

**VICTORY LINER, INC., REPRESENTED BY JOHNNY T. HERNANDEZ,
PRESIDENT, COMPLAINANT, VS. JUDGE REYNALDO B. BELLOSILLO,
RESPONDENT.**

A.M. No. MTJ-00-1321. March 10, 2004

Ponente: DAVIDE JR., CJ.

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DAVIDE JR., CJ.:

For our resolution is the verified complaint of Victory Liner, Inc. (VLI) against respondent Judge Reynaldo B. Bellosillo, then Presiding Judge of the Municipal Circuit Trial Court (MCTC) of Orani, Bataan, and Acting Presiding Judge of the MCTC of Dinalupihan-Hermosa, Bataan, for gross ignorance of the law, grave abuse of authority, oppression, and inaction on a pending motion.

The antecedent facts are as follows:

On 2 March 2000, while a Victory Liner bus bearing Plate No. CWF-935 was cruising along the National Highway of Dinalupihan, Bataan, it accidentally hit and fatally injured Marciana Bautista Morales. Marciana died the following day. VLI shouldered all the funeral and burial expenses of Marciana. Subsequently, on 6 March 2000, VLI and the heirs of the victim entered into an Agreement/Undertaking.[1] On 14 March 2000, after payment by VLI of the claims, Faustina M. Antonio, the authorized and designated representative of the heirs of the victim, executed a Release of Claim[2] and an Affidavit of Desistance[3] in favor of VLI and the driver Reino de la Cruz.

However, earlier or on 3 March 2000, two of Marciana's sons Rolando B. Soriano and Jimmy B. Morales, who were also signatories to the Agreement/Undertaking, executed a Pinagsamang Salaysay[4] against Reino de la Cruz. On the strength of that document, a criminal complaint was filed with the MCTC of Dinalupihan-Hermosa, Bataan, for reckless imprudence resulting in homicide,[5] which was docketed as Criminal Case No. 10512.

After preliminary examination, or on 13 March 2000, respondent Judge Bellosillo ordered the immediate issuance of a warrant of arrest against De la Cruz and fixed his bail at P50,000 to be posted in cash. He further directed the Chief of Police of Dinalupihan, Bataan, to immediately impound the bus involved in the accident, which could be released only upon the posting of a cash bond in the amount of P50,000.[6]

On 30 March 2000, VLI filed a Manifestation and Motion[7] manifesting that it was depositing to the court under protest a cash bond of P50,000 for the release of its bus. After making the deposit, VLI's counsel presented the receipt issued by the Clerk of Court of MCTC, Dinalupihan, to the Chief of Police of Dinalupihan, Bataan, who then released the bus.

On 4 April 2000, VLI filed with respondent's court a petition[8] to declare null and void the order directing it to post bond for the release of its bus. This petition was, however, dismissed for improper venue and lack of jurisdiction.

On that same day also, respondent Judge Bellosillo issued an order directing the Chief of Police of Dinalupihan,

Bataan, and his deputies and investigators to explain in writing why they should not be held in contempt of court for, and be administratively charged with, having released without a court order the Victory Liner bus involved in Criminal Case No. 10512. Thus, the bus was re-impounded by the police authorities of Dinalupihan, Bataan.

Subsequently, on 18 April 2000, respondent Judge acted on VLI's Manifestation and Motion dated 30 March 2000 and issued an order^[9] for the release of the bus.

On 23 June 2000, VLI filed a verified complaint^[10] with the Office of the Court Administrator (OCA) claiming that the respondent (a) is guilty of gross ignorance of the law in impounding its bus and requiring it to post a cash bond for the release of the bus; (b) gravely abused his authority when it revoked the surety bond of one of VLI's driver Edwin Serrano in Criminal Case No. 9373; (c) knowingly rendered an unjust and oppressive order when he increased the bond to P350,000 and required that it be posted in cash; (d) gravely abused his authority when he ordered the police authorities of Dinalupihan, Bataan, to file a case against Reino de la Cruz; and (e) is guilty of inaction or dereliction of duty in failing to resolve, despite the lapse of two months, VLI's petition for the nullification of the order requiring the posting of a cash bond for the release of the bus involved in the accident. Later, VLI filed with the Office of the Chief Justice a verified supplemental complaint against the respondent, which was forthwith indorsed to the OCA.

