

**REGIONAL STATE PROSECUTOR FRANCISCO Q. AURILLO, JR.,
COMPLAINANT, VS. JUDGES GETULIO M. FRANCISCO, BRANCH 6,
AND PEDRO S. ESPINA, BRANCH 7, BOTH OF THE REGIONAL TRIAL
COURT OF T...***A.M. No. RTJ-93-1097. August 12, 1994*

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/290c05b4fc7a/>**PADILLA, J.:**

On 6 July 1993, the office of the Court Administrator received a sworn complaint of herein complainant, Regional State Prosecutor Francisco Q. Aurillo, Jr. of Region VIII in Tacloban City, charging respondent Judges Getulio M. Francisco and Pedro S. Espina (RTC judges in Branches VI and VII respectively of the 8th Judicial Region based in Tacloban City) with grave and serious misconduct and impropriety as well as for grave abuse of authority and discretion in granting bail to the accused in Criminal Case No. 93-01-38 entitled *People vs. Cristeta Reyes, et al.*, for Murder, and in Criminal Case No. 93-01-39 entitled *People vs. Jane C. Go*, for Parricide, without even conducting an evidentiary hearing as required by the Rules of Court and despite the prosecution's opposition thereto. Complainant maintains that there is strong evidence of guilt on the part of the accused in both criminal cases.

In a communication dated 15 July 1993, complainant also accused respondent Judge Espina of openly fraternizing with the practitioners of a law firm based in Tacloban City, which has created a negative perception in the locality as to his capacity to dispense justice with honesty and impartiality.

Complainant further made mention of Criminal Case No. 93-04-197 entitled *People vs. Salvador Padernal*, a case for violation of Sec. 15, Art. III of Republic Act No. 6425, pending before the sala of respondent Judge Espina, in which the latter allegedly favored the accused by allowing him to post bail without even allowing the prosecution an opportunity to oppose such bail application.

The records show that Criminal Case No. 93-01-38 and Criminal Case No. 93-01-39 were initially assigned to the sala of respondent Judge Getulio M. Francisco until they were re-raffled to the sala of respondent Judge Espina.

On 17 February 1993, Judge Francisco issued two (2) separate warrants of arrest against the accused in said criminal cases but fixed the amount of bail at P100,000.00 for each accused. The prosecution had earlier recommended no bail, since the accused were charged with a capital offense.

Complainant, as early as 22 February 1993, wrote Judge Francisco questioning the amount of bail fixed in the aforesaid warrants of arrest, claiming that the prosecution was not notified of any motion to fix bail nor of any order granting the same. He argued that it was a violation of procedural due process to grant bail without any hearing on the motion for bail. Such hearing is necessary for the prosecution to voice its opposition to the grant of bail.

Subsequently, the prosecution filed a motion asking Judge Francisco to inhibit himself from the said cases. A

re-raffle was then ordered and the cases were raffled to Branch 7 of the Tacloban RTC, despite the objection of complainant to the inclusion of Branch 7 in the re-raffle, on the basis of alleged bias on the part of Judge Pedro Espina, its presiding judge, who allegedly had earlier prohibited complainant from conducting the preliminary investigation of the said cases as well as in another case pending in the same sala.

In an en banc resolution of the Court dated 27 January 1994, respondents were required to file their comment on the complaint. Judge Francisco filed his comment on 18 February 1994 with a supplemental comment filed on 22 February 1994. The arguments contained therein are reiterations of his earlier comment filed with the OCA on 9 April 1993. Judge Espina filed his comment with the OCA on 17 July 1993 which states in effect that he just took over as presiding judge of the subject criminal cases, thru a raffle, after the questioned bails had been approved by Judge Francisco. With respect to the Padernal case (Crim. Case No. 93-04-197), Judge Espina did not file any comment.

On 17 March 1994, the Court resolved to refer the case to the office of the Court Administrator for evaluation, report and recommendation.

Quoted hereunder are the findings of the OCA dated 27 October 1993 as contained in a memorandum dated 11 May 1994:

"On the other hand, respondent Judge Francisco, in his comment dated April 9, 1993 (p. 12, rollo), explains that on January 18, 1993, the complainant filed the two (2) aforementioned Criminal Cases Numbers 93-01-38 against Cristeta Reyes, et al. and 93-01-39 against Jane C. Go, for Murder and Parricide, respectively without bail, but upon his personal examination of the records of the cases although he found probable causes warranting the issuance of the warrants of arrest, 'he honestly believes that the evidence of the prosecution is merely circumstantial and therefore not strong' (p. 11, rollo) - ergo, he fixed bails. He claims that it is his discretion to do so and admitted having fixed bails of P100,000.00 each for all the accused in the very warrants of arrests he issued.

"He then boldly asserted that the Dacudao case cited by the complainant does not apply to his case because in the former case, the court there did not fix any bail in its warrant of arrest while in the warrants of arrests he issued, he already fixed the amounts of bail. He continues - that 'of course, when a motion for bail was filed, the prosecution must be heard.' (p. 9, rollo), reasoning out that since there was no application for bail by any of the accused in his case it follows that the Prosecutor (herein-complainant) need not be notified anymore. Then he harps lengthily on his judicial discretion and authority to find probable cause.

"After a thorough study of this case, the following observations are unmis-takably clear.

"The explanation of respondent Judge Francisco (who is also the Executive Judge) is very novel indeed and amusing, to say the least. Irrespective of his opinion about the strength or weakness of the evidence of the guilt of the accused, our laws and settled jurisprudence demand that a hearing should first be conducted before bail could be fixed, if such bail could be justified after the hearing. The law in point, Sections 5 and 15, Rule 114, Rules of Court state: -

'Section 5. Burden of proof in bail application. - At the hearing of an application for admission to bail filed by any person who is in custody for the commission of an offense punishable by reclusion perpetua or death, the prosecution has the burden of showing that evidence of guilt is strong. The evidence presented during the bail hearings shall be considered automatically reproduced at the trial, but upon motion of either party, the court may recall any witness for additional examination unless the witness is dead, outside of the Philippines or otherwise unable to testify.'

