

JUANA MARZAN-GELACIO, COMPLAINANT, VS. JUDGE ALIPIO V. FLORES IN HIS CAPACITY AS PRESIDING JUDGE, BRANCH 20, RTC, VIGAN, ILOCOS SUR, RESPONDENT.

A.M. No. RTJ-99-1488 (OCA IPI No. 98-591-RTJ). June 20, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Before Us is an administrative complaint for Gross Ignorance of the Law and Evident Partiality brought by Complainant Juana Marzan-Gelacio against respondent Judge Alipio V. Flores, Presiding Judge of the Regional Trial Court (RTC) of Vigan, Ilocos Sur, Branch 20.

Culled from the records, the facts of the case, as summed by the Office of the Court Administrator (OCA) are as follows:

Ms. Juana Marzan Gelacio filed two (2) counts of rape against Emmanuel Artajos. The said cases were docketed as Criminal Cases Nos. 4187 and 4188. It was thereafter raffled to the sala of respondent Judge Alipio Flores, RTC, Branch 20, Vigan, Ilocos Sur.

On February 26, 1988, presumably after going over the records of the case and the recommendation of 1st Assistant Provincial Prosecutor Redentor Cardenas, Judge Flores concluded that the evidence of guilt was weak but made a finding of a probable cause. Consequently, he issued warrants of arrest with a recommendation of P200,000.00 bailbond in both cases.

On March 16, 1998, complainant through her private prosecutor, Atty. Jessie Emmanuel A. Vizcarra, filed an Urgent Motion to Deny Bail. Two (2) months thereafter, more particularly on May 27, 1998 counsel for the accused, Atty. Salacnib Bateria filed a Petition to Reduce Bailbond with a notation: "No objection for P100,000.00 in each case by Provincial Prosecutor Jessica G. Vilorio."

On June 18, 1998, Judge Flores issued an order denying the "Motion to Deny Bail" filed by the Private Prosecutor stating that the proper and appropriate recourse of an aggrieved party, as in these cases, should have been to ask for a reconsideration of the granting of bail to the Provincial Prosecutor and/or appeal direct to the Secretary of Justice, being a capital offense, within the reglementary period set forth by the Rules of said Office.

In the same order, the Petition to Reduce Amount of Bail was held in abeyance pending arrest and/or voluntary surrender of the accused.

Apparently, on June 22, 1998 Judge Flores issued an order granting Motion for Reduction of Bail of the accused. (No copy of Order dated June 22, 1998 was attached).

On July 8, 1998 the Private Prosecution filed a Motion to Cancel Bail Bonds of the Accused with the imprimatur of Assistant Public Prosecutor Arnulfo Manzano.

On July 13, 1998, Judge Alipio Flores, acting on the said motion, treated the same as a Motion for

Reconsideration on the granting of bail, and granted the same. The motion to cancel bail was held in abeyance pending arrest of the accused. He likewise recalled the Orders dated June 18 and 22, 1998, which he issued and ordered the immediate arrest of the accused.

On July 22, 1998, Judge Flores denied the Motion to Cancel Bailbond and reinstated his Orders dated June 18 and 22, 1998. The Order of Arrest for the accused was likewise quashed. Judge Flores in issuing this Order relied on the stand of the Public Prosecutor that in accordance with the guidelines of the Department of Justice the cases are bailable.

It was in the granting of a bail in the crime of rape where complainant questions the actuation of respondent Judge.

Complainant contends that respondent Judge is ignorant of the law when he granted bail without giving the prosecution a chance to prove the guilt of the accused. She claims that it is very elementary for him not to know that petition for bail must be set for hearing.

On August 27, 1998, Court Administrator Alfredo L. Benipayo by way of 1st Indorsement required Judge Alipio V. Flores to answer the complaint of Ms. Juana Marzan Gelacio.

