

EDWIN LACANILAO, PETITIONER, VS. JUDGE MAXWELL S. ROSETE, AND EUGENIO TAGUBA, PROCESS SERVER, METROPOLITAN TRIAL CIRCUIT COURT, BRANCH 2, SANTIAGO CITY, RESPONDENTS.*A.M. NO. MTJ-08-1702 (A.M. OCA IPI No. 01-1008-MTJ). April 08, 2008*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/4a562072f664/>**PER CURIAM:**

A verified letter-complaint^[1] dated November 1, 1999 of complainant Edwin Lacanilao triggered this administrative case against respondents Judge Maxwell S. Rosete and Process Server Eugenio P. Taguba, of the Metropolitan Trial Circuit Court (MTCC), Branch 2, Santiago City.

Respondent Judge Rosete filed his Comment^[2] to the letter-complaint on September 19, 2000, while respondent Taguba filed his Comment^[3] on October 2, 2000.^[4]

On February 18, 2002, the Court's Second Division referred this case to Hon. Fe Albano-Madrid, Executive Judge, Regional Trial Court (RTC), Santiago City, for investigation, report and recommendation.

Subsequently, Lacanilao asked Judge Madrid to inhibit herself from this case.^[5] In a letter addressed to this Court dated June 27, 2002,^[6] Judge Madrid inhibited herself from the hearing of the case and returned the records to the Supreme Court. This Court then directed Hon. Judge Isaac R. De Alban, Executive Judge, RTC, Ilagan, Isabela, to take over and continue with the investigation of the instant case. Judge De Alban proceeded with the reception of evidence for all the parties.

Meanwhile, on November 15, 2005, Lacanilao sent a letter to then Acting Chief Justice Hon. Reynato S. Puno. Lacanilao manifested that the case had dragged on for two years due to (1) the alternate absences of respondents, and (2) the failure of the judge to take action against respondents.

On November 29, 2005, Judge De Alban likewise inhibited himself from this case and returned the records to the Office of the Court Administrator (OCA).

On July 5, 2006, this Court referred the case to the OCA for the continuation of investigation and submission of report and recommendation within sixty (60) days from receipt of the resolution. Accordingly, on September 4, 2006, the OCA sent notices of hearings to the parties and the proceedings continued. Finally, the OCA submitted its investigation report and recommendation on June 25, 2007.

The evidence for complainant consists of the combined testimonies of Edwin and his wife, Edith Lacanilao.

Edith Lacanilao testified that her husband Edwin was an accused in a criminal case for reckless imprudence resulting in homicide pending before the MTCC, Cordon Isabela, presided by respondent Judge Rosete. Edwin posted a property bond, but after two (2) months, a warrant of arrest was issued against him. Because of this, Edith and her brother went to see Judge Rosete at his office in MTCC, Santiago City. They inquired why a warrant of arrest had been issued against Edwin when he had already posted a bond. Judge Rosete told her that the warrant of arrest could not be withdrawn and asked her to just put up a P21,600.00 bond or whatever amount she

could afford.

On April 8, 1997, Edith and Edwin went to MTCC, Santiago City. They saw Judge Rosete inside his chambers. When they entered, the process server, respondent Taguba, was also there. Edith told Judge Rosete that they have only P15,000.00. Judge Rosete received the money and asked Taguba to issue a receipt. Taguba issued and signed a receipt,[7] which reads:

April 8, 1997

Received the amount of Fifteen Thousand Pesos (P15,000.00) as partial payment of bailbond of accused Edwin Lacanilao in Crim. Case #2809.

(Sgd.)

Eugenio P. Taguba[8]

After Judge Rosete was replaced by Judge Plata as presiding judge of the MTCC, Cordon, Isabela, Edwin was again arrested. The receipt issued by Taguba was not honored by the court. They filed another bond so that Edwin could be released.

In October 2000, Edwin wrote letters about the incident to the Court Administrator and the Ombudsman.[9] In January 2001, after receiving notices from the Ombudsman, Taguba talked to Edith and offered to return the money. His offer ranged from P15,000.00 to P25,000.00, but Edith refused.

On April 12, 2002, Taguba went to their house in Julia Street, San Jose City, and gave Edith P25,000.00. Edith accepted the money because she needed it for her operation. She asked her brother-in-law to have the money photocopied because Taguba might deny he gave the money.