In his comment,^[11] respondent Judge Bellosillo explains that in the exercise of his sound discretion and in the greater interest of justice and fair play, he required a cash bond of P50,000 for the release of the police-impounded vehicle to answer for damages by way of subsidiary liability in case of accused's insolvency. The requirement of a bond for the release of impounded vehicles involved in reckless imprudence cases is practiced not only by him but by other judges throughout the country.

As for his order for the re-impounding of the Victory Liner bus, respondent Judge claims that it was just under the circumstances considering that its prior release was illegal. The payment of cash bond for the release of the impounded vehicle was made by the VLI when respondent Judge was at his official station in the MCTC of Orani-Samal, Bataan. Thus, in his absence, no order could have been issued for the release of the impounded vehicle. If ever said vehicle had to be re-impounded, it was the fault of VLI's counsel, as he was the one who misled the police authorities into believing that with the payment of the bond, the bus could already be released.

The respondent justifies the substitution of the surety bond of accused Edwin Serrano in Criminal Case No. 9373 with a cash bond on the strength of the prayer of the prosecutor that the bond be posted in cash in view of the gravity of the offense. The Rules of Court leave to the discretion of trial judges the question of whether a bail should be posted in the form of a corporate surety bond, property bond, cash deposit, or personal recognizance. Having found that Serrano's surety bond, which was not even attached to the information but merely noted on the third page thereof, was in a minimal amount and had expired already, he required a cash bond. He increased the bond after considering that Serrano was a fugitive from justice.

Respondent Judge Bellosillo denies that he ordered the police authorities of Dinalupihan to file the criminal case against Reino de la Cruz. He points to (a) the Pinagsamang Salaysay dated 3 March 2000 of Rolando B. Soriano and Jimmy B. Morales, which was the basis for the filing of the criminal complaint by the police investigator and; (b) the fact that said criminal complaint filed by the police investigator was duly approved by the Chief of Police. Thus, with these circumstances, it could not be said that he compelled the police authorities into filing the criminal case.

As to the charge of dereliction of duty for failure to act on the petition for the nullification of the order requiring a bond for the release of VLI's bus, respondent Judge avers that the same is baseless. Contrary to VLI's contention, he acted on that petition as early as 10 April 2000, which was the date set by VLI's counsel for the

hearing of such petition.[12] VLI's counsel did not appear on that date and refused to accept or receive notices of hearing and court orders from court personnel.

In his Report and Recommendation, retired Justice Narciso T. Atienza, the OCA Consultant to whom this case was referred by the Court, submits that Judge Bellosillo's resignation, which was accepted by the Court En Banc effective 27 March 2002, does not render moot and academic the instant administrative complaint. He finds that the respondent Judge erred in ordering the impounding of the Victory Liner bus and in requiring a cash bond of P50,000 for its release; in fixing an excessive bail bond for Reino de la Cruz in Criminal Case No. 10512; and in increasing the bail bond of Edwin Serrano in Criminal Case No. 9373 unconscionably from P60,000 to P350,000. He then recommends that the respondent Judge be penalized with a fine of P20,000. But for lack of evidence, he exonerates respondent Judge from complainant's charge that he compelled the police authorities into filing the criminal case against De la Cruz. As to respondent's alleged inaction on VLI's petition to declare null and void the order requiring a bond for the release of the subject bus, Justice Atienza finds that the said petition was resolved on 10 April 2000, right on the day it was submitted for resolution. Likewise, he disregards the additional charges in the supplemental complaint, there being no showing that the respondent received a copy thereof.

Justice Atienza also notes that in A.M. No. 00-1293, promulgated on 5 July 2000, respondent Judge was reprimanded for issuing a policy action and an order beyond the scope of his authority; and in MTJ No. 00-1308, promulgated on 16 December 2002, respondent Judge was found guilty of undue delay in rendering a decision and was ordered to pay a fine of P11,000 to be taken from his retirement benefits. He further notes the pending administrative cases against respondent Judge: (1) OCA IPI No. 96-232-MTJ for conduct unbecoming a judge; (2) OCA IPI No. 98-533-MTJ for ignorance of the law, grave abuse of discretion, and gross misconduct; (3) OCA IPI No. 96-203-MTJ for issuing an unjust interlocutory order and gross ignorance of the law; (4) A.M. No. 99-1222 for violation of the constitutional rights to information and to speedy trial; and (5) undocketed cases for unprofessional and ill-mannered conduct, refusing to receive documents, and illegal possession of firearms.