Respondent Judge in his comment alleged in sum that:

1. On or before February 26, 1998, before making a finding of probable cause and issuance of the corresponding Warrants of Arrest in the said cases and finding that 1st Assistant Provincial Prosecutor Redentor Cardenas recommended bailbonds of P200,000.00 for each of the cases, called the branch prosecutor, 3rd Assistant Provincial Prosecutor Arnulfo Manzano in his chambers after the morning session to find out whether or not the recommendation for bail was not inadvertent. The latter informed that the complainant was not able to prove all the elements of rape and under their (Fiscal's) guidelines on Bailbonds, the same is bailable. Thereafter, the Fiscal's Office even sent their 1997 Guidelines on Bailbonds;
2. After a careful perusal of the records of the two (2) cases, more particularly the only evidence on record which is the affidavit of the complainant Gelacio and the resolution thereof, he (respondent) concluded that the evidence of guilt was weak but made a finding of probable cause, issued the corresponding warrant of arrest with a recommendation of P200,000.00 bailbond in both cases, both on February 26, 1998;
3. On March 16, 1998, private complainant through private prosecutor, Atty. Jessie Emmanuel A. Vizcarra, filed an Urgent Motion to Deny Bail, and on May 27, 1998 accused through, Atty. Salacnib Bateria, filed a Petition to Reduce Bailbond with a notation for: No Objection for P100,000.00 in each case by the Provincial Prosecutor Jessica G. Vilorio;
4. Because of the inconsistent stand of the Private Prosecutor and Public Prosecutor, the Court in its order dated June 2, 1998, treated first the Motion to Deny Bailbond by ordering the Public Prosecutor and defense to comment/oppose the same within 10 days from receipt thereof, with the Petition to Reduce Bailbonds meantime held in abeyance.

On June 18, 1998, the Court issued the order now under question.

5. It is also noteworthy to mention that the private prosecutor on 8 July 1998 filed a Motion to Cancel Bail Bonds of the Accused, which the Court motu proprio set for hearing on July 22, 1998.

In said hearing the Public Prosecution through 3rd Assistant Provincial Prosecutor Arnulfo Manzano opposed the cancellation of Bailbonds maintaining the stand of the prosecution that both offenses are bailable.

6. He does not personally know the accused nor the private complainant, and the questioned cases had resulted in a battle royale between the private prosecution and the public prosecution with respect to the bailbond issue, in which case law and precedents dictate that the public prosecution has control and supervision over the

private prosecutor, in spite of this, the Court had always given the latter the right to be heard;

7. There can be no partiality on his part as this is the only Rape case filed in Court where the Prosecution recommended bail;

8. The remedy of the Private Prosecution should have been to question his final order by proper proceedings to a higher court to test whether or not he gravely abused its discretion amounting to lack of jurisdiction before an administrative complaint is filed.

On October 26, 1998, complainant through counsel filed her position paper refuting the allegations of respondent Judge in his comment and reiterated her former claim that respondent Judge was ignorant of the law in granting bail without any hearing.

In his comment to Position Paper of Private Complainant and Rejoinder respondent Judge stressed in sum that in the finding of probable cause and issuance of the corresponding warrant of arrest, the Judge may adopt the finding of the Provincial Prosecutor.

On the basis of the foregoing factual narration, the OCA in the evaluation report recommended that the respondent Judge be fined Ten Thousand (P10,000.00) Pesos for granting bail without a hearing with a warning that a repetition of the same or similar acts in the future will be dealt with more severely, reasoning that:

In G.R. No. 80906 entitled "Amaya, et al. v. Ordonez", September 5, 1988, the Honorable Court ruled that: "Whatever the fiscal recommends as the amount of bail for the provisional release of an accused is only recommendatory. The Judge still retains the discretion to apply the precedents laid down by the Supreme Court regarding the reasonable nature of the bail to be required. It is not bound by the Fiscal's recommendation. More binding are the decisions of the Supreme Court."

In the case at bar, respondent Judge does not deny that he granted bail to a person accused of two (2) counts of rape. He however attempted to excuse himself by saying that when he inquired inside his chambers from the Prosecutor as to whether there was really a recommendation of bail for P200,000.00 for each case and he (Fiscal) answered in the affirmative, he had no choice, according to him, but to adopt the same. Moreover, he added the Prosecutor relied on the Bail Bond Guide issued by the Department of Justice. Such an excuse is unacceptable. It only manifested his weakness and displayed his ignorance of the law and several court decisions on matters such as this. It is very elementary that felonies are defined and their corresponding penalties are found in the Revised Penal Code. Hence, respondent Judge should not have been misled by the insinuation of the Fiscal that the 1996 Bail Bond Guide clearly expresses the bail to be recommended in the crime of rape. Instead, mindful perhaps of the basic legal principles, the Revised Penal Code should have prevailed. Besides, he should have known that the Bail [Bond] Guide is addressed to the Prosecutors and their Assistants and not to the Judges.

