

PROSECUTOR LEO C. TABAO COMPLAINANT, VS. JUDGE WALERICO B. BUTALID, RTC BRANCH 9, TACLOBAN CITY, RESPONDENT.

A.M. No. RTJ-96-1346. September 30, 1996

Ponente: TORRES, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/40c633cae974/>

TORRES, JR., J.:

Respondent Judge Walerico B. Butalid of RTC, Branch 9, Tacloban City, is charged with grave abuse of authority and dishonesty in the performance of official duties.

The complainant 1st Assistant City Prosecutor Leo C. Tabao alleged in his complaint that on 25 January 1995, he received an Order dated January 3, 1995 in Criminal Case No. 94-01-479, entitled *People vs. Nicolas Makabenta, et. al.* signed by Judge Butalid, the pertinent portions of which read:

"O R D E R

"In view of the absence of special prosecutor, Atty. Leo Tabao without any justifiable reason, let the arraignment and pre-trial of the above-entitled case be rescheduled to January 17, 1995 at 8:30 in the morning with notice to counsel and parties.

"SO ORDERED.

"Open Court, Bulwagan Ng Katarungan, Tacloban City, January 3, 1995."

Complainant further alleged that because said Order made him appear as remiss and negligent in the performance of his duties as a government prosecutor, he examined the folder of said case and found out that:

"(a) (I)n November 1994, Judge Butalid, thru his Branch Clerk of Court Atty. Jose B. Lagado issued a subpoena for arraignment and pre-trial of said case for 03 January 1995 (Annex "B", certified machine copy);

"(b) Said subpoena was addressed only to all the accused and government witnesses from the DENR, PNP, and EIIB without any notice to the undersigned or the City Prosecution Office of Tacloban City;

(c) Judge Butalid and his clerk of court were aware that there was no notice or subpoena prepared and served upon the undersigned when the open court order of 03 January 1995 was made.

Complainant opined that respondent judge, in issuing the order abused his authority as a judicial officer by putting into the records of the criminal case an act of non-feasance of complainant Prosecutor Tabao when all the while respondent judge was aware that he never notified complainant about the scheduled hearing for 03 January 1995; that stating in the Order that there was "no justifiable reason" for the absence is an act of gross dishonesty by the respondent judge; and that it is possible that respondent judge is trying to hit back at the complainant probably because of a previous report which complainant made to this Court regarding an illegal logging case.

In his comment, respondent judge stated:

"1. That the order adverted to did not require said Prosecutor to do anything under the circumstances nor punish him for contempt of Court for his failure to appear in said arraignment and pre-trial or call the attention

of the prosecution for the absence of said Prosecutor. The above-quoted order is a harmless statement of the proceedings had on January 3, 1995.

"2. That the phrase 'without any justifiable reason' was included in the order under the mistaken notion that said Prosecutor was duly notified of said arraignment and pre-trial.

"3. That such error or misapprehension of facts will not however constitute Grave Abuse of Authority or Dishonesty in the Performance of Official Duties as said error was not intentionally done as to call for the sanction imposed by law for said offense, but based upon the honest belief of the undersigned that said Prosecutor was duly notified.

xxx

Complainant filed his reply citing respondent's admission of error. He contends that it should not be explained away as a "harmless statement" or by the fact that he was not hurt or offended in any manner; the charge is allegedly basically for dishonesty and as the circumstances show, it is well-founded; the defense of honest mistake and good faith is irreconcilable with the subpoena issued to all others but him, the subsequent citation of complainant for neglect in the performance of official function and the attempt to mislead the Court that all was an honest mistake; and that efforts could have been exerted to have the prosecution represented if he was really in good faith, instead of summarily blaming the prosecution.

The Court finds respondent judge liable for culpable negligence and not for gross dishonesty and grave abuse of authority as charged.

It may be gleaned from the records that respondent appears to have acted without careful consideration of the circumstances and consequences. As a prudent judge he should have ascertained the facts before reaching conclusions and issuing orders. It is routinary in every hearing set that the judge confirms in open court whether notices were duly served upon all the parties. In this case, nothing was mentioned by respondent of checking the records or verifying the circumstances before issuing the Order that Special Prosecutor Tabao was absent "without any justifiable reason."

He cannot understate his negligence by nimbly stating that no harm befell upon complainant because it is not the case. The latter's name was tarnished on account of something he did not commit. Assuming *arguendo* that there is no consequential injury, it is still true that he acted without due care necessary in the circumstances. Further, it remains that the error could have been precluded had he dutifully examined the records.

Contrary to complainant's contention, however, respondent's actuation is not tainted with malice or bad faith which must be proved by evidence other than bare allegation. Neither can malice or bad faith be presumed from the circumstance notwithstanding the finding that the assailed order is indeed erroneous, baseless and unwarranted.

ACCORDINGLY, respondent judge is hereby REPRIMANDED for culpable negligence with warning that a repetition of this or similar offense in the future will be dealt with more severely.

SO ORDERED.

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

Mendoza, J., on leave.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.