

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. ATTY. EDGAR ALLAN C. MORANTE, CLERK OF COURT, REGIONAL TRIAL COURT, LAS PIÑAS CITY, BRANCH 275, RESPONDENT.*A.M. No. P-02-1555. April 16, 2004*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/5886f7553dcb/>**PER CURIAM:**

This case stemmed from an anonymous letter dated September 10, 2001 addressed to the Chief Justice from “CONCERNED LAW PRACTITIONERS.”[1] The letter brought to his attention the alleged corrupt acts/practices of respondent Edgar Allan Morante, Branch Clerk of Court of the Regional Trial Court, Las Piñas City, Branch 275. Attached to the letter was a news clipping that appeared in the September 10, 2001 issue of The Metro Daily Tribune, entitled “NBI Agents Nab Las Piñas Clerk of Court for Extort.”[2] The news item reported that the respondent “was caught by government agents in the act of receiving some P.2 million to fix a court decision.”[3]

In a First Indorsement dated September 24, 2001, the matter was referred to the Office of the Court Administrator (OCA) for appropriate action.[4]

The OCA requested National Bureau of Investigation (NBI) Director Reynaldo G. Wycoco, through Special Action Unit Head Atty. Vicente de Guzman, for a copy of its investigation report and its annexes on the Morante extortion case, and to inform the said office whether the filing of administrative/criminal cases against the subject was recommended.[5] On January 28, 2002, Deputy Court Administrator Christopher Lock submitted his memorandum on the matter to the Court.

The Court thereafter issued a Resolution dated February 19, 2002, re-docketing the instant case as A.M. No. P-02-1555,[6] suspending the respondent effective immediately pending the investigation of the case, and referring the administrative matter to Justice Narciso Atienza, Consultant, Office of the Court Administrator, for investigation, report and recommendation.[7]

Pursuant to the Court’s resolution, Justice Atienza conducted a formal investigation of the case.[8] In due course, the Investigating Justice submitted his report to the Court on January 15, 2003, finding the respondent guilty of grave and serious misconduct and recommending that the respondent be dismissed from the service with forfeiture of all benefits, with prejudice to his appointment in any branch of the government or its agencies or instrumentalities.

The Case for the Complainant[9]

Tetsuo Momma, a Japanese citizen, was the president of the Montec International Corporation with principal offices at Lot 2, Block 21, Phase III, Cavite Export Processing Zone Authority, Rosario, Cavite. He employed Jose “Joey” Olavere as his executive secretary, who also acted as his personal interpreter.

Luz Amper filed a criminal complaint against Momma, her former employer, for libel with the Las Piñas City

Prosecutor. After the requisite preliminary investigation, an information for libel was filed against Momma on January 28, 2000 with the Regional Trial Court of Las Piñas City, docketed as Criminal Case No. 00-0117. The case was raffled to Branch 255 of the court, presided by Judge Ambrosio Alumbres whose pairing judge was Judge Bonifacio Sanz Maceda, the Presiding Judge of Branch 275 of the court. Momma posted a cash bail bond of P80,000. On March 29, 2000, the court issued a hold departure order against him.

In the meantime, Momma filed a petition for review of the resolution of the Las Piñas City Prosecutor finding probable cause for libel against him. On November 7, 2000, the Secretary of Justice issued a resolution granting Momma's petition for review, reversing the resolution of the City Prosecutor, and directed the latter to file a motion to withdraw the information, and to inform the Secretary of Justice of his action thereon within ten days from notice. Private complainant Luz Amper, through counsel, filed a motion for the reconsideration of the resolution of the Secretary of Justice, but the latter issued a Resolution on January 12, 2001 denying the said motion. She forthwith filed a petition for certiorari with the Court of Appeals (CA), entitled *Luz Amper v. Secretary of Justice*[10] for the nullification of the said resolution. However, the CA did not issue any temporary restraining order against the respondents and thereafter dismissed the petition.

On December 1, 2000, Momma filed a letter-complaint with the Court against Judge Ambrosio Alumbres, alleging, inter alia, that the Judge pressured him into settling the libel case for P7,000,000. According to Momma, the Judge would even call his representative to his chambers in an effort to convince him to settle the case. When he refused, the Judge agreed to reduce the offer to P3,000,000.00. He also complained that the Judge was eager to issue warrants for his arrest although there were no valid reasons therefor. He asked the Court to help him have an impartial judge to decide the libel case.[11]

On December 2, 2000, Olavere, in behalf of Momma, filed a motion with the RTC Branch 255, for the inhibition of the presiding judge.[12] Acting on the complaint of Momma, the OCA wrote him on February 5, 2001, requesting that his complaint be executed under oath within ten days. Momma complied with the request.

On March 12, 2001, the State Prosecutor filed a motion with the trial court in Criminal Case No. 00-0117 for the withdrawal of the information, conformably with the resolution of the Secretary of Justice, and the lifting of the hold departure order. Momma, through his counsel Atty. Roberto Garay, filed a motion on April 17, 2001 for the release of his cash bail bond in the amount of P80,000. Because the private complainant was not notified of the hearing of the public prosecutor's motion on May 2, 2001, the court reset the hearing to May 16, 2001, and then reset it anew to June 25, 2001.

On June 3, 2001, Judge Ambrosio Alumbres, Presiding Judge of Branch 255, retired from office. Executive Judge Manuel Fernandez designated Judge Bonifacio Sanz Maceda, the pairing Judge of Branch 255, as Acting Presiding Judge thereof.

Judge Maceda at times required Ms. Joselita P. Macaldo, Officer-In-Charge (OIC) of the Office of the Deputy Clerk of Court of Branch 255, to make a case summary or a preliminary statement of pending incidents thereon before resolving the same. She also prepared drafts of orders for Judge Maceda's approval and signature, and the latter would either approve the draft and sign the same, or revise it, in which case, the order would be typewritten in Branch 255. Macaldo would then affix her initials below the typewritten name of Judge Maceda before the latter signed the Order.

On June 25, 2001, Momma filed a motion for the lifting of the hold departure order. The said motion was set for hearing on July 2, 2001. Conchita Blanza, Stenographer, Branch 255, RTC, Las Pinas, recorded the proceedings of the hearing. Judge Maceda issued an Order stating that the pending incidents had been submitted for the resolution of the court. On July 3, 2001 OIC Macaldo transmitted the records of Criminal Case No. 00-0117 to

respondent Atty. Edgar Allan C. Morante, who was the Deputy Clerk of Court of Branch 255, for the resolution by Judge Maceda of the pending incidents.

Olavere and Momma's counsel, Atty. Garay, followed up the case with the respondent several times for the early resolution of the pending incidents therein. According to Olavere and Momma, the ninety-day period for the resolution thereof had long since elapsed.

On August 20, 2001, Atty. Garay arrived in the house of Olavere, and informed the latter that the respondent had a message: if Olavere wanted a favorable decision in the libel case against Momma, he, Olavere, would have to talk with the respondent to make "arrangements" with the Judge. Olavere forthwith saw the respondent in the latter's office at the Justice Hall in Las Piñas City. The respondent told Olavere that he, the respondent, could have the case against Momma dismissed by Judge Maceda if Momma was willing to come across with P250,000.

When Olavere relayed the respondent's message to Momma, the latter replied that he would have to see the order of dismissal first. Olavere, in turn, relayed Momma's message to the respondent, and the latter told Olavere that Momma would have to pay P50,000 in exchange for an unsigned copy of the order of dismissal of the court. The balance of P200,000 would then be paid to the respondent upon delivery to Olavere of the order of dismissal bearing the signature of Judge Maceda. Olavere informed Momma of the respondent's message. The two agreed to report the matter to the NBI, so that the respondent could be apprehended in flagrante delicto.