Edith and Edwin, however, did not desist from pursuing the administrative charges they filed against Judge Rosete and Taguba. Soon after, Edwin started receiving death threats.[10]

On the witness stand, the letter-complaint of Edwin Lacanilao was adopted as his direct testimony. He disclosed that after being indicted for reckless imprudence resulting to homicide and physical injuries, he posted a bond. However, a warrant of arrest was issued against him after his failure to attend a hearing. Judge Rosete fixed the bail for his release in the amount of P32,000.00. He pleaded for reduction of bail and it was reduced to P15,000.00. He paid the amount of P15,000.00 to Taguba. During the trial of the case, the Philippine National Police (PNP) of Cordon, Isabela, wanted to arrest him in view of a warrant issued by Judge Rosete. He was surprised because he paid for his bond as shown by the receipt.

On cross-examination, Edwin testified that he prepared the letter-complaint and submitted it to Hon. Alfredo Benipayo.[11] His cousin Emily Gabriel typed the letter in San Jose, Nueva Ecija.

He further testified on cross-examination that there were two (2) warrants of arrest issued against him by the Municipal Trial Court (MTC), Cordon, Isabela. The second warrant of arrest was issued because he failed to attend the hearing of the case. He posted a cash bond in the MTC, Santiago City, on April 8, 1997. His wife Edith was the one who handed the amount of P15,000.00 to Judge Rosete.

Upon the other hand, the defense anchored on denial was presented by respondent Judge himself.

In his defense, Judge Rosete testified that he is the presiding judge of MTCC, Branch 2, Santiago City. Complainant was an accused in a criminal case in the MTC of Cordon, Isabela, when Judge Rosete was the acting presiding judge there. He only came to know of the subject complaint when the OCA required him to file his comment to the letter-complaint.[12]

Judge Rosete further declared that the allegations of Lacanilao are nothing but fabrications and lies. Lacanilao had three (3) different versions of the events: first, in the complaint, Lacanilao claimed that he gave the money to Taguba upon instruction of Judge Rosete; and second, in the supplemental affidavit,[13] Lacanilao claimed that he personally gave Judge Rosete the amount of P15,000.00 by leaving it on top of the table in the chambers of MTCC, Cordon, Isabela, and that Judge Rosete pocketed the money.

According to Judge Rosete, he merely advised the spouses Lacanilao to proceed to Santiago City to secure a bail bond. According to respondent Judge, there was no bonding company operating in Cordon. He later learned that Taguba tried but failed to secure a bail bond for Edwin. The money given to Taguba was not sufficient. Taguba informed him that he returned the money to Lacanilao. He had no participation whatsoever in the acts complained of, except that he advised Lacanilao to go to Santiago City.

On cross-examination Judge Rosete said that it was unusual for Taguba who was only a process server to receive the money for the bail bond. He did not reprimand Taguba when he learned that the former accepted the sum of P15,000.00 from complainant.

The OCA found Judge Rosete guilty of grave misconduct for misappropriating said amount to the prejudice of complainant. In the same breath, the OCA found no basis to hold Taguba administratively liable. The pertinent portion of the OCA report and recommendation reads:

The fact is that Edith talked to respondent judge one (1) week before 08 April 1997 in connection with the warrant of arrest the latter issued for failure of the complainant to attend a hearing. Respondent judge told Edith that her husband should post another bond, that was why on 08 April 1997, accompanied by the complainant, she returned to MTCC, Santiago City and delivered the P15,000.00 to the former, but the receipt was signed by Taguba.

Complainant failed to prove that Taguba benefited from the P15,000.00 given to respondent Judge. There is no proof that Taguba conspired with respondent Judge in depriving complainant of the P15,000.00 which was only borrowed from a relative so that the arrest warrant issued can be recalled or set aside. While it appears on record that it was Taguba who talked to Edith and his mother and worked hard for the withdrawal of the complaint, it does not mean that he conspired with the respondent Judge in committing the illegal act. Obedience to an order does not mean concert of design. Conspiracy must be proved clearly and convincingly as the commission of the offense itself.

The P15,000.00 was delivered to the respondent Judge for the purpose of paying the premium for the surety bond of the complainant who was at that time had a standing warrant of arrest for failure to attend a hearing. The money, therefore, was received by the respondent Judge on commission. When no bond was secured for any reason, it was respondent Judge's obligation to return the same without demand.