What is even more perplexing is the attitude of the Judge in asking the Prosecutor to explain his recommendation of bail. This is contrary to Rule 2.01 of Canon 2 of the Code of Judicial Conduct. In no case is a Judge allowed to engage in a legal discussion inside his chambers, of the pending incidents of a case, without the presence of the representatives of the parties.

Moreover, it was patent error for him to base his order granting bail merely on the supporting affidavits attached to the information since those were merely intended to establish probable cause as a basis for the issuance of an arrest warrant, and not to control his discretion to deny or grant in (sic) bail in all situation - i.e., with or without a motion from the accused and even without conducting a hearing on the matter.

It is admitted that there was a recommendation of bail. But the prosecutor's recommendation, although persuasive, does not necessarily bind the Court.

A hearing is indispensable before a Judge can aptly (sic) said to be in a position to determine whether the evidence for the prosecution is weak or strong. And the discretion to determine whether it is weak or strong may be exercised only after the evidence is submitted to the Court at the hearing. Whether in a summary proceeding or in the course of a regular trial, the prosecution must be given an opportunity to present, within a reasonable time, as the evidence it may desire to introduce before the court may resolve the motion for bail.

Besides, the Judge should have known that even when bail is a matter of right, in fixing the amount of bail, he is required to take into account a number of factors, such as the character and reputation of the accused, forfeiture of other bonds, or whether or not he is a fugitive from justice.

The fact that the prosecution refuses to adduce evidence, it is still mandatory for the court to conduct a hearing or ask searching and clarificatory questions from which it may infer the strength of the evidence of guilt, or the lack of it, against the accused. Where the prosecution does not oppose the application for bail and refuses to satisfy his burden of proof, but the court has reasons to believe that the prosecutor's attitude is not justified, as when he is evidently committing a gross error or a dereliction of duty, the court, in the interest of justice, must inquire from the prosecution as to the nature of his evidence to determine whether or not it is strong, it being possible that the prosecutor [may] have erred in considering it weak and therefore, in recommending bail.

The foregoing findings and disquisitions of the OCA are well taken. It is imperative that judges be conversant with basic legal principles.[1] Indeed, the Code of Judicial Conduct enjoins judges to "be faithful to the law and maintain professional competence." [2] Respondent judge owes it to the public and to the legal profession to know the law he is supposed to apply to a given controversy.[3] Indeed -

A judge is called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules; it is imperative that he be conversant with basic legal principles and [be] aware of well-settled authoritative doctrines. He should strive for excellence exceeded only by his passion for truth, to the end that he be the personification of justice and the Rule of Law.[4]

Considering that the granting of bail is common in the litigation of criminal cases before trial courts, we are not the least impressed with the explanation proffered by respondent Judge in granting bail in this case. On the contrary, we are dismayed that he granted bail to an applicant charged with two (2) counts of rape merely on the basis of supporting affidavits attached to the information. The Court has not been remiss in keeping trial judges informed of the latest developments on the subject.

The following duties of judges in case an application for bail is filed have been clearly and repeatedly spelled out during seminars conducted by the Philippine Judicial Academy, to wit:

1. In all cases whether bail is a matter of right or discretion, notify the prosecutor of the hearing of the application for bail or require him to submit his recommendation (Section 18, Rule 114 of the Rules of Court, as amended);
2. Where bail is a matter of discretion, conduct a hearing of the application for bail regardless of whether or not the prosecution refuses to present evidence to show that the guilt of the accused is strong for the purpose of enabling the court to exercise its sound discretion; (Sections 7 and 8, supra)
3. Decide whether the guilt of the accused is strong based on the summary of evidence of the prosecution;
4. If the guilt of the accused is not strong, discharge the accused upon the approval of the bail bond (Section 19, supra). Otherwise, the petition should be denied.[5]

The procedural necessity of a hearing relative to the grant of bail can not be dispensed with especially in this case where the accused is charged with a capital offense. Utmost diligence is required of trial judges in granting bail

especially in cases where bail is not a matter of right. Certain procedures must be followed in order that the accused would be present during trial. As a responsible judge, respondent must not be swayed by the mere representations of the parties; instead, he should look into the real and hard facts of the case.

