

**EXECUTIVE JUDGE LEANDRO T. LOYAO, JR., COMPLAINANT, VS.
MAMERTO J. CAUBE, CLERK OF COURT II AND RICARDO B.
QUISADIO, COURT INTERPRETER II, BRANCH 1, MTC, MAASIN,
SOUTHERN LEYTE,...**

A.M. No. P-02-1599. April 30, 2003

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/52302534c84d/>

PER CURIAM:

On April 15, 1998, Executive Judge Leandro T. Loyao, Jr. of the Regional Trial Court of Maasin, Southern Leyte, Branch 24, directed Judge Ramon P. Velasco of the Municipal Trial Court, Maasin, Southern Leyte, to conduct an investigation on the complaint for Grave Misconduct in Office and Usurpation of Judicial Functions against respondents Mamerto J. Caube, Clerk of Court II, and Ricardo B. Quisadio, Court Interpreter, both of the Municipal Trial Court of Maasin.

The complaint was filed by twenty public school teachers of Manhilo National High School,[1] five employees of the Integrated Provincial Health Office[2] and one employee of DPWH Area Equipment, Ibarra, all in Maasin, Southern Leyte.[3] They alleged that respondent Caube issued subpoenas directing them to appear before his office for a conference to settle their financial obligations to Ester Servacio, owner of the Maasin Traders Lending Corporation. The subpoenas were signed by respondent Caube, purportedly on the authority of the Presiding Judge Sulpicio D. Cunanan, Acting Municipal Judge of the Municipal Trial Court of Maasin. Despite the fact that they were not parties to any civil or criminal cases, complainants appeared before respondent Caube's office, where they met with Servacio and eventually reached a settlement of the latter's claims. Respondent Caube drew the necessary compromise agreement, wherein the complainants agreed to pay the amount of P 12,000.00 each to Servacio on or before 30 April 1998, otherwise, formal complaints may be instituted against them.

The complainants argued that the respondent Caube had no authority to issue court processes against them since they were not involved in any lawsuit. Moreover, the fact of being subpoenaed and required to appear before the court was traumatic to them. They also alleged that respondent Caube collected from them the amount of P500.00 as attorney's fees for his services in preparing the amicable settlement.

On the other hand, the complainants charged respondent Ricardo B. Quisado of collecting on behalf of Mrs. Epifania P. Entuna the account due from her debtor, Mrs. Felicisima M. Bacala.

During the investigation, respondent Caube admitted that, in his capacity as clerk of court, he issued on separate dates subpoenas to the complaining witnesses to appear before his office for an amicable settlement with Mrs. Ester Servacio. He, however, denied having demanded from the complainants the amount of P500.00 as attorney's fees. Rather, the attorney's fees were intended for the reimbursement of Mrs. Servacio's expenses including consultation fees she paid to her legal counsel

After the investigation, Judge Velasco submitted the following recommendations:[4]

- Issue a WARNING to respondent MAMERTO J. CAUBE for his indiscretion on the issuance of court

process (subpoena) to non-litigated cases before the court with a FOREWARNING that a repetition of such highly irregular and anomalous acts shall merit a more punitive sanction, to include SUSPENSION AND/OR DISMISSAL FROM SERVICE;

- As for respondent RICARDO B. QUISADIO, the records and evidences on hand are bereft of any substantial merits that least show by preponderance that act complained of was committed, is hereby recommended DISMISSED for want of merits factually.

Judge Loyao, however, disagreed with the foregoing factual findings and recommended sanctions. In his Report to the Office of the Court Administrator, he found respondents Caube and Quisadio guilty of Gross Misconduct on three counts and one count, respectively, and recommended that respondent Caube be dismissed from the service and respondent Quisadio be suspended for such length of time as this Court may impose.[5]

While the proceedings were ongoing, respondent Caube filed a request for retirement effective April 1, 1999 pending the resolution of the administrative case against him, retaining whatever such amount as will answer for any penalty that may be imposed on him.[6]

On June 26, 2001, while the motion was pending resolution, respondent Caube died at the Chung Hua Hospital in Cebu City.[7]

In a Resolution dated June 16, 2002,[8] it was resolved to dismiss for lack of merit the charges against Court Interpreter Ricardo B. Quisadio; docket the case as a regular administrative proceeding as regards Clerk of Court Mamerto J. Caube; grant Clerk of Court Caube's request to be allowed to retire pending the resolution of the administrative case; and direct the Financial Management Office, OCA, to withhold the sum of Fifty Thousand Pesos (P50,000.00) from Mamerto J. Caube's retirement benefits pending the resolution of the administrative complaint against him.

The death or retirement of any judicial officer from the service does not preclude the finding of any administrative liability to which he shall still be answerable.[9] As pointed out in *Gallo v. Cordero*: [10]

This jurisdiction that was ours at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased in office during the pendency of his case. The Court retains its jurisdiction either to pronounce the respondent public official innocent of the charges or declare him guilty thereof. A contrary rule would be fraught with injustice and pregnant with dreadful and dangerous implications . . . If innocent, respondent public official merits vindication of his name and integrity as he leaves the government which he has served well and faithfully; if guilty, he deserves to receive the corresponding censure and a penalty proper and imposable under the situation.

We find the penalty recommended by Judge Velasco too light a sanction for the act complained of. Considering the gravity of his offense, we find the recommendation of Judge Loyao that respondent be dismissed from the service to be well-taken. Clearly, he was guilty of conduct prejudicial to the best interest of the service.

