

CANDELARIA VILLAMOR, COMPLAINANT, VS. CITY JUDGE SILVINO LU. BARRO OF GINGOOG CITY, RESPONDENT.

Administrative Matter No. 2125-CTJ. October 23, 1982

Ponente: AQUINO, J.

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AQUINO, J.:

Candelaria Villamor, as the complainant in Criminal Case No. 131-78 of the city court of Gingoog City, People vs. Martiniano Bantug, a case of lesiones menos graves, testified in the afternoon of June 20, 1978 after Bantug was arraigned.

At the continuation of the hearing scheduled at eight-thirty in the morning of August 24, 1978, City Judge Silvino Lu. Barro, upon motion of the trial fiscal, ordered the arrest of Candelaria because she did not appear although she had been notified of that hearing (she signed the subpoena).

In the afternoon of the same day, August 24, Candelaria appeared before Judge Barro and explained that she did not go to the court in the morning because she thought that the hearing was in the afternoon as was done on prior occasions. Judge Barro advised Candelaria to ask the city fiscal's office to file a motion to lift the order of arrest against her. She did not understand that advice.

Instead of contacting the trial fiscal, she went to the public market to buy rice. Shortly after she returned to her house, a patrolman arrested her. According to Candelaria, she stayed in jail from five o'clock in the afternoon and was released at eleven o'clock in the morning of the following day after the fiscal moved for the lifting of the order of arrest.

For having been confined in jail for about eighteen hours, Candelaria charged Judge Barro with grave abuse of authority. She said that her presence at the August 24 hearing was no longer necessary because she had already given her testimony.

The Investigator opined that no grave abuse of authority was committed by Judge Barro because the arrest was made at the instance of the trial fiscal and complainant Candelaria did not follow the judge's advice to ask the fiscal to move for the lifting of the order of arrest.

Deputy Court Administrator Medialdea disagreed. He said that Judge Barro, instead of ordering her arrest, could have just asked Candelaria to show cause why she should not be held in contempt of court and he could have lifted the order of arrest because she had already made a satisfactory explanation for her nonappearance at the August 24 hearing. The Deputy Court Administrator recommended that Judge Barro be required to pay a fine equivalent to his salary for ten days.

Disciplinary action may be taken against a city judge if he has not performed his duties properly. We find that Judge Barro was negligent in not seasonably lifting the order of arrest against Candelaria Villamor, an omission which caused her needless detention in jail.

Judge Barro retired on February 16, 1982 upon reaching the age of seventy years. In a prior administrative case, he was found guilty of gross error due to carelessness and negligence. He was severely reprimanded and was warned that the commission of another irregularity would be severely dealt with (*Moral vs. Barro*, Adm. Matter No. 179-CTJ, September 28, 1973).

In another case, Judge Barro failed to act immediately on a motion filed by the fiscal to dismiss a criminal case. Due to the delay, the accused languished in jail for more than one month. This Court found Judge Barro to have been remiss in the performance of his duties. He was required to pay a fine equivalent to his salary for one month (*Rodriguez vs. Barro*, Adm. Matter No. 1587-CTJ, August 23, 1978, 84 SCRA 663).

Considering the facts of the instant case and Judge Barro's previous record, we hold that he should be required to pay a fine equivalent to his salary for three months. In not expeditiously lifting the order of arrest against Candelaria Villamor, he committed a dereliction of duty which resulted in her being unjustly deprived of liberty for eighteen hours.

WHEREFORE, Judge Barro is ordered to pay a fine equivalent to his salary for three months which should be deducted from his retirement pay.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Guerrero, Abad Santos, De Castro, and Escolin, JJ., concur.

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