To do away with the requisite bail hearing especially in those cases where the applicant is charged with a capital offense "is to dispense with this time-tested safeguard against arbitrariness." [6] It must always be remembered that imperative justice requires the proper observance of indispensable technicalities precisely designed to ensure its proper dispensation. [7] In this regard, it needs be stressed that the grant or the denial of bail in capital offenses hinges on the issue of whether or not the evidence of guilt of the accused is strong and the determination of whether or not the evidence is strong is a matter of judicial discretion which remains with the judge. [8] On this point, *Cruz v. Yaneza* [9] states in no uncertain terms that -

... in order for the judge to properly exercise his discretion, he must first conduct a hearing to determine whether the evidence of guilt is strong. As decreed in *Almeron v. Sardido* [10]

In exercising such judicial discretion, however, a judge is required to conduct a hearing wherein both the prosecution and the defense present evidence that would point to the strength or weakness of the evidence of guilt. The discretion of the judge lies solely in the appreciation and evaluation of the weight of the evidence presented during the hearing and not in the determination of whether or not the hearing itself should be held for such a hearing is considered mandatory and absolutely indispensable before a judge can aptly be said to be in a position to determine whether the evidence for the prosecution is weak or strong.

Thus, when a judge grants bail to a person charged with a capital offense punishable by reclusion perpetua or life imprisonment without conducting the required hearing, he is considered guilty of ignorance or incompetence the gravity of which cannot be excused by a claim of good faith or excusable negligence.

Further, in *Basco v. Rapatalo*, we said:

Since the determination of whether or not the evidence of guilt of the accused is strong is a matter of judicial discretion, the judge is mandated to conduct a hearing even in cases where the prosecution chooses to just file a comment or leave the application of bail to the discretion of the court.

Even more explicitly in *Santos v. Ofilada* [11] -

We have held that admission to bail as a matter of discretion presupposes the exercise thereof in accordance with law and guided by the applicable legal principles. The prosecution must first be accorded an opportunity to present evidence because by the very nature of deciding applications for bail, it is on the basis of such evidence that judicial discretion is weighed in determining whether the guilt of the accused is strong. In other words, discretion must be exercised regularly, legally and within the confines of procedural due process, that is, after the evaluation of the evidence submitted by the prosecution. Any order issued in the absence thereof is not a product of sound judicial discretion but of whim, caprice and outright arbitrariness. [12]

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Even the alleged failure of the prosecution to interpose an objection to the granting of bail to the accused will not justify such grant without hearing. This Court has uniformly ruled that even if the prosecution refuses to adduce evidence or fails to interpose any objection to the motion for bail, it is still mandatory for the court to conduct a hearing or ask searching and clarificatory questions from which it may infer the strength of the evidence of guilt or lack of it, against the accused. Where the prosecutor refuses to adduce evidence in opposition to the application to grant and fix bail, the court may ask the prosecution such questions as would ascertain the strength of the State's evidence or judge the adequacy of the amount of the bail. [13] Irrespective of respondent judge's opinion that the evidence of guilt against the accused is not strong, the law and settled jurisprudence demand that a hearing be conducted before bail may be fixed for the temporary release of the accused, if bail is at all

justified.[14]

Thus, although the provincial prosecutor had interposed no objection to the grant of bail to the accused, the respondent judge therein should nevertheless have set the petition for bail for hearing and diligently ascertain from the prosecution whether the latter was not in fact contesting the bail application. In addition, a hearing was also necessary for the court to take into consideration the guidelines set forth in the then Section 6, Rule 114 of the 1985 Rules of Criminal Procedure for the fixing of the amount of the bail. Only after respondent judge had satisfied himself that these requirements have been met could he then proceed to rule on whether or not to grant bail.[15]