Taguba gave Edith Lacanilao P25,000.00 in payment for the withdrawal of the complaint on 12 April 2002 in her residence in San Jose City. Edith Lacanilao's acceptance of the P25,000.00 which was more than what was given to respondent Judge after almost five (5) long years (from 08 April 1997) did not extinguish the latter's administrative and criminal liabilities. It did not also divest the Supreme Court of its jurisdiction over the case to determine whether respondent Judge is guilty or innocent of the charge. The return of the money, albeit belatedly may be considered a mitigating circumstance. "Court personnel, from the Presiding Judge to the lowest clerk, are required to conduct themselves always beyond reproach circumscribed with heavy burden of responsibility to free them from any suspicion that may taint the good image of the judiciary." In *Arturo v. Peralta and Larry de Guzman*, the Court ruled:

Employees of the judiciary should be living example of uprightness not only in the performance of their duties, but also in their personal dealings with other people, so as to preserve, at all times, the good name of the courts in the community. The administration of justice is a sacred task and by the very nature of their responsibilities,

all those involved in it must faithfully to (sic) and hold inviolable the principle that public office is a public trust.

Respondent Judge tainted the image of the judiciary when he received the P15,000.00 and misappropriated it to the prejudice of the complainant. Under Section 8, Rule 140 of the Rules of Court, as amended, administrative charges are classified as Serious, Less Serious and Light. Gross Misconduct is considered a grave administrative offense. Section 11 of the same Rules provides:

Section 11. Sanctions. - If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:

- (1) Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office x x x;
- (2) Suspension from office without salary and other benefits for more than three (3) months but not exceeding six (6) months;
- (3) A fine of more than P20,000.00 but not exceeding P40,000.00.

RECOMMENDATION

WHEREFORE, premises considered, it is respectfully recommended that:

- (a) Respondent Judge be penalized to pay a FINE in the amount of Thirty Thousand Pesos (P30,000.00) for GRAVE MISCONDUCT with a WARNING that repetition of the same or similar offense shall be dealt with more severely;
- (b) The charge against Eugenio P. Taguba be DISMISSED for insufficiency of evidence.[14]

We accept the findings of the OCA but find that the penalty it recommends for Judge Rosete is not commensurate to the gravity of the offense committed. Respondent Judge should be meted the penalty of dismissal from the service.

We do not find merit in the claim of Judge Rosete that Lacanilao gave three conflicting versions as to how and to whom the subject amount of P15,000.00 was given. Against Judge Rosete's bare denial, the testimonies of Edwin Lacanilao and his wife, Edith, should be given more weight and credence. It is worth stressing that the OCA observed that the spouses Lacanilao were not impelled by any improper motive when they testified. Their testimonies are clear, credible, straightforward, and are thus entitled to full faith and credit.

We agree with the findings of the OCA that the letter-complaint of Edwin Lacanilao, his testimony on cross-examination, and the direct testimony of his wife Edith (which corroborated Edwin's testimony), taken altogether established their contention that on April 8, 1997, they gave the sum of P15,000.00, to Judge Rosete in his chambers in the presence of Taguba.

The money was intended as payment of the premium of Lacanilao's bail bond. For failure to secure the bond, Judge Rosete should have returned the money to Lacanilao.

Lacanilao's claim that Taguba signed and issued a receipt for P15,000.00 upon instruction of Judge Rosete is consistent with the surrounding circumstances as narrated.

This is not the first time that respondent Judge was made to account for his actions. In a case for gross ignorance of the law, grave abuse of authority and/or discretion, and incompetence, respondent Judge was found liable as charged and penalized with a fine of P2,000.00.[15] In another administrative case, he was found guilty of

dishonesty in attempting to mislead the court and was consequently meted a fine of P5,000.00.[16]

Respondent Judge was also reprimanded for violating Article 177 of the Revised Penal Code.[17] He was likewise suspended for four months without salary and other benefits for violating the Anti-Graft and Corrupt Practices Act (R.A. 3019).[18]

Respondent Judge is also presently facing two other administrative cases, to wit:

1. A.M. No. 03-1465-MTJ (for violation of R.A. 3019)
2. A.M. No. 08-1984-MTJ (for conduct unbecoming of a Judge)

A judge who has habitually flouted judicial ethics and betrayed judicial standards does not deserve the honor of his office. To him should be meted the severest of administrative penalties.[19] A judge should always be a symbol of rectitude and propriety, comporting himself in a manner that will raise no doubt whatsoever about his honesty.[20] Integrity, in a judicial office is more than a virtue, it is a necessity.[21]

Anent respondent process server Taguba, We cannot agree with the OCA recommendation that he ought to be absolved of the charges.