A clerk of court is an essential and a ranking officer of our judicial system who performs delicate administrative functions vital to the prompt and proper administration of justice.[11] A clerk of court's office is the nucleus of activities, adjudicative and administrative[12] performing, among others, the functions of keeping the records and seal, issuing processes, entering judgments and orders and giving upon request, certified copies from the records.[13]

Owing to the delicate position occupied by clerks of court in the judicial system, they are required to be persons of competence, honesty and probity since they are specifically imbued with the mandate of safeguarding the integrity of the court and its proceedings, to earn and preserve respect therefor, to maintain loyalty thereto and to

the judge as superior officer, to maintain the authenticity and correctness of court records and to uphold the confidence of the public in the administration of justice.[14]

Respondent's performance of the functions of a collection agent for a moneylender; his use of court processes and resources; and his act of deputizing the local police to serve subpoenas on the complainant-debtors under the guise of a court proceeding captioned, "Amicable Settlement," constitutes a gross disservice to the judiciary.

Respondent Caube is an accountable officer entrusted with great responsibility. As an officer of the court, respondent was obliged to conduct himself with propriety and restraint. He cannot make use of his public office to oppress or to browbeat people into paying their debts by resorting to such arbitrary and highhanded tactics. He is expected to be a role model[15] for other court employees - to be emulated in the performance of his duties as well as in his conduct as a civil servant.[16]

Regrettably, respondent abused the trust and confidence reposed upon him. In his findings, Judge Velasco described the acts of respondent as "procedurally and substantially anomalous and irregular"[17] which "partakes of usurpation of judicial functions and abuse of discretion, the same being done with full knowledge that it has prejudiced the interests of the government by non-payment of fees due and likewise a mockery of the established procedural system to seek judicial reliefs." [18]

Misconduct is defined as any unlawful conduct on the part of a person concerned in the administration of justice prejudicial to the rights of parties or to the right determination of the cause.[19] It generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose.[20] The term, however, does not necessarily imply corruption or criminal intent.[21] On the other hand, the term "gross" connotes something "out of all measure; beyond allowance; not to be excused; flagrant; shameful." [22]

To be sure, respondent Caube's death has permanently foreclosed the prosecution of any other actions, be it criminal or civil, against him for his malfeasance in office. We are, however, not precluded from imposing the appropriate administrative sanctions against him.[23] Respondent's misconduct is so grave as to merit his dismissal from the service, were it not for his untimely demise during the pendency of these proceedings. However, since the penalty can no longer be carried out, this case is now declared closed and terminated.[24]

ACCORDINGLY, based on all the foregoing, this administrative matter is CLOSED AND TERMINATED in view of the death of respondent Clerk of Court Mamerto J. Caube.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Panganiban, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., and Azcuna, JJ., concur.
Quisumbing, J., on leave.

[1] Mrs. Elenita Casepe, Ms. Nanette Ingracial, Ms. Rebecca Gimo, Ms. Myrna Geraldo, Mr. Isidro Tomon, Ms. Macrina Aparejo, Ms. Anacorita Arbol, Ms. Imelda Nacorda, Mr. Felixberto "Boy Gregana, Mrs. Maria Tomon, Ms. Venancia Sas, Ms. Virginia Orais, Ms. Petronia Maglines, Ms. Merlinda Markines, Ms. Delia Gaviola, Ms. Teresita Siega, Ms. Sofia Florendo, Mr. Eric Munda, Mr. Antonio Duazo and Mr. Eusebio Faelnar.

[2] Mr. Pastor Telin, Mr. Manuel L. Orais, Mr. Silverio G. Cadavos, Mr. Joel A. Canabe and Mrs. Dionesia L. Florendo.

[3] Mr. Manuel Orais.

- [4] Rollo, Vol. I, pp. 26-100.
- [5] Id., p. 24.
- [6] Rollo, Vol. II, p. 6.
- [7] Id., p. 17.
- [8] Id., p. 55.
- [9] Lilia v. Judge Bartolome M. Fanuñal, A.M. No. RTJ-99-1503, 13 December 2001, p. 4.
- [10] 315 Phil. 210 [1995].
- [11] Re: Report on the Judicial Audit Conducted in the RTC, Branches 29 and 59, Toledo City, 354 Phil. 8 [1998], citing Juntilla v. Calleja, A.M. No. P-96-1225, 23 September 1996, 262 SCRA 291.
- [12] Basco v. Gregorio, 315 Phil. 681 [1995].
- [13] CA v. Escalante, A.M. No. P-96-1219, 15 August 1997, 277 SCRA 331, citing Angeles v. Bantug, A.M. No. P-89-295, 29 May 1992, 209 SCRA 413 and Juntilla v. Calleja, supra.
- [14] Marasigan v. Buena, 348 Phil. 1 [1998].
- [15] Paa v. Remigio, A.M. No. P-1641, 28 February 1979, 88 SCRA 593.
- [16] Mallare v. Ferry, A.M. Nos. P-00-1381-82, 31 July 2001, 362 SCRA 19.
- [17] Investigation Report, p. 15; Rollo, Vol. I, p. 44.
- [18] Id., pp. 13-14; Rollo, Vol. I, pp. 42-43.
- [19] Black's Law Dictionary, Fourth ed., p. 1150.
- [20] Words and Phrases, Vol. 27, p. 466, citing Sewell v. Sharp, La App., 102 So 2d 259, 261.
- [21] Id., citing State Ex Rel Asbaugh v. Bahr, 40 N.E. 2d 677, 680, 68 Ohio App. 308.
- [22] Black' Law Dictionary, Fourth Ed., p. 832.
- [23] OCA v. Saguyo, A.M. No. P-26-1229-30, 25 March 2002.
- [24] Apiag v. Cantero, A.M. No. MTJ-95-1070, 12 February 1997, 268 SCRA 47, 64.

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.