Most emphatic, however, is the recent case of *Go, et al. v. Judge Benjamin A. Bongolan*[16] where owing to the increasing frequency of incidents regarding so basic a subject in criminal procedure despite repeated reminders thereon, an exasperated Court speaking through Mr. Justice Reynato S. Puno castigated the respondent judge for granting bail in a capital offense without conducting a hearing thus:

Complaints involving irregular approval of bailbond and issuance of order of release appear to be a common offense of judges. In the 1996, case of *Adapon v. Domagtay*,[17] this Court observed:

"This is not the first time that a complaint is brought before this Court involving irregular approval of bailbond and issuance of order of release. The Court again reminds judges of lower courts of their role as the embodiment of competence, integrity and independence. This Court believes that in order to achieve justice, judges should, in all cases, diligently ascertain and conscientiously apply the law in relation to the facts of each case they hear and decide, unswayed by partisan interests, public opinion or fear of criticism. This is the least that judges can do to sustain the trust reposed on them by the public."

Earlier in *Paderanga v. Court of Appeals*,[18] this Court painstakingly reminded judges of the procedure to be followed when a motion for admission to bail is filed by the accused. It seems, however, that our reminder has fallen on barren ground. Consequently, we find it opportune to reiterate the rules:

"Section 13, Article III of the Constitution lays down the rule that before conviction, all indictees shall be allowed bail, except only those charged with offenses punishable by reclusion perpetua when the evidence of guilt is strong. In pursuance thereof, Section 4 of Rule 114, as amended, now provides that all persons in custody shall, before conviction by a regional trial court of an offense not punishable by death, reclusion perpetua or life imprisonment, be admitted to bail as a matter of right. The right to bail, which may be waived considering its personal nature and which, to repeat, arises from the time one is placed in the custody of the law, springs from the presumption of innocence accorded every accused upon whom should not be inflicted incarceration at the outset since after the trial would be entitled to acquittal, unless his guilt be established beyond reasonable doubt.

"Thus, the general rule is that prior to conviction by the regional trial court of a criminal offense, an accused is entitled to be released on bail as a matter of right, the present exceptions thereto being the instances where the accused is charged with a capital offense or an offense punishable by reclusion perpetua or life imprisonment and the evidence of guilt is strong. Under said general rule, upon proper application for admission to bail, the court having custody of the accused should, as a matter of course, grant the same after a hearing conducted to specifically determine the conditions of the bail in accordance with Section 6 (now, Section 2) of Rule 114. On the other hand, as the grant of bail becomes a matter of judicial discretion on the part of the court under the exceptions to the rule, a hearing, mandatory in nature and which should be summary or otherwise in the discretion of the court, is required with the participation of both the defense and a duly notified representative of the prosecution, this time to ascertain whether or not the evidence of guilt is strong for the provisional liberty of the applicant. Of course, the burden of proof is on the prosecution to show that the evidence meets the required quantum.

"Where such a hearing is set upon proper motion or petition, the prosecution must be given an opportunity to present, within a reasonable time, all the evidence that it may want to introduce before the court may resolve the application, since it is equally entitled as the accused to due process. If the prosecution is denied this opportunity, there would be a denial of procedural due process, as a consequence of which the court's order in respect of (sic) the motion or petition is void. At the hearing, the petitioner can rightfully cross-examine the witnesses presented by the prosecution and introduce his own evidence in rebuttal. When, eventually, the court issues an order either granting or refusing bail, the same should contain a summary of the evidence for the prosecution, followed by its conclusion as to whether or not the evidence of guilt is strong. The court, though, cannot rely on mere affidavits or recitals of their contents, if timely objected to, for these represent only hearsay evidence, and thus are insufficient to establish the quantum of evidence that the law requires.[19]