First. Taguba was a willing participant in securing the money from the Spouses Lacanilao. From the records, they gave the P15,000.00 to Judge Rosete in his chambers. Taguba was present when the money was handed to respondent Judge. He even prepared an acknowledgment receipt for the said amount.

Second. Taguba's eagerness to settle the matter of Lacanilao's administrative complaint belies his innocence. Per his admission, Taguba repeatedly offered the spouses Lacanilao varying amounts ranging from P15,000.00 to P25,000.00 for them to withdraw the complaint against him and Judge Rosete. He even claimed to have sold his own swine livestock to raise the said amount.

Respondent Taguba is privy to the verbal agreement between Judge Rosete and complainant Lacanilao to secure a bail bond for the latter. Thus, under the circumstances, respondent Taguba is at least liable for simple misconduct punishable by suspension of one (1) month and one (1) day to six (6) months.[22]

The administration of justice is circumscribed with heavy burden of responsibility. It requires everyone involved in its dispensation - from justices and judges to the lowliest clerks - to live up to the strictest standards of competence, integrity and diligence in public service.[23] Judge Rosete and process server Taguba failed to live up to these standards.

WHEREFORE, the Court finds respondent Judge Maxwell S. Rosete GUILTY of dishonesty and gross misconduct and is hereby DISMISSED from the service with FORFEITURE of all benefits, except accrued leave credits, with prejudice to reinstatement or appointment to any public office.

Respondent process server Eugenio Taguba is found GUILTY of simple misconduct. However, in view of the report that he is suffering from brain tumor,[24] and for humanitarian consideration, the Court opts to impose upon him a FINE of Two Thousand Pesos (P2,000.00), with WARNING that commission of similar or graver offense shall be dealt with more severely.

SO ORDERED.

Puno, C.J., Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, and Brion, JJ., concur.

Quisumbing, Ynares-Santiago, Carpio, and Leonardo-De Castro, JJ., on official leave.

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- [1] Rollo, p. 1; Exhibit "B."
- [2] Id. at 6-7; Exhibit "1."
- [3] Id. at 6; Exhibits "4" and "4-B."
- [4] Id. at 4. The Comments were submitted in compliance with the letter endorsement dated July 20, 2000 of the Office of the Court Administrator (OCA).
- [5] Id. at 87-92. Letters dated April 14, May 20, and June 17, 2002.
- [6] Id. at 101-102.
- [7] Id. at 222; Exhibit "A."
- [8] Id.
- [9] Id. at 14-27.
- [10] Id. at 129. Handwritten note.
- [11] Then Court Administrator.
- [12] Exhibit "B."
- [13] Rollo, pp. 10-12. Supplemental Letter-Affidavit dated October 11, 2000, sworn before Atty. Hereneo Martinez.
- [14] OCA Investigation Report dated June 25, 2007.
- [15] De Zuzuarregui, Jr. v. Rosete, A.M. No. MTJ-02-1426, May 9, 2002, 382 SCRA 1.
- [16] Re: Compliance of Judge Maxwell S. Rosete, Municipal Trial Court in Cities (MTCC), Santiago City, Isabela, A.M. No. 04-5-118-MTCC, July 29, 2004, 435 SCRA 363.
- [17] Ong v. Rosete, A.M. No. MTJ-04-1538, October 22, 2004, 441 SCRA 150.
- [18] Tan v. Rosete, A.M. No. MTJ-04-1563, September 8, 2004, 437 SCRA 581.
- [19] Agpalasin v. Agcaoili, A.M. No. RTJ-95-1308, April 12, 2000, 330 SCRA 250.
- [20] Office of the Court Administrator v. Boron, A.M. No. RTJ-98-1420, October 8, 1998, 297 SCRA 376, 392.
- [21] Capuno v. Jaramillo, A.M. No. RTJ-98-944, July 20, 1994, 234 SCRA 212, 232.
- [22] CSC Resolution No. 991936 (Uniform Rules on Administrative Cases in the Civil Service), Rule IV, Sec. 52 B.2.
- [23] In re: Report on the Judicial and Financial Audit Conducted in the Municipal Trial Circuit Court in Cities, Koronadal City, A.M. No. 02-9-233, April 27, 2005, 457 SCRA 356, 369.
- [24] See note 14, at 5.

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