'Sec. 15. Notice of application to fiscal. - In the application for bail under the preceding section, the court must

give reasonable notice of the hearing to the fiscal or require him to submit his recommendation'. (Underscoring supplied).

"The act of respondent Judge Francisco of disregarding an established rule of law which resulted in the deprivation of the opportunity to prove that the evidence of guilt against the accused was strong amounts to serious misconduct, grave abuse of authority and most of all gross ignorance of the law which is subject to disciplinary action. In *Libarios vs. Dabalos*, 199 SCRA 48, the Supreme Court pronounced that a judge owes it to the public and to the administration of justice to know the law and he is then (sic) expected to exhibit more than a cursory acquaintance with the statutes and procedural rules.

"The reason advanced by respondent Judge Francisco why the *Dacudao* case is not applicable to him smacks of a lamentable state of real ignorance of the procedural due notice very much settled (sic) long time ago in our jurisprudence. His case is worse because there is (sic) not even an application for bail and he arrogated unto himself a fancied authority in granting bails. The situation is aggravated by the fact that no bail at all was recommended by the (C)omplainant-prosecutor. It is incredulous that he was not able to see the legal point in the case cited by the Complainant.

"To appreciate the strength or weakness of the evidence of guilt the prosecution must also be consulted or heard. It is equally entitled as the accused to due process. (*People vs. Dacudao*, 170 SCRA 489). Further, the court's discretion to grant bail in capital offenses might (sic) be exercised in the light of a summary of the evidence presented by the prosecution, otherwise, it could be uncontrolled and might be capricious or whimsical. Hence, 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. (Resolution issued in A.M. No. 92-10-884-RTC - Re: Report of Pasig RTC Judges about the case of Judge Armie Elma, RTC, branch 153, Pasig, M.M.).

"As to the other respondent Judge Espina, it is true that as far as his participation in the granting of bails is concerned, he is not guilty. Although the rest of the accused who were granted bail in his sala, by virtue of the earlier orders of respondent Judge Francisco, must also be reissued (sic) warrants of arrest.

"As to the allegations of his fraternization with a law firm in Tacloban City which appears to be unsubstantiated, the same may be dismissed. However, he is expected to be more discreet and above-board in dealing with people because he is not an ordinary person and must be above suspicion. "[1]

It is indeed regrettable how respondent Judge Francisco ignored the clear import in *People vs. Dacudao* where we clearly stated that " a hearing is absolutely indispensable before a judge can properly determine whether the prosecution's evidence is weak or strong. Hence, a denial of the prosecution's request to adduce evidence, deprives it of procedural due process, a right to which it is equally entitled as the defense. A hearing is required to afford the judge a basis for determining the existence of those factors set forth under Rule 114, Sec. 6. "[2]

In the *Dacudao* case, the respondent judge therein concluded that the evidence of the prosecution against the accused who was charged with murder was weak. The determination was made by simply reviewing the affidavits of the prosecution witnesses who were allegedly not eyewitness to the crime. In the same vein, respondent Judge Francisco peremptorily concluded from his reading of the affidavits of the witnesses that the evidence against the accused in the said criminal cases was weak because it appeared to him that the evidence was merely circumstantial in character.

Verily, 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 basis for the issuance of an arrest warrant, and not to control his discretion to deny or grant bail in all situations - i.e., with or without a motion from the accused and even without conducting a hearing on the matter. Such error cannot be characterized as mere

deficiency in prudence, discretion and judgment, but a patent disregard of well-known rules and, therefore, constitutive of gross ignorance of the law.

It is a pressing responsibility of judges to keep abreast with the law and changes therein, as well as with the latest decisions of the Supreme Court. One cannot seek refuge in a mere cursory acquaintance with the statute and procedural rules. Ignorance of the law, which everyone is bound to know, excuses no one - not even judges. *IGNORANTIA JURIS QUOD QUISQUE SCIRE TENETUR NON EXCUSAT*.

WHEREFORE, premises considered, the Court hereby imposes on Judge Getulio Francisco a fine of P20,000.00 with STERN WARNING that the same or similar acts in the future will be DEALT with more severely.

Judge Pedro S. Espina is hereby ordered to issue new warrants of arrest for all the accused in Criminal Cases Nos. 93-01-38 and 93-01-39 who had taken undue advantage of the questioned orders releasing them on bail and to immediately conduct a hearing to determine the propriety of granting bail.

With respect to the charges against respondent Judge Espina, relative to his participation in the handling of above-mentioned criminal cases and to his alleged fraternization with a law firm in Tacloban City, the Court resolves to dismiss the same for insufficiency of evidence, admonishing however said judge to be more circumspect and prudent in his dealings with other people so that he can at all times be regarded with respect and beyond suspicion.

SO ORDERED.

Narvasa, C.J., Feliciano, Bidin, Regalado, Davide, Jr., Romero, Melo, Quiason, Puno, Vitug, Kapunan, and Mendoza, JJ., concur.

Cruz and Bellosillo, JJ., on leave.

[1] Rollo, pp. 1-5.

[2] G.R. No. 81389, February 21, 1989, 170 SCRA 489. See also *People vs. San Diego*, G.R. L-29676, December 24, 1968, 26 SCRA 522; *People vs. RABA*, G.R. No. L-10724, April 21, 1958, 103 Phil. 384; *People vs. BOCAR*, G.R. No. 62710, March 1969, 27 SCRA 512.

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