

EXEC. JUDGE EMERITO M. AGCAOILI, COMPLAINANT, VS. JUDGE BRICCIO A. AQUINO, RESPONDENT.

A.M. No. MTJ-95-1051. October 21, 1996

Ponente: TORRES, JR., J.

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TORRES, JR., J.:

In his letter dated February 9, 1995, Emerito M. Agcaoili, Regional Trial Court Executive Judge of Aparri, Cagayan, charged Briccio B. Aquino, Judge of Municipal Trial Court of Lal-lo, Cagayan, in his capacity as Acting Presiding Judge of Municipal Trial Court, Gattaran, Cagayan, with serious neglect of duty and/or gross ignorance of the law and insubordination for the latter's failure to file the required explanation to the October 11, 1994 directive of Judge Agcaoili relative to Criminal Case Nos. 3246 and 3247 both entitled "People vs. Cortez".[1]

On March 17, 1995, Deputy Court Administrator Juanito Bernad directed judge Agcaoili to conduct a judicial audit on the records of the criminal complaints for rape referred to in the latter's complaint and to submit the report within forty-five days from notice thereof.[2] Consequently, on April 10, 1995, Judge Agcaoili submitted the following report:

- "1. The criminal complaint (p. 1, record) was filed and received on 18 December 1992;
2. Preliminary examination (pages 14 to 17) was conducted on 20 January 1993;
3. A warrant of arrest was ordered issued on the same day (p. 18, record);
4. A warrant of arrest dated 20 January 1993 was issued;
5. At the back of the warrant of arrest (p. 9, record) appears the endorsement of the process server as follows:
"This warrant of arrest was served so many times but the accused Pascual Cortez was not arrested because he transfer already in Alcala, Cagayan with correct address unknown.

Gattaran, Cagayan, this 20th day of January 1994.

6. On 20 January 1994, the case was ordered archived (p. 21, rec);
7. On 03 March 1994, the record was remanded to the Office of the Provincial Prosecutor (p. 23, record);
8. On 22 July 1994, an information was file which was received by this court on 31 August 1994."[3]

On May 4, 1995, Judge Agcaoili submitted report which stated that an alias warrant of arrest was issued on January 20, 1994 and that on August 31, 1994, two informations for rape were filed by provincial prosecutor Alejandro Pulido.[4]

In compliance with this Court's resolution dated June 28, 1995, Judge Briccio Aquino filed his comment to the complaint of Judge Agcaoili. He denied that there was delay in conducting the preliminary investigation although he admitted that the records of the case were not immediately sent to the office of the Provincial Prosecutor. This

was due to the fact that the accused could not be apprehended, the complaint could not be effectively served upon the accused and the preliminary investigation could not be completed. He was therefore constrained to archive the cases in order to give the police authorities ample time to locate and serve a copy of the complaint to the accused and to allow the latter to submit his counter-affidavit. He, however, ordered the transmittal of the records when it became apparent that the accused had already left to some other place without any known address.

We agree with the observation of Deputy Court Administrator that the respondent judge failed to comply with Section 5, Rule 112 of the Rules of Court which requires the investigating judge to transmit to the provincial or city fiscal the records of the case within ten (10) days after the conclusion of the preliminary investigation. The complaint was filed before the respondent judge for the purpose of preliminary investigation and it was his duty to transmit the records to the fiscal after the termination of the investigation. There was no need to order the case archived when the accused could not be served a copy of the complaint. Section 1(d), Rule 112 of the Rules of court provides that if the respondent cannot be subpoenaed within the ten day period, the investigating officer shall base his resolution on the evidence presented by the complainant. It is evident that the respondent judge did not follow the regular rules of procedure.

Respondent judge was given opportunity to explain why it took him fifteen months from the filing of the complaint to the transmittal of the records. For no reason at all, he chose not to answer the order of the complainant judge who was his immediate superior. This act of respondent judge cannot be sanctioned by this Court.

This is a good time as any to remind judges, as they are expected to show more than a cursory acquaintance with the elementary rules governing procedure x x x and well-settled authoritative doctrines. Courts exist to promote justice and thus to serve public interest. Their administration should be speedy and careful. Every judge should at all times be alert in his rulings and in the conduct of the business of the Court, so far as he can, to make it useful to litigants and to the community.[5]

Considering that the respondent judge had not followed the regular procedure provided for by law and his apparent ignorance thereof, We hereby impose on him a FINE of P5,000.00 with a WARNING that the repetition of the same act will be dealt with more severely.

SO ORDERED.

Regalado (Chairman), Romero, Puno, and Mendoza, JJ., concur.

[1] Rollo, p. 28.

[2] Rollo, p. 27.

[3] Rollo, pp. 1-2.

[4] Rollo, pp. 33-34.

[5] *Daplas vs. Arquiza*, 99 SCRA 141.

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