On August 27, 2001, Momma arrived at the NBI where he executed a complaint-affidavit against the respondent for robbery/extortion. The said affidavit was subscribed and sworn to before Atty. Timoteo Pineda, Jr., the Executive Officer of the Special Action Unit of the NBI. In the said complaint-affidavit, Momma alleged, inter alia, that the respondent had requested him to produce P250,000 in exchange for the court's favorable decision in the libel case.[13] It was also alleged that Momma and Olavere agreed to give P50,000 in consideration for the unsigned order dismissing Criminal Case No. 00-0117.

At about 11:00 a.m. on August 28, 2001, Olavere saw the respondent in his office at the second floor of the Justice Hall in Las Piñas City. The other court personnel were then having lunch. Olavere gave the P50,000 to the respondent who then gave Olavere an unsigned copy[14] of the Order dated July 19, 2001 granting the motion to withdraw information filed by the State Prosecutor, Momma's motion for the release of his cash bond, as well as the lifting of the hold departure order. The respondent told Olavere that he would call him as soon as the order had already been signed by Judge Maceda. In the afternoon of the same day, Olavere proceeded to the Special Action Unit of the NBI and gave a sworn statement to Senior Agent Nelson Pacada, alleging, inter alia, that the respondent had demanded P250,000 in exchange for the order of dismissal of the libel case against Momma, and that he, Olavere, had already given P50,000 to the respondent earlier that morning in exchange for an unsigned order of the dismissal of the libel case, the balance payable to the respondent upon delivery by him of the order of dismissal duly signed by Judge Maceda.[15] Olavere gave the NBI the unsigned Order he earlier received from the respondent.[16]

Momma and NBI Agent Pineda decided to conduct an entrapment operation against the respondent at his office. Momma gave four P500 bills to Pineda bearing Serial Numbers RU582077, RU582078, SW730103 and TX016250 for the operation.[17] Pineda requested NBI Forensic Chemist, Felicisima Francisco, to subject the four bills contained in the white envelope to fluorescent powder markings.[18] Francisco also dusted the white envelope with fluorescent powder. She then returned the bills and the white envelope to Pineda. The latter, in turn, placed the four P500 bills on top of other peso bills amounting to P198,000. Since the bills were so bulky, Pineda placed the P200,000 in a brown envelope and sealed the same. The forensic chemist, however, did not dust the envelope with fluorescent powder.

In the meantime, Olavere was able to talk with the respondent over the telephone a couple of times. They agreed that Olavere would deliver the balance of P200,000 to the respondent at his office in the morning of August 31, 2001. In exchange, the respondent would give Olavere the order dismissing the case bearing the signature of Judge Maceda.

On August 29, 2001, Judge Maceda signed an Order granting the Motion to Withdraw Information, the State Prosecutor's Motion to Lift Hold Departure Order, as well as Momma's motion for the release of his cash bond of P80,000. The respondent affixed his initials on the order below the typewritten name of Judge Maceda.[19] Instead of returning the records of Criminal Case No. 00-0117 to Branch 255 of the RTC for the release of the said order, the respondent kept the said records, including the order of Judge Maceda, and waited Olavere to return with the P200,000.

When Olavere informed Pineda that the respondent had agreed to a meeting in the morning on August 31, 2001 for the payoff, Pineda called the other NBI agents to a pre-entrapment conference and agreed on the mechanics of the operation. Olavere and Pineda agreed that they would proceed to the office of the respondent; Olavere would carry the brown envelope containing the P200,000, while the NBI agents would position themselves strategically nearby. Immediately after delivering the envelope with the money to the respondent, Olavere will give the pre-arranged signal. The NBI agents would then enter the office of the respondent, take him into custody and confiscate from him the P200,000.

Shortly before noon of August 31, 2001, Olavere and NBI Agents Timoteo Pineda, Jr. Marlon Toleda, Joel Toresa, and Dante Sonbar arrived at the second floor of the Justice Hall in La Piñas City. Judge Maceda was absent because he was ill. The agents strategically positioned themselves outside the office of the respondent, while Olavere, with the brown envelope containing P200,000, proceeded to the latter's office. The respondent met Olavere outside the office and brought him inside. The respondent then gave Olavere a copy of the Order in the libel case signed by Judge Maceda, dated August 29, 2001.[20] Olavere handed over to the respondent the brown envelope containing the P200,000 and gave the pre-arranged signal to the NBI agents who were waiting outside. Instead of opening the envelope and counting the money contained therein, the respondent placed the envelope on top of his table.

When the NBI agents heard Olavere's pre-arranged signal, they entered the office of the respondent. They saw the brown envelope containing the P200,000 on the respondent's table. They took custody of the respondent and the brown envelope, including the money inside. The NBI agents informed the respondent of his constitutional rights and brought him to the NBI headquarters in Taft Avenue, Manila, where he was placed under arrest.[21] The chemist was unable to examine the brown envelope which contained the bribe money because the NBI agents failed to deliver the same to her.

Olavere gave a sworn statement to NBI Agent Toledo.[22] The NBI agents executed their joint affidavit of the respondent's arrest.[23] On the same date, the NBI Director transmitted to Inquest Prosecutor Roberto D. Lao of the Department of Justice the complaint of Momma and Olavere charging the respondent of violating Section 3(b) in relation to paragraph (c) of Republic Act No. 3019.[24] The respondent submitted his counter-affidavit[25] and rejoinder[26] during the preliminary investigation. The respondent was later charged of violating Rep. Act No. 3019 in an Information filed with the RTC of Las Piñas City, docketed as Criminal Case No. 02-0317.

The Case for the Respondent[27]

The respondent vehemently denied the charges hurled against him. He adopted the counter-affidavit he submitted to the Inquest Prosecutor as his testimony on direct examination before the Investigating Justice. His version of

the incident is as follows:

When Judge Bonifacio Sanz Maceda of RTC, Branch 275 took over the numerous cases pending before the sala of Judge Alumbres after the latter retired as Presiding Judge of RTC, Branch 255, an inventory of cases revealed that there were 143 cases with pending incidents; 91 cases submitted for decision which were already beyond the reglementary period for issuing an order, resolution or decision, and 891 other pending cases. The office was deluged by calls from party litigants, their representatives, as well as their respective counsels, who were eager to follow up the status of their respective cases and seek the speedy resolution thereof. One case being followed up with unusual persistence was the criminal case for libel against Momma. The respondent met Atty. Roberto Garay during the third or fourth week of June 2001 when the latter followed up the resolution of the pending incidents. He met Jose “Joey” Olavere, who introduced himself as an employee of Momma and followed-up the resolution of the motion to lift hold departure order, the motion to withdraw information filed by the State Prosecutor and Momma’s motion for the refund of the cash bond then pending before Branch 255 of the RTC.

Olavere began telling “stories” that his employer had already spent almost P1,000,000 to settle or dispose of the said libel case, particularly the hold departure order issued by the court. Olavere showed to him a list containing the names of the “recipients” and the amounts received by each: Judge, P300,000; Clerk of Court, P100,000; sheriff, P20,000; fiscal, P50,000. Olavere even admitted that he was being paid a bonus for the “arrangements” that he had facilitated with the said officials. He also revealed that Momma wanted to go back to Japan to visit his father who was seriously ill.[28]

Because of his employer’s apparently precarious situation, Olavere requested the respondent to intercede for his employer so that the criminal case against the latter could be resolved in the soonest possible time. The respondent replied that Judge Maceda was a very strict presiding judge, and that it was impossible to influence him in the resolution of cases. He also told Olavere that he was going to do his best to help, but emphasized that he was not promising anything.