Verily, the resignation of respondent Judge Bellosillo does not render moot and academic the instant administrative case. The jurisdiction that the Court had at the time of the filing of the administrative complaint is not lost by the mere fact that the respondent judge ceased to be in office during the pendency of this case. The Court retains its jurisdiction to pronounce the respondent official innocent or guilty of the charges against him. A contrary rule would be fraught with injustice and pregnant with dreadful and dangerous implications.[13]

We agree with Justice Atienza in exonerating the respondent from the charges of inaction on a pending motion and of compelling the police authorities to file a criminal case against De la Cruz. We, however, hesitate to hold the respondent administratively accountable for gross ignorance of the law in ordering (1) the impounding of the vehicle involved in the vehicular accident and (2) the posting of a P50,000 bond for the release of the vehicle, both of which were found by OCA Consultant Atienza to be erroneous.

Notably, in its Motion to Resolve, VLI submits that this case presents a good occasion for us to resolve, among other issues, "the legality of the imposition by trial judges on bus operators to post bail bond for their impounded vehicles in accident cases, in addition to the bail bond required for the provisional liberty of accused-drivers." According to VLI, our ruling on this matter would guide trial court judges nationwide in accident cases so that bus operators and their personnel would not be at the mercy of judges like the respondent in this case, who during his incumbency had been requiring vehicle owners involved in accidents to post cash bonds for the release of impounded vehicles.

In *Lacadin v. Mangino*,[14] the respondent Judge therein was sought to be administratively liable for extending the lifetime of a search warrant issued by him. We held that even if he may have committed an error of judgment

or an abuse of discretion for such act, he cannot be punished administratively therefor in the absence of proof that he was motivated by ignominy or ill-will. Moreover, we ruled that the administrative case is not the right forum to determine whether the life of a search warrant may be extended by the court upon proper motion filed before the expiration of the 10-day period.

Worth noting also is the case of *Cañas v. Castigador*.^[15] In that case, an Isuzu trailer truck involved in a vehicular mishap was ordered impounded in an Order of 11 September 1996 of the trial court where the criminal case against its driver was pending. That order was addressed to the Chief of Police of General Trias, Cavite, or any officer of the law. In an earlier order of 14 August 1996, the vehicle owner was required to surrender the truck to the court. Subsequently, on motion of the prosecutor, the trial court declared the vehicle owner guilty of indirect contempt for continued defiance of the 11 September 1996 Order. However, upon the vehicle owner's petition, we found respondent's order holding the petitioner therein guilty of indirect contempt to be highly improper for several reasons. But we did not pass upon the issue of the legality of the impounding of the vehicle involved in the vehicular accident. We did not declare the order for the impounding of the vehicle to be illegal or unauthorized. If it were so, it could have been one of the several reasons for admonishing the respondent Judge therein.

In the same vein, this administrative case is not the right forum to determine the issue of the legality of respondent's order requiring VLI to post a cash bond for the release of its impounded vehicle. VLI should have raised that issue in the proper courts and not directly to us, and much less by way of an administrative case. There is after all a hierarchy of courts. As we have said in *Santiago v. Vasquez*,^[16] the propensity of litigants and lawyers to disregard the hierarchy of courts in our judicial system by seeking a ruling directly from us must be put to a halt.^[17]

It must be recalled that on 4 April 2000, VLI filed with respondent judge's court a Petition to Declare Order Directing Victory Liner, Inc., to Post Bond for the Release of the Bus Null and Void.^[18] In that petition, VLI submitted that there is no legal basis for the order directing the impounding of the bus and the posting by the bus owner of a cash bond for its release, and hence that order is void ab initio.^[19] However, despite notice, VLI's counsel Atty. Reynaldo R. Romero did not appear on 10 April 2000, the schedule^[20] for the hearing of that petition as set by him.^[21] The respondent thereupon issued an order^[22] dismissing the petition outright on grounds of improper venue and lack of jurisdiction, and ordering that a copy of the said order be furnished VLI's counsel at his given address. However, VLI's counsel reportedly refused to accept or receive from court personnel notices of hearing and court orders. And, according to respondent Judge, he (VLI's counsel) never appeared and continued not to appear before the respondent for reasons known only to him.^[23] VLI cannot, therefore, resurrect that issue directly before us, and much less through a mere verified administrative complaint or motion to resolve.