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...A bail hearing is mandatory to give the prosecution reasonable opportunity to oppose the application by showing that evidence of guilt is strong.[20] We note that the prosecution was caught off guard in the regular hearing of May 20, 1998, when Atty. Astudillo sprang on it a Motion to Amend the Information and Fix Bail. It is true that when asked by Judge Bongolan whether the prosecution would present additional evidence, Prosecutor Gayao responded in the negative. Subsequently, however, the prosecution changed its mind when it stated in its Opposition that a resolution of the Motion for admission to bail would be premature since it has additional witnesses to present. In his Comment, Judge Bongolan contends that it is not necessary for the prosecution to present all its witnesses before he could resolve the motion for bail. The stance cannot be sustained. In *Borinaga v. Tamin*,[21] we ruled that the prosecution must be given an opportunity to present its evidence within a reasonable time whether the motion for bail of an accused who is in custody for a capital offense be resolved in a summary proceeding or in the course of a regular trial. If the prosecution is denied such an opportunity, there would be a violation of procedural due process. The records show that the prosecution was supposed to present its 6th and 7th witnesses on June 4, 1998 when Judge Bongolan prematurely resolved the motion. A bail application does not only involve the right of the accused to temporary liberty, but likewise the right of the State to protect the people and the peace of the community from dangerous elements. These two rights must be balanced by a magistrate in the scale of justice, hence, the necessity for hearing to guide his exercise of discretion.

We note too that Judge Bongolan fixed the bail at P50,000.00 without showing its reasonableness. In *Tucay v. Domagas*,[22] we held that while the Provincial Prosecutor did not interpose an objection to the grant of bail, still, respondent judge should have set the petition for bail hearing for the additional reason of taking into account the guidelines for fixing the amount of bail.[23] Thus, we fined the erring judge for gross ignorance of the law.

It must be pointed out in this regard that "[J]udicial discretion, by its very nature, involves the exercise of the judge's individual opinion and the law has wisely provided that its exercise be guided by well-known rules which, while allowing the judge rational latitude for the operation of his own individual views, prevent them from getting out of control.[24] In other words, judicial discretion is not unbridled but must be supported by a finding of the facts relied upon to form an opinion on the issue before the court.[25]

In numerous cases[26] we repeatedly ruled that the court's order granting or refusing bail must contain a summary of the evidence for the prosecution followed by its conclusion whether or not the evidence of guilt is strong. Indeed, the summary of evidence for the prosecution which contains the judge's evaluation of the evidence may be considered as an aspect of judicial due process for both the prosecution and the defense.[27] Nowhere is such summary to be found in the assailed orders of respondent judge.

With clear-cut procedural guidelines on bail now incorporated in the Rules of Court, judges have been enjoined to study them well and be guided accordingly. Concededly, judges can not be faulted for honest lapses in judgment

but this defense has become shopworn from overuse. To reiterate, although the Provincial Prosecutor had interposed no objection to the grant of bail to the accused, respondent judge should have set the application or petition for bail for hearing.[28] If the prosecution refuses to adduce evidence or fails to interpose an objection to the motion for bail, it is still mandatory for the court to conduct a hearing or ask searching and clarificatory questions.[29] For even the failure of the prosecution to interpose an objection to the grant of bail to the accused will not justify such grant without a hearing.[30]

As pointedly stated in *Bantuas v. Pangadapun*[31] "[T]o grant an application for bail and fix the amount thereof without a hearing duly called for the purpose of determining whether the evidence of guilt is strong constitutes ignorance or incompetence whose grossness cannot be excused by a claim of good faith or excusable negligence.[32] Furthermore, the Court has held that the failure of the judge to conduct the hearing required prior to the grant of bail in capital offenses is inexcusable and reflects gross ignorance of the law and a cavalier disregard of its requirement." [33]

Given the peculiar factual circumstances prevailing in this case, we find the recommended penalty of the OCA in the evaluation report appropriate.

WHEREFORE, in view of all the foregoing, respondent Judge is hereby FINED Ten Thousand Pesos (P10,000.00) and STERNLY WARNED that a repetition of the same or similar infractions complained of will be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J.,(Chairman), Puno, Kapunan, and Pardo, JJ., concur.

[1] *COMELEC v. Datu Imam*, A.M. No. MTJ-99-1178, 3 March 1999, 304 SCRA 106, citing *Guieb v. Fontanilla*, 247 SCRA 348 [1995].

[2] Canon 3, Rule 3.01.

[3] *Bacar v. De Guzman, Jr.*, 271 SCRA 328 [1997].