After this first visit, Olavere came to his office several more times. Olavere and Atty. Garay also started calling the said office frequently. It got to a point where the respondent evaded their calls.[29]

The respondent denied that he received the sum of P50,000 from Olavere in exchange for an unsigned Order dated July 19, 2001. He denied ever preparing and giving the said unsigned order to Olavere. He alleged that although Judge Maceda often asked him to prepare a preliminary study of the facts and legal issues in pending cases, the Judge did not ask him to prepare any order in Criminal Case No. 00-0117. He claimed that the records of Criminal Case No. 00-0117 were inside the chambers of Judge Maceda from July to August 2001.

At around 9:00 a.m. of August 28, 2001, Olavere arrived in his office and asked the respondent if there was already an order lifting the hold departure order issued against his employer duly signed by Judge Maceda. He replied in the negative. He was in a hurry at the time because he had an appointment with the City Legal Officer, Atty. Zardi Melito Abellera. Before he left the office, he advised Olavere to check the matter out with Branch Sheriff Josefino Ortiz.[30] Sheriff Ortiz heard him say, “There’s no resolution yet. Better follow up with Branch 255.”[31] Olavere then told him that he would be back on Friday to find out if an order had already been issued. There was no talk about money.[32] The respondent was accompanied by Branch Sheriff Josefino Ortiz, and they arrived in Atty. Abellera’s office at about 9:15 a.m. Ortiz stood by the door to the office of Atty. Abellera during the meeting. The meeting, where they talked about the budget for the offices and the newly appointed judges, lasted until about 11:30 a.m.[33] Thereafter, the respondent and Ortiz had lunch together.[34]

In the morning of August 29, 2001, the respondent arrived in his office and saw a draft of an order for Judge Maceda’s review bearing his corrections. The said order was appended to the records. The respondent corrected

the draft and gave the records to the stenographic reporter for the typing of the final draft. The next day, August 30, 2001, he saw the Order dated August 29, 2001, already signed by Judge Maceda. However, the respondent did not transmit the records to the Branch Clerk of Court, Branch 255 for the release of the Order.

On or about 11:20 a.m. on August 31, 2001, Olavere again came to his office to follow up the libel case. He stood up and went inside Judge Maceda's chambers to get a copy of the order, which he knew had already been signed the day before.[35] At around 11:30,[36] he summoned RTC Sheriff Roberto Galing of Branch 255 to have the order certified by OIC Joselita R. Macaldo of Branch 255. Sheriff Galing had the copy of the order certified by Macaldo, and handed the same to him. The respondent, in turn, gave a copy of the Order to Olavere. The respondent also made the latter acknowledge the receipt of the said copy in the original copy of the order retained for the court file.[37] Olavere read the order, then placed it inside his bag as he stood in front of the respondent's desk. The respondent noticed that Olavere was pulling out a bulky brown envelope, about 8x11 inches in size. Olavere placed the envelope on top of the respondent's desk. The latter immediately said, "Ano 'yan?"[38]

Court Process Server Leon Matienzo of RTC, Branch 255, had entered the office to inform the respondent that he was able to get a schedule for the civil service examination and stood in front of the copy machine located beside the respondent's table. Matienzo heard the respondent say, "Ano 'yan?" as the latter pointed to a thick brown envelope on his table.[39] Matienzo told him, "Boss, excuse me po, ipapa-alam ko lang na nakapag pa-schedule na kami para sa civil service exam," to which the latter replied, "Okay." Matienzo then left the room to have his lunch.[40]

The respondent turned his attention back to Olavere and repeated his query about the envelope, "Ano 'yan? Bakit may letterhead pa yan ng Garay Law Office?" Olavere replied, "Eh galing kay Garay 'yan, e!"[41] Suddenly, a group of about eight persons barged into the office, approached his desk and introduced themselves as agents of the NBI. They surrounded the desk and one of them took hold of the brown envelope. The seal was removed and the envelope was opened in front of the respondent. The latter saw that the envelope contained bundles of money.[42] Realizing that the respondent had not picked up the envelope, much less touched the money contained therein, one of the NBI agents positioned to grab his right hand and tried to place it inside the envelope, in an apparent attempt to mark it with the fluorescent powder with which the money was previously dusted.[43] The apparent attempt to mark the respondent's right hand was foiled by the timely entry of Leticia B. Agbayani, the Branch Stenographer, who immediately shouted, "What's happening here? Anong nangyayari dito?" to which the respondent replied, "Entrapment daw!"[44] Agbayani asked, "Anong inilagay? Hinawakan mo ba?" to which the respondent replied, "Hindi, hindi ko hinawakan." She then told the NBI agents, "You mean to say that you can entrap anybody when somebody (sic) put an envelope on top of your table?" When she inquired where the envelope was, a certain Atty. Pineda replied, "It was already secured."[45]

People began to gather in the office. One of them, Branch Sheriff Josefino Ortiz, pointed to the NBI agents for setting him up, and asked to accompany the latter to the NBI Headquarters in Manila. At this point, Olavere informed the respondent that he was also a confidential agent of the NBI and showed his identification card.[46] The group left the office at around 12:00 noon. They boarded a pick-up truck together with Atty. Pineda and a certain Atty. Bonoan. They arrived at around 1:30 in the afternoon. The respondent underwent interrogation and testing for fluorescent powder marks.[47] While he was being questioned at the NBI office, he noticed a foreign-looking individual who was freely going in and out of the office of NBI Division Chief Atty. De Guzman. He later came to know that the man was in fact Tetsuo Momma.[48] Momma was apparently a very influential individual at the NBI as he was also seen conversing and laughing with Olavere and Atty. De Guzman.[49]

According to the respondent, the case against him was weakened by Olavere's execution of an affidavit retracting his sworn statement and supplemental statement to the NBI, the latter's testimony, and by the affidavit of

desistance executed by Momma dated March 5, 2001.

The Issues

The issues for resolution in this case are the following: (a) whether or not the complainant adduced substantial evidence to prove that the respondent gave the unsigned Order dated July 19, 2001 to Olavere on August 28, 2001 after receiving P50,000 from the latter; (b) whether or not the respondent promised and agreed to give to Olavere on August 31, 2001 a certified copy of the August 28, 2001 Order signed by Judge Bonifacio Maceda and in consideration of P200,000; (c) whether or not the respondent received the brown envelope containing P200,000 from Olavere on August 31, 2001 after giving to Olavere the certified copy of the August 28, 2001 Order signed by Judge Maceda; and, (d) whether the respondent is guilty of grave and serious misconduct in office.

The Ruling of the Court

On the first issue, the respondent asserts that in administrative cases, where the acts subject of the complaint are criminal in nature such as bribery or violation of Rep. Act No. 3019, the quantum of proof required is proof beyond reasonable doubt. The respondent asserts that the complainant failed to adduce evidence to prove beyond reasonable doubt that he demanded P50,000 in consideration for the delivery of an unsigned order granting the motion of the State Prosecutor for the withdrawal of the Information and for the granting of the motion for the lifting of the hold departure order, and that he actually gave to Olavere on August 28, 2001 an unsigned order after receiving P50,000 from him. The respondent contends that the affidavit-complaint of Momma was hearsay because the latter failed to testify. He also asserts that Olavere's claim, as contained in his affidavit, that he had an agreement with the respondent to give P50,000 in consideration of an unsigned order, is belied by Olavere's testimony during the investigation, that the agreement was for the delivery of a signed copy of the Order to Olavere. Furthermore, Toledo's allegation that Olavere arrived in the NBI on August 27, 2001 is belied by the latter's testimony that it was only on August 28, 2001 when he made a report to the NBI. The respondent concludes that Olavere could not have given him P50,000 on August 28, 2001 because Olavere admitted that it was entirely possible that he did not give the P50,000 to the respondent but pocketed the money himself.