To allow VLI to raise that issue before us and obtain a ruling thereon directly from us through an administrative case would be to countenance a disregard of the established rules of procedure and of the hierarchy of courts. VLI would thus be able to evade compliance with the requirements inherent in the filing of a proper petition, including the payment of docket fees. Hence, we shall shun from passing upon that issue in this case.

In any event, the absence of a ruling in *Cañas v. Castigador* on the legality of the impounding of vehicles involved in an accident, as well as the foregoing statements of VLI in its Motion to Resolve, implies that there is yet no clear-cut policy or rule on the matter. They would, therefore, negate a finding of gross ignorance of the law or grave abuse of authority on the part of respondent Judge. Moreover, even assuming that the acts of the respondent in ordering the impounding and subsequent re-impounding of the subject vehicle and in requiring the posting of a cash bond for its release were erroneous, as found by OCA Consultant Atienza, such are errors of judgment that

cannot be the subject of a disciplinary action absent proof of fraud, dishonesty, corruption, or bad faith.[24] A judge may not be held administratively liable for every erroneous order or decision he renders. To hold otherwise would be to render a judicial office unbearable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in rendering a judgment. For a judge to be held administratively liable for ignorance of the law, it is necessary that the law be sufficiently basic that all that the judge must do is to simply apply it;[25] or that the error must be gross or patent, deliberate and malicious, or incurred with evident bad faith.[26]

We, however, find respondent administratively liable for imposing excessive cash bail bonds on accused Reino de la Cruz in Criminal Case No. 10512 and Edwin Serrano in Criminal Case No. 9373.

The Constitution guarantees to every person under legal custody the right to bail except those charged with offenses punishable with reclusion perpetua when evidence of guilt is strong.[27] Section 9, Rule 114 of the 1985 Rules on Criminal Procedure, as amended,[28] provides that in fixing the amount of bail, the judge must primarily consider the following factors:

- a) Financial ability of the accused to give bail;
- b) Nature and circumstances of the offense;
- c) Penalty for 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 trial;
- h) Forfeiture of the 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.

The amount of bail should, therefore, be reasonable at all times. It should be high enough to assure the presence of the accused when required, but no higher than is reasonably calculated to serve this purpose. Excessive bail shall not be required.[29] In implementing this mandate, the accused's financial capability should particularly be considered. What is reasonable to a wealthy person may not be so to a man charged with a like offense. Where the right to bail exists, it should not be rendered nugatory by requiring a sum that is excessive.[30]

Moreover, under the 2000 Bail Bond Guide of the Department of Justice (DOJ), crimes of reckless imprudence resulting in homicide and with violation of the Land Transportation and Traffic Code, bail shall be P30,000 regardless of the number of deaths. [31]

De la Cruz and Serrano were both charged with the offense of reckless imprudence resulting in homicide. Although permanently employed as drivers of VLI, it could not be said that each was capable of posting a cash bail bond of P50,000 and P350,000, respectively. In fixing such amounts, the respondent apparently did not take into account the gravity of the offense charged and the financial capability of the accused. He thereby willfully disregarded the guidelines under Section 9, Rule 114 of the 1985 Rules on Criminal Procedure, as amended, and the 2000 Bail Bond Guide of the DOJ. In effect, he violated the constitutional right of the accused to bail, as well as the prohibition against excessive bail, making the right, in the words of Justice Jackson, "a teasing illusion like a munificent bequest in a pauper's will." [32]

The bail fixed by the respondent is all the more excessive because it was in the form of cash. The posting of a cash bond would entail a transfer of assets into the possession of the court, and its procurement could work untold hardship on the part of the accused as to have the effect of altogether denying the accused's constitutional right to bail. On the other hand, a surety bond may be obtained by the accused upon the payment of a relatively small

premium. A surety or property bond does not require an actual financial outlay on the part of the bondsman or the property owner. Only the reputation or credit standing of the bondsman or the expectancy of the price at which the property can be sold is placed in the hands of the court to guarantee the production of the body of the accused at the various proceedings leading to conviction or acquittal.[33]

While cash bail is authorized under our rules, the option to deposit cash in lieu of a surety bond primarily belongs to the accused,[34] as can be gleaned from the language of Section 14, Rule 114 of the 1985 Rules on Criminal Procedure, as amended,[35] which read:

SEC. 14. Deposit of cash as bail. – The accused or any person acting in his behalf may deposit in cash with the nearest collector of internal revenue or provincial, city, or municipal treasurer the amount of bail fixed by the court or recommended by the prosecutor who investigated or filed the case, and upon submission of a proper certificate of deposit and of a written undertaking showing compliance with the requirements of Section 2 hereof, the accused shall be discharged from custody....