[4] *Conducto v. Monzon*, 291 SCRA 619 [1998], citing *Estoya v. Abraham-Singson*, 237 SCRA 1 [1994], citing *Aducayen v. Flores*, 51 SCRA 78 [1973]; *Ajeno v. Insierito*, 71 SCRA 166 [1976]; *Ubongen v. Mayo*, 99 SCRA [1980]; *Libarios v. Dabalos*, 199 SCRA 48 [1991]; *Lim v. Domagas*, 227 SCRA 258 [1993]; *Cuaresma v. Aguilar*, 226 SCRA 73 [1993].

[5] *Cortes v. Catral*, 279 SCRA 1 [1997], citing *Basco v. Rapatalo*, 269 SCRA 220 [1997]; emphasis and italics supplied.

[6] *Tabao v. Espina*, A.M. Nos. RTJ-96-1347 and RTJ-96-1348, 29 June 1999, p. 12, citing *Concerned Citizens v. Elma*, 241 SCRA 84 [1995].

[7] *Office of the Court Administrator v. Alvarez*, 287 SCRA 325 [1998], citing *Young v. Office of the Ombudsman*, 228 SCRA 718 [1993].

[8] *Aleria, Jr. v. Velez*, 298 SCRA 611 [1998], citing *Basco v. Rapatalo*, *supra*.

[9] A.M. No. MTJ-99-1175, 9 March 1999, 304 SCRA 285.

[10] 281 SCRA 419, 420 [1997].

[11] 245 SCRA 56 [1995].

[12] Borinaga v. Tamin, 226 SCRA 206 [1993], citing People v. Nano, 205 SCRA 155 [1992].

[13] Aguirre v. Belmonte, 237 SCRA 778 [1994]; Borinaga v. Tamin, supra.

[14] Libarios v. Dabalos, supra.

[15] Tucay v. Domagas, 242 SCRA 110 [1995]; Borinaga v. Tamin, supra.

[16] A.M. No. RTJ-99-1464, 26 July 1999, pp. 7-10.

[17] 265 SCRA 824, 831 (1996).

[18] 247 SCRA 741, 753-755 (1995)

[19] Paderanga v. Court of Appeals, supra.

[20] Baylon v. Sison, 243 SCRA 284 (1995).

[21] 226 SCRA 206 (1993); see also Cardines v. Rosete, 242 SCRA 557 (1995).

[22] 242 SCRA 110 (1995); see also Chin v. Gustillo, 247 SCRA 174 (1995).

[23] Guidelines set for the fixing of bail provided in Section 9, Rule 114:

"The judge who issued the warrant or granted the application shall fix a reasonable amount of bail considering primarily, but not limited to the following guidelines:

- (a) Financial ability of the accused to give bail;
- (b) Nature and circumstances of the offense;
- (c) Penalty of the offense charged;
- (d) Character and reputation of the accused;
- (e) Age and health of the accused;
- (f) The weight of the evidence against the accused;
- (g) Probability of the accused appearing in the trial;
- (h) Forfeiture of other bonds;
- (i) The fact that the accused was a fugitive from justice when arrested; and
- (j) The pendency of other cases in which the accused is under bond.

[24] Basco v. Rapatalo, supra.

[25] Aleria, Jr. v. Velez, supra.

[26] Paderanga v. CA, 247 SCRA 741 [1995]; People v. Casingal, 243 SCRA 37 [1995]; Guillermo v. Reyes, 240 SCRA 154 [1995]; People v. San Diego, 26 SCRA 522 [1968]; Cortes v. Catral, supra; Basco v. Rapatalo, supra; People v. Nano, supra.

[27] Aleria v. Velez, supra.

[28] Tucay v. Domagas, supra.

[29] Baylon v. Sison, supra.

[30] Santos v. Ofilada, supra.

[31] 292 SCRA 622 [1998].

[32] De los Santos-Reyes v. Montesa, Jr., 247 SCRA 85 [1995].

[33] Re: Report of the Judicial Audit and Physical Inventory of the Record of Cases in the Regional Trial Court, Branch 43, Roxas, Mindoro Oriental, 236 37 [1994].

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