The contention of the respondent does not persuade.

In *Office of the Court Administrator v. Judge Bautista*,^[50] this Court, citing its ruling in *Mamba v. Garcia*,^[51] held that in administrative proceedings only substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to support a conviction, is required. Evidence to support a conviction in a criminal case is not necessary, as the standard of integrity demanded of members of the Bench is not satisfied which merely allows one to escape the penalties of criminal law. The dismissal of any criminal case against the respondent in an administrative case, for the prosecution's failure to prove his guilt beyond reasonable doubt, is not a ground for the dismissal of the administrative case. The affidavit-complaint^[52] of Momma was admitted by the Investigating Justice as part of the testimony of Toledo and Olavere and, more specifically, Momma submitted the said affidavit-complaint against the respondent to the NBI and subscribed and swore to the truth of its contents before Toledo.^[53]

The complainant adduced substantial evidence that the respondent himself gave to Olavere the unsigned order^[54] after receiving P50,000 from the latter. As gleaned from Olavere's affidavit, the respondent gave the unsigned order to him in the morning of August 28, 2001 after he had given P50,000 to the respondent.

T:

Papaano naman aayusin ni ATTY. MORANTE ang kaso?

S:

Sinabi niya sa akin na mapapadismis niya ang kaso ng boss ko basta magproduce lang ako ng P250,000. Sinabi ko ito sa boss ko pero ang sabi niya, gusto niyang makita ang papeles.

T:

Ano ang nangyari pagkatapos?

S:

Ang sabi ni ATTY. MORANTE magbigay ako ng P50,000 kapalit ang walang pirmang papeles at pagkatapos yong balanseng P200,000 ay itatawag niya sa akin.

T:

Pumayag ba naman ang boss mo?

S:

Opo, sa katunayan ay binigay ko na kaninang umaga ang P50,000 at itatawag ni ATTY. MORANTE sa akin kapag pirmado na ang desisyon para maibigay ko ang balanseng P200,000.

T:

Mayroon ibinigay bang papeles si ATTY. MORANTE?

S:

Opo, ito pong walang pirmang Order ni Judge MACEDA. (Affiant submits an unsigned six-page Order dated July 19, 2001 under Judge BONIFACIO SANZ MACEDA, RTC, Branch 255, Las Pinas City marked as Annexes "A" to "A-5").[55]

We reject respondent's contention that Olavere was impeached as a witness, and that the entirety of his sworn statement and supplemental statement to the NBI and his testimony during the investigation was weakened, merely because in answer to one of the questions of respondent's counsel on cross examination, Olavere stated that he went to the office of the respondent on August 28, 2001 with the intention of getting a signed copy of the Order of Judge Maceda,[56] contrary to his earlier declaration in his sworn statement that he was at the office of the respondent on the said date, with the intention of getting an unsigned order. We find no basis for the respondent's assertion that since the case against him is based principally on Olavere's testimony and sworn statement, the complaint against him must be dismissed.

It is true that in response to one of the questions of the respondent's counsel on cross examination on whether Olavere had intended to secure an unsigned order from the respondent on August 28, 2001, Olavere declared that he was expecting a signed order from the respondent. Indeed, the answer of Olavere contradicts his sworn statement to the NBI in which he stated that he went to the office of the respondent on August 28, 2001 to get an unsigned order. It bears stressing, however, that in answer to the subsequent questions on cross examination, Olavere testified that he intended to secure an "unsigned decision" from the respondent on August 28, 2001, thereby corroborating his sworn statement.[57]

To determine the credibility and probative weight of the testimony of a witness, such testimony must be considered in its entirety and not in truncated parts. To determine which contradicting statements of a witness is to prevail as the truth, the other evidence received must be considered. In *People v. Ubiña*,[58] the Court held that contradicting testimony given subsequently does not necessarily discredit the previous testimony if the

contradiction is satisfactorily explained. There is no rule which states that a previous testimony is presumed to be false merely because a witness now says that the same is not true. A testimony solemnly given in court should not be lightly set aside. Before this can be done, both the previous testimony and the subsequent one should be carefully scrutinized – in other words, all the expedients devised by man to determine the credibility of witnesses should be utilized to determine which of the two contradicting testimonies represents the truth.

Also, under Rule 132, Section 13 of the Revised Rules of Court, a witness may be impeached by showing that such two contradicting statements are under oath. However, in order to impeach Olavere's testimony to be inconsistent with the sworn statement, the sworn statement alleged to be inconsistent with the subsequent one should have been shown and read to him and, thereafter, he should have been asked to explain the apparent inconsistency. This was not done in this case, and the respondent cannot derive any benefit from the supposed contradiction in Olavere's testimony.[59] We reiterate our own ruling in *People v. De Guzman*:[60]

In *People vs. Resabal*, this Court explicitly ruled that the mere presentation of the prior declarations of a witness without the same having been read to the witness while he was testifying in court is insufficient for the desired impeachment of his testimony. As explained therein, the apparent contradiction between the declarations of the witness before the former justice of the peace court and those before the then court of first instance was insufficient to discredit him since he was not given ample opportunity, by reading to him his declarations before the lower court, to explain the supposed discrepancy.

The rule which requires a sufficient foundation to be first laid before introducing evidence of inconsistent statements of a witness is founded upon common sense and is essential to protect the character of a witness. His memory is refreshed by the necessary inquiries, which enables him to explain the statements referred to, and to show that they were made under a mistake, or that there was no discrepancy between them and his testimony.

It would be unjust to complainant at this stage to be declared an incredible witness as a result of the unauthorized procedure adopted by appellant. It is evidentiarily proscribed to discredit a witness on the bases of purportedly prior inconsistent statements which were not called to the attention of that witness during the trial, although the same are supposedly contained in a document which was merely offered and admitted in its entirety without the requisite specifications.

Through such a somewhat underhanded recourse, a party can expediently offer in evidence at the trial the whole document containing allegedly variant statements and then point out much later on appeal the supposed contradictory statements which were not specified, intentionally or otherwise, in the same trial. That sub silentio gambit would necessarily deprive a witness of the chance to explain the seeming divergencies, which is the paramount consideration of the rule mandating the laying of the proper predicate.

Complainant is undoubtedly the person best suited and mandated by the rule to explain the supposed differences in her statements. Without such explanation before us, whether plausible or not, we are left with no basis to evaluate and assess her credibility on the rationale that it is only when no reasonable explanation is given by a witness in reconciling his conflicting declarations that he should be deemed impeached. As things stand before us and the court a quo, therefore, complainant's credibility remains unimpeached.

On the foregoing considerations, we confirm the validity of the doctrine articulated by the Court of Appeals in *Villaruel vs. Bascon* that, unless the proper predicate is laid during the trial by calling the attention of a witness to his alleged inconsistent statements given outside of his testimony in court and asking him to explain the contradiction, the supposed inconsistencies cannot be pointed out on appeal for the purpose of destroying the credibility of the witness. This pronouncement was actually based upon and in line with the holdings of this Court in *Escosura* and *People vs. Lim Quingsy*.

We have calibrated, in light of the other evidence on record, the entirety of Olavere's testimony on

cross-examination and have arrived at the conclusion that, indeed, Olavere intended to receive an unsigned Order of Judge Maceda from the respondent on August 28, 2001. The evidence on record shows that when Olavere arrived at the respondent's office on August 28, 2001, he received the unsigned order from the respondent after the latter had received the P50,000. We, therefore, rule that Olavere was not impeached as a witness and his sworn statement rendered of no probative weight merely because of his erroneous answer to one of the questions of respondent's counsel on cross-examination. We also note that the Investigating Justice gave credence and full probative weight to the sworn statement of Olavere, that he received the unsigned order[61] from the respondent on August 28, 2001.

