Santos, private counsel for the prosecution, said that she only received the copy of Montañer and Sabay's May 7, 2008 petition for a writ of preliminary injunction the same day that the Court of Appeals granted the petition.

"There has not even been a hearing yet a decision has already been reached," Santos said.

State prosecutor Llena Ipong-Avila said that the prosecution will file a motion to overturn the Court of Appeals injunction within the 20-day deadline.

A three-page resolution penned by Associate Justice Francisco Acosta and co-signed by Associate Justices Pampio Abarintos and Amy Lazario-Javier earlier granted the Feb 4, 2008 petition filed by Montañer and Sabay, asking for the issuance of a TRO to prevent

Cebu Regional Trial Court (RTC) Branch 7 Judge Simeon Dumdum from hearing the case.

Dumdum had denied on Feb. 18, 2008 the motion by the accused to dismiss the charges against them. Dumdum on the same date also affirmed the Cebu Court's jurisdiction over the case, stating that the case "against Sabay and Montaner is but a continuation of the proceedings, of which Crim. Case No. 2568 was just the first part, relative to the murder of Marlene Esperat. The Supreme Court has directed the Regional Trial Court of Cebu City to conduct the proceedings. The latter continues to have jurisdiction over the case."

Cebu City Regional Trial Court Judge Eric Menchavez had earlier sentenced Bismanos, Cabayag and Grecia—the gunman, lookout, and co-conspirator—to life imprisonment on 6 Oct., 2006. Barua, who turned state witness, was discharged.

FFFJ also petitioned the Supreme Court on July 4, 2005 for the transfer of the Bismanos et.al. case to Cebu. FFFJ asked for the transfer in response to the safety concerns of the witnesses and the need for a more neutral court and environment, the accused being allegedly influential in Tacurong.

Santos said that the Montañer and Sabay petition for certiorari and TRO is “another scheme to get away with murder through technicalities.”

“I’m discouraged and saddened (by the issuance of the TRO), but I’m not giving up,” Santos said.

Santos filed a letter to the Supreme Court on March 24, 2008 asking for a “declaratory resolution” on the case’s change of venue. In her letter, Santos asked for the Supreme Court to state “that only the Supreme Court has sole authority to act on matters affecting the change of venue of trial in criminal cases and that (the Nov. 23, 2005 Supreme Court resolution ordering the transfer of venue) clearly subsumes and encompasses the trial” of Sabay and Montañer.

Santos also asked for the Supreme Court to require the accused to explain why they should not be cited for contempt since the issue of transfer of venue has already been resolved by the Supreme Court, to direct the Cebu Court of Appeals to dismiss Sabay and Montañer’s petition for certiorari, and to direct the Cebu RTC branch 7 to proceed with the case.

“Considering the absurdity of the position the accused have now taken, i.e., that the case should be returned to Tacurong City, or refiled in Cotabato City, we feel that it behooves the Supreme Court as a court of law and equity to use its plenary power to assist the People of the Philippines, private complainants and the media group in obtaining a speedy, just and inexpensive determination of this only media murder case where the masterminds have long been identified, investigated, re-investigated, charged and re-charged but never arrested and brought to trial,” Santos said in her letter.

“The authority of the Court and respect for fair trial are put to the greatest test when influential high government officials are the accused. Even when they are tried they have resources and connections to reduce the trial to a farce. In the case of Marlene Esperat accused mastermind’s abuse of the judicial process makes a mockery of our laws and the concept of fair trial. Their unwarranted reliance on technicality, which amazingly has been aided by some judges have openly embarrassed the administration of justice with impunity,” Santos added.

FFFJ has also filed a letter to the Supreme Court endorsing Santos’ petition.

Dumdum issued arrest warrants for Sabay and Montañer on Feb. 4 2008, but the two were never arrested.

### **Background:**

Esperat's husband, George, believed the death of her wife was work related, at the same time calling on the authorities to solve the killing of the victim by bringing the perpetrators behind bars.

"She has created many enemies because of her exposes. I told her earlier to stop but she just shrugged it off saying she's just doing her work," George told a local radio station here.

Esperat's widower said that among the negative columns she wrote recently involved alleged wrongdoings of Tacurong City Mayor Lino Montilla and then Region 12 Police Special Operations Group chief and now General Santos City police director Supt. Willie Dangane.

Montilla and Dangane, who both reportedly denied they were behind the journalist's killing, could not be immediately reached for comment. Supiter also declined to link the duo in the victim's slaying, saying that local policemen are still investigating the incident.

During her employment in the Department of Agriculture (DA) Region 12 from 1987 to 2004, she uncovered numerous cases of graft and corrupt practices allegedly committed by public officials involving rampant misuse of public funds intended for the use of marginalized farmers.

She accused Osmeña Montañer and Estrella Sabay, Region 12 Finance Officer and Regional Accountant, respectively, as “corrupt” DA officials. Esperat worked on numerous cases, such as the unremitted government’s share of GSIS premiums of DA 12 employees from January to December 1997.

Esperat, along with several witnesses, also exposed the alleged deliberate burning of DA office in Cotabato City on May 7, 1998 to destroy the hard evidence in the cases against Montañer and his companions.

Early 2005, Montañer and Sabay purportedly drew a plan to permanently silence Esperat, through ex-military intelligence officer Rowie Barua. On March 24, self-confessed killer Gerry Cabayag fatally shot Esperat in the head in front of the journalist's shocked children, while they were at supper.

With the strong testimonies of suspect-turned-state witness Barua and the consistent pressure from the media organizations, both local and international, the cases against masterminds Montañer and Sabay remain strong.

Moreover, the issue is not only a press freedom issue. Montañer and Sabay's connection in the killing of Esperat and the cases left by the journalist, could pave the way for a deeper scrutiny on the alleged massive corruption inside the DA up to the highest posts. Based on the exposés made and cases filed by Esperat in Ombudsman when she was still alive, the corruption inside the DA, not only involves the two suspected slay masterminds, but also several high-ranking national officials – including the embattled former DA undersecretary Jocelyn Bolante and former National Food Authority administrator and now Presidential Management Staff head Arthur Yap – in connection with the P1.1- billion fertilizer scam.