The respondent judge, therefore, grossly erred in converting Serrano's surety bond to cash bond and in demanding that De la Cruz post a cash bond to obtain their provisional liberty.[36]

It bears repeating that judges should exhibit more than cursory acquaintance with the basic legal norms and precepts, as well as with statutes and procedural rules. As advocates of justice and visible representations of the law, they are expected to keep abreast with the law and jurisprudence, and be proficient in the application and interpretation thereof. When the law or rule is basic, judges owe it to their office to simply apply it; anything less than that is gross ignorance of the law.[37]

In light of our current jurisprudence,[38] the respondent should be fined in the amount of P10,000 for his act of imposing on accused De la Cruz and Serrano an excessive bail to be posted in cash in violation of pertinent rules and guidelines, as well as the constitutional right of the accused to bail and the proscription against excessive bail.

WHEREFORE, for gross ignorance of the law and oppression in imposing excessive cash bail bonds on Reino de la Cruz in Criminal Case No. 10512 and Edwin Serrano in Criminal Case No. 9373, respondent Judge Reynaldo B. Bellosillo is hereby ORDERED to pay a fine of Ten Thousand Pesos (P10,000) to be taken from his retirement benefits.

SO ORDERED.

Ynares-Santiago, Carpio, and Azcuna, JJ., concur.
Panganiban, J., on official leave.

[1] Rollo 8-10.

[2] Id., 11.

[3] Id., 12.

[4] Id., 82.

[5] Id., 83.

[6] Id., 84.

[7] Id., 14-15.

- [8] Rollo, 17-21.
- [9] Id., 23.
- [10] Id., 1-6.
- [11] Rollo, 75-81.
- [12] Rollo, 89.
- [13] *Perez v. Abiera*, Adm. Case No. 223-J, 11 June 1975, 64 SCRA 302.
- [14] A.M. No. MTJ-01-1346, 9 July 2003.
- [15] G.R. No. 139844, 15 December 2000, 348 SCRA 425.
- [16] G.R. Nos. 99289-90, 27 January 1993, 217 SCRA 633, 652.
- [17] See also *The Liga ng mga Barangay National v. The City Mayor of Manila*, G.R. No. 154599, 21 January 2004.
- [18] Rollo, 17-21.
- [19] Id., 19-20.
- [20] Id.
- [21] Id., 21.
- [22] Id., 89.
- [23] Id., 79.
- [24] *Lacadin v. Mangino*, supra note 14.
- [25] *De los Santos v. Mangino*, A.M. No. MTJ-03-1496, 10 July 2003.
- [26] Urgent Appeal/Petition for Immediate Suspension and Dismissal of Judge Emilio B. Legaspi, RTC, Iloilo City, Branch 22, A.M. No. 01-1-15- RTC, 10 July 2003.
- [27] Section 13, Article III, Constitution; *Concerned Citizens v. Elma*, A.M. No. RTJ-94-1183, 6 February 1995, 241 SCRA 84.
- [28] Now Section 9, Rule 114, Revised Rules of Criminal procedure, as amended, which took effect on 1 December 2000.
- [29] Section 13, Article III, Constitution; Section 9, Rule 114 of the 1985 Rules on Criminal Procedure, as amended (now Section 9, Rule 114 of the Revised Rules of Criminal Procedure, as amended).
- [30] *Magsucang v. Balgos*, A.M. No. 02-1427, 27 February 2003.
- [31] Rollo, 254-255.
- [32] ISAGANI A. CRUZ, CONSTITUTIONAL LAW 314 (1998 ed.).
- [33] *Almeda v. Villaluz*, L-31665, 6 August 1975, 66 SCRA 38, 42-43.
- [34] Id., 43.

[35] Now Section 14, Rule 114 , Revised Rules of Criminal Procedure, as amended.

[36] Almeda v. Villaluz, supra note 32.

[37] De los Santos v. Mangino, supra note 25.

[38] Cabañero v. Cañon,, A. M. No. MTJ- 01-1369, 20 September 2001, 365 SCRA 425;.Magsucang v. Balgos, supra note 30.

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