The probative weight of the sworn statement of Olavere that the respondent gave him the unsigned Order on August 28, 2001 cannot be overcome by the latter's bare denials.

This Court is convinced, as the Investigating Justice was, that the respondent himself prepared the unsigned order. The evidence on record shows that the respondent, as the Deputy Clerk of Court of Branch 275, received from Macaldo, the Branch Clerk of Court of Branch 255, the records of Crim. Case No. 00-0117 on July 3, 2001, as Judge Maceda was to resolve the pending incidents, including the Motion to Resolve Ex-Parte Omnibus Motion to Quash, Lift Hold Departure Order and to Recall Warrant of Arrest and Release Bond filed by the State Prosecutor. After receiving the records of the case from Macaldo, the respondent kept the same in his custody. The respondent failed to adduce credible evidence that he parted with the records from July 3, 2001 to August 28, 2001 and turned over the same to Judge Maceda.

Even a cursory reading of the unsigned Order will show that it contained facts culled from the records of Criminal Case No. 00-0117. As the records were in the custody of the respondent, only he could have prepared the said order. Moreover, on the last page, on the left bottom side of the order, contain the initials of the stenographic reporter who typed the said order, followed by the initials of the respondent himself: "EACM" corresponding to his full name, Edgar Allan C. Morante. We agree with the perceptive disquisitions of the Investigating Justice in his Report to this Court on the utter untenability of the respondent's bare denial, thus:

The denial of the respondent, and even a thousand more, cannot alter the fact that his initial eacm which stands for Edgar Allan Ching Morante and the initial of one of the stenographers of Branch 275 which reads, cgl appeared at the left bottom portion of the last page of the unsigned order (Exhibit "B-5," p. 131, Rollo). The stenographer with cgl initial appeared to be the favorite stenographer of Judge Maceda as shown by the fact that all the orders that the judge issued which were marked as Exhibits "H" to "H-23," only Exhibit "H-22" did not bear said initial. The initial of the respondent eacm that appeared in the unsigned order is a mute but a very persuasive and convincing witness that, indeed, the unsigned order was prepared by him (respondent) and, he was the one who gave it to Olavere in exchange of the Fifty Thousand (P50,000.00) Pesos. Moreover, the signed order except for two or three significant paragraphs was bodily lifted from the unsigned order. The signed order also bore the initial (cgl) of the same stenographer at the bottom of the last page and of the respondent below the typewritten name, BONIFACIO SANZ MACEDA (TSN, p. 6, Nov. 8, 2002)....[62]

The respondent foisted on the Court a tattle-tale when he claimed that the records of Criminal Case No. 00-0117 had been in the chambers of Judge Maceda from July to August 2001 and, as such, it was physically impossible for him to have prepared the unsigned order and later gave it to Olavere. The respondent failed to adduce any documentary evidence to prove that Judge Maceda received the records of said case from Macaldo or from the respondent before August 28, 2001. The respondent should have adduced in evidence the record book of Branch 275 showing when the records were transmitted to Judge Maceda. It behooved the respondent to have presented Judge Maceda as a witness to corroborate his claim that the records were in the chambers of the Judge from July 3, 2001 up to August 28, 2001. The respondent could have elicited from Judge Maceda that he kept the records of said criminal case in his chambers during the said period. Judge Maceda could have identified the person who

prepared the draft of the signed order which he corrected before he signed the same on August 28, 2001. The respondent failed to do so. The respondent's culpability became more evident when he was confronted by the Investigating Justice with the unsigned order. The Investigating Justice noticed that the respondent blushed and started to stammer when the latter answered clarificatory questions.[63]

A reading of both the unsigned order[64] and the signed order[65] reveals that there can be no other conclusion than that the two orders were prepared by one and the same person using the same typewriter, and the records of Criminal Case No. 00-0117. As gleaned from the encompassing Report of the Investigating Justice:

... When respondent was confronted with the two (2) orders – unsigned and signed – with his initials in both and, asked whether he noticed that the 2nd par. of page 2 of the signed order was verbatimly copied from the 3rd par., p. 1 of the unsigned order, respondent blushed and started to stammer in answering further questions.

A careful examination of the two (2) orders would show that par. 2, p. 1 of the unsigned order is the same as par. 1, p. 3 of the signed order; par. 1, p. 3 of the unsigned order is the same as par. 2, p. 3 of the signed order except that the cited authority in the unsigned order reads *Luspo vs. Mogue*, while in the signed order the authority cited reads, *Crespo vs. Mogul*, 151 SCRA 462. The cited authority which reads *Luspo vs. Mogue* can be concocted only by a devious mind. Par. 2, p. 3 to p. 4, of the unsigned order is similar to par. 1, p. 2 of the signed order; and, the last paragraphs of both the unsigned and signed orders are the same.

The respondent resorted to twisting the testimony of Olavere to prove his claim that the latter pocketed the P50,000 intended for the respondent.

When asked by counsel for the respondent if it was possible that he, Olavere, did not give the P50,000, Olavere testified it was possible, but insisted that he gave the same to the respondent:

ATTY. MORALES-PADUA:

Q:

And then you reported to Mr. Momma that the amount of P50,000.00 was received by Mr. Morante?

A:

Of course.

Q:

He takes (sic) your word for it?

A:

Yes.

Q:

It is possible that you did not give it to Mr. Morante? You just told Mr. Momma that you gave it to Mr. Morante. Is that not possible?

A:

It is possible, but I gave it to Mr. Morante.

Q:

And it is also possible that you pocketed the money?

A:

That is impossible, I will not do that.

Q:

It is possible.

A:

I will not do that to my boss.

Q:

When you alleged you gave the money to Atty. Morante, you did notify the NBI?

A:

After I gave the money, I went directly to the NBI and reported what happened during the exchange of unsigned decision.

Q:

We are talking about the P50,000.00?

A:

Yes.

Q:

You did not go to the NBI before you gave the money to entrap Atty. Morante?

COURT:

Before you gave the money, you did not go to the NBI?

That is the question.

Q:

The P50,000.00?

A:

I am coordinating my every move with the Chief of SAU. That includes the P50,000.00 we were supposed to give in exchange for the unsigned decision.

COURT:

When you say SAU. What do you mean by that?

WITNESS:

Special Action Unit.

COURT:

Of what?

WITNESS:

Of the NBI.

Q:

So before you allegedly gave the P50,000.00 to Atty. Morante, you informed the NBI?

A:

Yes, they knew of my every move.[66]

When Olavere saw the NBI agents on August 27, 2001 as claimed by Toledo about the denial of the respondent for P250,000 in consideration of an unsigned order is not of such importance. Olavere went to the NBI on said date and executed an affidavit-complaint against the respondent and filed the same to the NBI. Olavere closely coordinated all their moves with the NBI, including the giving of P50,000 for the unsigned order:

ATTY. MORALES-PADUA:

Q:

And then you reported to Mr. Momma that the amount of P50,000.00 was received by Mr. Morante?

A:

Of course.

Q:

He takes (sic) your word for it?

A:

Yes.

Q:

It is possible that you did not give it to Mr. Morante? You just told Mr. Momma that you gave it to Mr. Morante. Is that not possible?

A:

It is possible, but I gave it to Mr. Morante.

Q:

And it is also possible that you pocketed the money?

A:

That is impossible, I will not do that.

Q:

It is possible.

A:

I will not do that to my boss.

Q:

When you alleged you gave the money to Atty. Morante, you did notify the NBI?

A:

After I gave the money, I went directly to the NBI and reported what happened during the exchange of unsigned decision.

Q:

We are talking about the P50,000.00?

A:

Yes.

Q:

You did not go to the NBI before you gave the money to entrap Atty. Morante?

COURT:

Before you gave the money, you did not go to the NBI?

That is the question.

Q:

The P50,000.00?

A:

I am coordinating my every move with the Chief of SAU. That includes the P50,000.00 we were supposed to give in exchange for the unsigned decision.

Q:

When you say SAU. What do you mean by that?

A:

Special Action Unit.

Q:

Of what?

A:

Of the NBI.

Q:

So before you allegedly gave the P50,000.00 to Atty. Morante, you informed the NBI?

A:

Yes, they knew of my every move.[66]

Indeed, immediately after receiving the unsigned order from the respondent on August 28, 2001, Olavere gave the unsigned order to the NBI as evidence against the respondent. The culpability of the respondent is, likewise, evidenced by his failure to follow procedure when he made arrangements with Olavere to release the order signed by Judge Maceda himself. As ruled by the Investigating Justice:

Respondent violated procedure when he personally released the signed order to Olavere. According to Ms. Macaldo, the release of the order should have been made by the court where it was filed. Since the Momma case was filed with Branch 255 and the pending incidents were resolved by Judge Maceda only as a pair judge, the order should be released by the staff of Branch 255. This procedure was followed in all cases with pending incidents from Branch 255 that were resolved by Judge Maceda, except the Momma case.[68]

Anent the second and third issues, we agree with the findings of the Investigating Justice in his Report that the complainant was able to adduce substantial evidence to prove that the respondent promised to Olavere and agreed to give and did give and actually gave to the latter on August 31, 2001 a certified copy of the August 28, 2001 Order already signed by Judge Maceda after receiving the brown envelope containing the P200,000 from Olavere. In his affidavit-sworn statement on August 31, 2001 Olavere declared, thus:

T

Pagkatapos na maibigay mo ang P50,000 noong August 28, 2001 kapalit ang walang pirmang desisyon, anong nangyari?

S

Nakipagset ng schedule si ATTY. MORANTE na ibibigay niya ang pirmadong desisyon kapalit ng P200,000 sa biyernes, August 31, 2001.

T

Ano ang sumunod na pangyayari?

S

Ngayon araw na ito, August 31, 2001, bandang alas-onse y medya ng umaga (11:30 AM) ay nagpunta ako sa opisina ni ATTY. MORANTE.

T

Ano naman ang ginawa mo sa opisina ni ATTY. MORANTE?

S

Ayon sa usapan ay kinuha ko ang pirmadong desisyon ni Judge BONIFACIO SANZ MACEDA kapalit ng P200,000. Tinanggap niya ang pera na nasa loob ng envelop at ipinatong sa ibabaw ng kanyang mesa. (Affiant submits Order of Judge BONIFACIO SANZ MACEDA dated August 29, 2001 marked as Annexes "A" to "A-3")

T

Ano ang sumunod dito?

S

Dumating na ang mga taga-NBI at hinuli si ATTY. MORANTE.

T

May ipapakita ako sa iyong tao, kilala mo ba siya?

S

Opo, siya po si ATTY. ALLAN MORANTE ang Branch Clerk of Court ng Branch 275, RTC, Las Piñas City, na tumanggap ng P200,000 nasa loob ng envelope.

T

Pansamantala ay wala na muna akong nais na itanong pa sa inyo, mayroon ba kayong nais na idagdag o ibawas dito sa inyong salaysay?

S

Wala po.[69]

To the clarificatory questions of the Investigating Justice, Olavere replied, viz:

Q

When you went inside the room, there is (sic) a door?

COURT

Door to the office?

Q

Door to the office of Atty. Morante from the outside? There must be a door.

A

Yes, of course.

Q

The door was not locked.

A

Presumably it was not locked.

Q

You did not lock it when you enter (sic)?

A

No.

Q

Then you went to the office of Mr. Morante?

A

Yes, he led me inside.

Q

Then according to you, you got the signed copy of the decision given to you allegedly by Atty. Morante?

A

After the exchange of the money.

Q

Then you got the money from your back contained in an envelope, and you gave it to Atty. Morante?

A

I handed it to him.

Q

He got it and then placed it in (sic) the table. That is the statement that you swore and I quote: “Tinanggap niya ang pera na nasa loob ng envelope at ipinatong sa ibabaw ng kanyang mesa.” He did not hide it in his drawer. He did not pocket it. And after receiving the money, he placed it there on top of the table. And you swore to that statement?

A

Yes.

Q

When was the money given to you by the NBI? We are referring to the P200,000.00. Who gave to (sic) you the money?

A

Mr. Momma gave the money.

Q

Did you give it to the NBI?

A

I showed it to them and then they had it dusted for (sic) fluorescent powder. All the proceedings were done with proper paper works. And I had the money with me and I went to Las Pinas.

Q

When you handed the money contained in an envelope, you know that it was already dusted for (sic) fluorescent powder and everything in order to show...?

A

Yes.[70]

Respondent belabored on the evidence on record that after the entrapment operation in the office of the respondent, the dorsal and palmar aspects of his left and right hand were subjected to ultraviolet light test and were found negative for fluorescent powder. However, the result of the test does not enfeeble the case for the complainant. In the first place, the absence of fluorescent powder on the dorsal and palmar aspects of the respondent's hands is not conclusive evidence that he did not hold the brown envelope at all before the NBI agents arrived in his office. The evidence on record shows that the NBI agents referred the white mailing envelope with the P1,000 bills to the NBI Forensic Chemist Section for the application of fluorescent powder.[71] The said bills and the white mailing envelope were dusted with fluorescent powder. However, the NBI agents discovered that the white mailing envelope was too small to contain bundles of bills amounting to P200,000, and placed the bundles of bills in a 6x8-inch size brown envelope, which, however, was no longer dusted with fluorescent powder. After receiving the envelope from Olavere, the respondent placed it on top of his table. Had the respondent opened the envelope containing the four P1,000 bills dusted with fluorescent powder, for sure, the palmar aspects of his hand would have tested positive for fluorescent powder.

The respondent claimed that one of the NBI agents who barged into his room took hold of the brown envelope, removed the seal and opened it in front of him, and that the said agent grabbed his right hand and attempted to place it inside the envelope, but was foiled when stenographer Leticia B. Agbayani entered the room and shouted, "What's happening here?" (Anong nangyayari dito?) to which the respondent replied, "Entrapment daw." [72] The claim of the respondent is belied by his testimony that before Agbayani's arrival, an NBI agent had already taken the money from the brown envelope and placed the bundles of money on top of his table. Thus, when Agbayani barged into the respondent's room, Agbayani must have seen the bundles of money on his table. In her affidavit, [73] she stated that when she barged into the respondent's room after the NBI had gained entry, she asked the respondent, "Alam mo ba kung anong laman niyan?" to which the respondent replied, "Hindi," does not bolster the respondent's defense, but on the contrary, weakens the same. It is incredible that the respondent would respond that "he did not know what was contained in the envelope," when, according to his testimony, Agbayani barged into the room and the bundles of P200,000 had already been taken out of the envelope and were placed on his table. The respondent even failed to identify the NBI agent who filed an administrative or criminal charge against him for attempting to falsely implicate the respondent.

Apart from the presumption that the NBI agents performed their duties in accordance with law, the bare statement of the respondent cannot prevail, especially since Leon Matienzo, the principal witness, whose testimony the respondent principally relied on to corroborate his, was found by the Investigating Justice incredible. We agree with the following disquisition of the Investigating Justice in his Report to the Court:

To corroborate respondent's defense that he did not received (sic) the money inside the bulky brown envelope, another tutored and perjured witness in the person of Leon Matienzo was presented.

Leon Matienzo admitted that his affidavit was prepared by Atty. Cayton, counsel for the respondent. Witness was not sure whether his affidavit was prepared in August or September 2001. When the witness finally decided that his affidavit was prepared September 2001, on a Monday after talking to Atty. Morante, yet he cannot remember the date. The witness was warned not to talk to anybody while still testifying (TSN, pp. 22-23, July 22, 2001). The witness was even ambivalent when asked as to the time his affidavit was prepared (TSN, p. 24, Ibid.) which is a proof that he was tutored and was just asked to sign it.

Witness Matienzo is the Process Server of Branch 254. He claimed that at about 11:30 o'clock in the morning on August 31, 2001, he went inside the office of the respondent to inform him that they were able to get a schedule for their civil service examinations. Almost simultaneous with his arrival in said office, he heard Atty. Morante asked (sic) the person he was talking to, "ano yan?" He asked to be excused and told the respondent, "boss ipapaalam ko lang na nakapagpa-schedule na kami para sa civil service examination" and, he (Morante) answered, "Okay." And he asked permission to leave.

The role assigned to Matienzo in the defense of respondent was just to say/testify that he heard Atty. Morante asked (sic), "ano yan?" and, nothing more. The witness is the Process Server of Branch 254 presided by Judge Fernandez, the Executive Judge. According to him, he was already permitted by the Executive Judge and the Branch Clerk of Court to take the civil service examination. Why then would he still go to the office of Atty. Morante, who was not his superior, on the fateful day of August 31, 2001 just to inform him that he had a scheduled civil service examination?

Hereunder are portions of the testimony of the witness that would show the limited role assigned to the witness in respondent's defense:

Q

What was the reaction of the person who was inside (the office) when Atty. Morante say (sic), "ano yan?"

A

Nakatingin po sa kanya, sir.

Q

He did not react?

A

Hindi ho kasi mabilis lang po ako doon, eh. Nang sabihin po nag-excuse na po ako.

Q

Why were you in a hurry to leave the place when at that point, Atty. Morante was already asking, what was that?

A

Dahil sa nag-excuse po ako, sir. Excuse me, sir, sabi ko sa kanya at sa kanyang kausap, me sasabihin lang po ako (TSN, p. 32, July 22, 2002).

Q

Now, are you sure that what you heard was, ano yan?

A

Yes, sir.

Q

Nothing else?

A

Nothing else, sir. (TSN, p. 35, Ibid.)

The witness cannot even remember the date when the affidavit was prepared, the day he signed it and, the date when it was subscribed before a person authorized to administer oath. These only show that all the facts stated therein were supplied by counsel to corroborate the testimony of the respondent.[74]

The case for the complainant is not enfeebled by the affidavit of Olavere dated December 5, 2002 where he retracted his sworn statement, the supplemental sworn statement to the NBI and his testimony before the Investigating Justice; and desisted from being a witness against the respondent on his claim that “the statements therein are not only hearsay but were brought about by grave mistake and misapprehension of fact and any lack of knowledge of court procedures;”[75] nor by the affidavit of desistance executed by Momma on his claim that:

- However, the said statement was merely provided by my interpreter, which is turned out and was later on discovered, was a result or was brought about by mistake and grave misapprehension of facts and his lack of knowledge of court procedure, Atty. Morante did not request nor received money directly from me to have the said case dismissed and I have never met him in my life; ...[76]

First. In *People v. Ballabare*,^[77] we held that a retraction of a witness does not necessarily negate an original testimony. For this reason, the Court looks with disfavor upon such retractions because testimonies can easily be obtained from witnesses through intimidation or for monetary consideration. Moreover, any reconsideration must be tested in a public trial, with sufficient opportunity given to the adverse party affected by it to cross-examine the recanting witness. Hence, when confronted with a situation where a witness recants his testimony, courts must not

automatically exclude the original testimony solely on the basis of recantation. They should determine which testimony should be given credence through a comparison of the original testimony and the new testimony, applying the general rules of evidence.[78] We have also held that it is absurd to disregard a testimony that has undergone trial and scrutiny by the Court and the parties simply because an affiant withdraws his testimony. Olavere and Momma executed their affidavits only after the formal investigation had been concluded and the case submitted for report and recommendation by the Investigating Justice.

Second. The respondent failed to file a motion for the reopening of the investigation to enable him to present Olavere and Momma to testify on their affidavits to prevent the Investigating Justice and the Court Administrator, which were not even furnished with copies of said affidavits, from conducting examination of Olavere and Momma on their affidavits.

Third. Olavere had personal knowledge of the facts contained in his sworn statement, supplemental sworn statement and his testimony and, hence, the said statement and testimony are not hearsay. Olavere dealt personally with the respondent, gave him the total amount of P250,000 after receiving the unsigned and signed orders from the respondent.

Fourth. Olavere and Momma did not explain their affidavits why it took them until December 11, 2002 or after the lapse of more than a year from the entrapment of the respondent on August 31, 2001 to execute the same. It is incredible that it took Olavere more than one year to realize that the facts contained in his sworn statement and as testified to by him were hearsay and of his lack of knowledge of procedure. Being a mere secretary and a functionary of Momma, Olavere has not explained how he came to the conclusion that his sworn statement and testimony are "hearsay."

Fifth. The desistance of witnesses does not automatically result in the dismissal of an administrative case. This Court, in fact, looks with disfavor at affidavits of desistance filed by complainants, especially if done as an afterthought. Contrary to the submission of the respondent, the withdrawal of the complaint on the recantation of Olavere does not have the legal effect of exonerating him from any administrative disciplinary actions for acts/omissions meriting disciplinary sanctions by the respondent. It does not operate to divest this Court of jurisdiction to determine the truth behind the matter stated in the complaint. The Court's disciplinary authority cannot be dependent on or frustrated by private arrangements between parties. An administrative complaint against an official or employee of the judiciary cannot simply be withdrawn by a complainant who suddenly claims a change of mind.[79]

On the last issue, we agree with the Investigating Justice that the respondent, based on the substantial evidence on record, is guilty of grave and serious misconduct: for extorting P50,000 from Momma through Olavere for the unsigned order, and another P200,000 for the order duly signed by Judge Maceda. Such abominable acts of the respondent warrant his dismissal from the service and the imposition of accessory penalties therefor.[80]

The Court condemns and would never countenance any conduct, act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the Judiciary.[81]

Time and again this Court has stressed that those involved in the administration of justice must conduct themselves in a manner that is beyond reproach since their office is circumscribed with a heavy burden of responsibility.[82] Public office is a public trust. No position demands greater moral righteousness and uprightness from its occupant than does the judicial office. Clerks of court, in particular, being the chief administrative officers of their respective courts, must be individuals of competence, honesty and probity, charged as they are with safeguarding the integrity of the court and its proceedings.[83] As essential and ranking officers

of our judicial system, they perform delicate administrative functions vital to the prompt and proper administration of justice.[84] Clerks of court serve as an exemplar for other court employees, whose duties and responsibilities must be strictly performed. They play a key role in the complement of the court and cannot be permitted to slacken on the job under one pretext or another.[85]

Furthermore, it must be stressed that a member of the Bar who assumes public office does not shed his professional obligations. The Code of Professional Responsibility was not meant to govern the conduct of private practitioners alone, but of all lawyers, including those in government service.[86] Lawyers in government are public servants who owe utmost fidelity to the public service. Thus, they should be more sensitive in the performance of their professional obligations, as their conduct is subject to the ever-constant scrutiny of the public.[87]

Under A.M. No. 02-9-02-SC[88] Re: Automatic Conversion of Some Administrative Cases Against Justices of the Court of Appeals and the Sandiganbayan; Judges of Regular and Special Courts; and Court Officials Who are Lawyers as Disciplinary Proceedings Against Them Both as Such Officials and as Members of the Philippine Bar,[89] which took effect on October 1, 2002, the respondent would have been required to “comment on the complaint and to show cause why he should not also be suspended, disbarred or otherwise disciplinarily sanctioned as a member of the bar.” However, the complaint was filed before this Court on September 21, 2001, long before the said resolution took effect. Thus, it cannot be applied in the instant case.⁹⁰

WHEREFORE, in view of the foregoing, respondent Atty. Edgar Allan C. Morante, Clerk of Court, Regional Trial Court, Las Piñas City, Branch 275, having been found GUILTY of grave and serious misconduct, is DISMISSED from the service effective immediately, with forfeiture of all retirement benefits, except accrued leave credits, with prejudice to his reemployment in any branch or instrumentality in the government, including government-owned and controlled corporations.

SO ORDERED.

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

[1] Rollo, p. 116.

[2] Id. at 117.

[3] Id.

[4] Id. at 188.

[5] Id. at 114.

[6] Office of the Court Administrator v. Branch Clerk of Court Edgar Allan Morante, RTC, Las Piñas City, Branch 275.

[7] Rollo, p. 240.

[8] The parties agreed that the affidavits of the witnesses for the complainant and those of the respondent and his witnesses shall serve as the testimonies of said witnesses and the respondent, respectively, on direct examination subject to the cross-examination by the adverse party.

[9] The complainant presented Jose Olavere, NBI Agents Marlon Toledo, Joselita Macaldo and Forensic Chemist Felicissima Francisco.

[10] CA-G.R. SP No. 63849.

[11] Rollo, p. 155.

[12] Id. at 154.

[13] Exhibit "E."

[14] Exhibit "B," Rollo, p. 126.

[15] Exhibit "A."

[16] Ibid.

[17] Exhibits "F-1" to "F-4."

[18] Exhibit "F."

[19] Exhibit "C."

[20] Ibid.

[21] Exhibit "I."

[22] Exhibit "A."

[23] Rollo, p. 237.

[24] Otherwise known as the Graft and Corrupt Practices Act.

[25] Exhibit "10."

[26] Exhibit "11."

[27] The following submitted their respective affidavits: (1) Roberto Galing, Sheriff of RTC, Branch 255; (2) Leon Matienzo, Process Server of Branch 254; (3) Leticia B. Agbayani, Court Stenographer and the OIC of RTC, Branch 275; (4) Josefino Ortiz; (5) Zardi Melito D. Abellera, City Legal Officer; and (6) Edgardo Villar, Clerk III of RTC, Branch 275. Respondent Edgar Allan Morante submitted a counter-affidavit (Exh. "10") and a Rejoinder (Exhibit "11").

[28] Rollo, pp. 145-146.

[29] Id. at 146.

[30] Id.

[31] TSN, 29 July 2002, p. 7.

[32] Rollo, p. 147.

[33] TSN, 12 August 2002, p. 5.

[34] TSN, 29 July 2002, p. 11.

[35] Rollo, p. 148.

[36] TSN, 22 July 2002, p. 14.

[37] Supra at note 29.

[38] Id. at 148.

[39] Rollo, p. 203.

[40] Ibid.

[41] Id. at 149.

[42] Id.

[43] Id.

[44] Id.; TSN, 22 July 2002, p. 42.

[45] TSN, 22 July 2002, pp. 43-44.

[46] Id. at 150.

[47] Id.

[48] Supra at note 26.

[49] TSN, 29 July 2002, p. 16.

[50] A.M. No. RTJ-01-1631, August 14, 2003.

[51] 359 SCRA 426 (2001).

[52] Exhibit "E."

[53] TSN, 2 April 2002, pp. 33-34.

[54] Exhibit "B."

[55] Rollo, p. 125.

[56] TSN, 2 April 2002, p. 14.

[57] Id. at 19.

[58] 97 Phil. 515 (1955).

[59] People v. Campaner, 336 SCRA 439 (2000).

[60] 288 SCRA 346 (1998).

[61] Exhibit "B."

[62] Report and Recommendation, p. 30.

[63] Report and Recommendation, p. 30.

[64] Exhibit "B."

[65] Exhibit "C."

[66] TSN, 2 April 2002, pp. 16-18 (*Italics supplied*).

[67] *Id.* at 17-18.

[68] Report and Recommendation, p. 36.

[69] Exhibit “H-1,” Rollo, p. 134.

[70] TSN, 2 April 2002, pp. 24-26.

[71] Exhibits “F” to “F-4.”

[72] Exhibit “10,” Rollo, p. 149.

[73] Exhibit “5,” *Id.* at 205.

[74] Report and Recommendation, pp. 32-34.

[75] Rollo, p. 341.

[76] *Id.* at 342.

[77] 332 Phil. 384 (1996).

[78] Citing *Reano v. Court of Appeals*, 165 SCRA 525 (1988).

[79] See *Punzalan v. Plata*, 372 SCRA 534 (2001) and *Guray v. Bautista*, 360 SCRA 489 (2001).

[80] *Huggland v. Judge Lantin*, 383 Phil. 516 (2000).

[81] *Pizarro v. Villegas*, 345 SCRA 42 (2000).

[82] *Gacho v. Fuentes, Jr.*, 291 SCRA 474 (1998); *Sy v. Academia*, 198 SCRA 705 (1991); *Tan v. Herras*, 195 SCRA 1 (1991).

[83] *Rangel-Roque v. Rivota*, 302 SCRA 509 (1999); Re: Memo dated September 27, 1999 of Ma. Corazon M. Molo, Officer-in-Charge, Office of the Court Administrator, A.M. SCC-00-6-P, October 16, 2003; *Gutierrez v. Quitalig*, A.M. No. P-02-1545, April 2, 2003.

[84] *Reyes-Domingo v. Morales*, 342 SCRA 6 (2000).

[85] *Noel G. Wabe v. Luisita P. Bionson*, A.M. No. P-03-1760, December 30, 2003.

[86] Canon 6. – These Canons shall apply to lawyers in government service in the discharge of their official tasks.

[87] *Atty. Julito Vitriolo, et al. v. Atty. Felina Dasig*, A.C. No. 4984, April 1, 2003.

[88] Dated September 17, 2002, entitled Re: Automatic Conversion of Some Administrative Cases Against Justices of the Court of Appeals and the Sandiganbayan; Judges of Regular and Special Courts; and Court Officials Who are Lawyers as Disciplinary Proceedings Against Them Both as Such Officials and as Members of the Philippine Bar.

[89] The full text of the said resolution is as follows:

Some administrative cases against Justices of the Court of Appeals and the Sandiganbayan; judges of regular and special courts; and court officials who are lawyers are based on grounds which are likewise grounds for the disciplinary action of members of the Bar for violation of the Lawyer’s Oath, the Code of Professional Responsibility, and the Canons of Professional Ethics, or for such other forms of breaches of conduct that have

been traditionally recognized as grounds for the discipline of lawyers.

In any of the foregoing instances, the administrative case shall also be considered a disciplinary action against the respondent Justice, judge or court official concerned as a member of the Bar. Judgement in both respects may be incorporated in one decision or resolution.

This Resolution shall supplement Rule 140 of the Rules of Court and shall take effect on the first day of October 2002. It shall also apply to administrative cases already filed where the respondents have not yet been required to comment on the complaints (Emphasis supplied). ...

89 Please see *Heinz R. Heck v. Judge Anthony E. Santos*, RTJ-01-1657, February 23, 2004.

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.