

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
MARIANO TIGULO AND PACIFICO VELASQUEZ, DEFENDANTS AND
APPELLANTS, CRISPULO S. ESGUERRA, RESPONDENT.**

G.R. No. L-34334. May 12, 1972

Ponente: FERNANDO, J.

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FERNANDO, J.:

Respondent Crispulo S. Esguerra, a member of the Philippine Bar and counsel de parte of one of the appellants, Pacifico Velasquez, was, by virtue of our resolution of March 10, 1972, required to explain within ten days from notice thereof his failure to file his brief for such appellant.

His explanation came in a pleading filed on April 6, 1972, worded thus: "That he is the counsel for Pacifico Velasquez, who is bound to file his brief before the Honorable Court in view of the appeal of defendant appellant from the decision of the Court of First Instance of Nueva Ecija dated June 23, 1971 and now forms part of the records of the case; That he failed to file the required brief on time in view of the fact that when he received the notice to file brief, he conferred with the family of the defendant-appellant Pacifico Velasquez, particularly his brother in law Paterno Canaveral who manifested that they are no longer interested in pursuing the appeal; That when informed of their decision, the undersigned counsel immediately prepared a 'Notice to Withdraw Appeal', [copy attached as Annex A], dated February 8, 1972 and requested Paterno Canaveral to have the same mailed to the Honorable Supreme Court and the Solicitor General; however, it was only on March 2, 1972 that I came to know that the same was not mailed because the parents of Pacifico Velasquez changed their mind and after conferring with Atty. Cesar Francisco decided to adopt the brief of defendant-appellant Mariano Tigulo as the same brief of Pacifico Velasquez in pursuing their appeal; That it was to my surprise to know that the Motion to Withdraw Appeal dated February 8, 1972 was not filed on time so, after knowing of their decision, to continue their appeal, this representation immediately prepared a 'Manifestation' dated March 6, 1972 and mailed on March 7, 1972, a copy of which was sent to the Office of the Solicitor General, Manila, [copy attached as Annex B] and copy of the brief of Mariano Tigulo adopted by Pacifico Velasquez [copy attached as Annex C]; That the undersigned counsel with all sincerity and candidness has no intention whatsoever to evade his sworn duty to his clients and to the Honorable Court, and if ever there was a delay in complying with the orders of the Honorable Court it was not of his own making but due to the inadvertence of members of the family of his client as hereto attested by an affidavit of Paterno Canaveral, [copy attached as Annex D]."[1]

Such an affidavit is worded thus: "That I am the brother in law of defendant-appellant, Pacifico Velasquez in G.R. No. L-34334 now pending appeal before the Honorable Supreme Court and that I am the one directly dealing with his counsel in connection with the instant case; That immediately upon receipt of notice to file brief, Atty. Crispulo S. Esguerra of San Jose City notified me about the necessity of filing the same, so I contacted the family of [Pacifico Velasquez] and after conferring with the defendant-appellant, we have decided not to continue with this appeal, so I relayed the information to Atty. Crispulo S. Esguerra, who prepared a Motion to Withdraw Appeal dated February 8, 1972 and requested me to mail the same, however, I failed to mail the same in view of

another development when I informed the parents of Pacifico Velasquez about the said motion and asked me to delay the mailing of the same until they have contacted Atty. Cesar Francisco, counsel for Mariano Tigulo; That it was only on March 2, 1972 that I informed Atty. Crispulo S. Esguerra that I have not mailed the motion to withdraw appeal and that the parents of P. Velasquez had finally decided to continue with the appeal and are adopting the brief for Mariano Tigulo as the brief for Pacifico Velasquez; That I am executing this affidavit to attest to the fact that Atty. Crispulo S. Esguerra has not slept on the rights of his client and neither is he negligent in the performance of his duty to the Honorable Court and that if ever there was a delay in complying with the orders of the Honorable Court, it was our own making and not that of the counsel of Pacifico Velasquez." [2]

The above explanation is far from satisfactory. Respondent Esguerra cannot, by virtue thereof, be exculpated.

The effort of respondent to escape from any disciplinary action as set forth in the aforesaid explanation sought to be bolstered by an affidavit of a kinsman of appellant Velasquez, is far from persuasive. Even if full credence be paid to what was asserted by him, still indications of negligence on his part are not lacking. Considering the serious offense with which his client is charged and the notice to him to file the appellant's brief, he was expected to apprise this Court of any development that would discharge him from such an obligation. All the while though, he kept this Court in the dark as to the alleged decision reached by the family of appellant Velasquez not to pursue the appeal and of its apparent change of mind reflected in its acceptance of the brief for his co-appellant Tigulo as sufficing to set forth his side of the case and possibly to obtain a reversal of the judgment of conviction. It was not enough for him to assert that certain pleadings were prepared. It was incumbent upon him to take the necessary steps to file them. That he failed to do. All the while, this Court was kept in the dark as to such alleged later developments. That was clearly negligence on his part for which he should be held accountable.

Nor is this all. What is worse is that respondent Esguerra in patent violation of the obligation a lawyer owes his client on such an important matter as the withdrawal of an appeal with all the adverse consequences it entails and the equally significant decision allegedly reached by the family that instead of not pursuing the appeal, the brief for a co-accused would be adopted to set forth his defense. Had respondent Esguerra done so, he would have been aware that as far back as February 21, 1972, appellant Velasquez wrote the Clerk of this Court imploring that a counsel de officio be appointed for him as he was too poor to employ his own lawyer. This request he repeated in a handwritten note dated March 17, 1972. Such counsel de officio, Attorney Bernabe C. Cabico, was designated to defend appellant Velasquez and given the usual notice of thirty days within which to file his brief.

The above notwithstanding, respondent Esguerra in his explanation of March 28, 1972 would submit as annexes the motion of withdrawal of appeal as counsel for appellant Velasquez with a manifestation of later date to the effect that his client was willing to accept as his own, a brief for a co-accused. This is far, very far, from what is required of a lawyer called upon to defend with earnestness and zeal the rights of a client. As above mentioned, respondent Esguerra could have avoided such glaring misrepresentation of what was in his client's mind if he took the trouble to pay him a visit or at least write to him to find out how things stand. This lack of fidelity to a client's cause was aggravated by his manifestations in the explanation, which could have misled this Court. That such an untoward result was avoided was certainly not due to respondent Esguerra. It would appear that he was completely oblivious of the oft-repeated pronouncement that the privilege to practice law is one burdened with conditions to assure that the administration of justice be attended to efficiently and well.

WHEREFORE, respondent Crispulo S. Esguerra is hereby severely reprimanded and warned that a repetition of such misconduct would be penalized with more severity. Let a copy of this resolution be entered upon his record.

Reyes, J.B.L., Acting C.J., Makalintal, Zaldivar, Castro, Teehankee, Barredo, and Makasiar, JJ., concur.

Concepcion, C.J., on official leave.

Antonio, J., took no part.

[1] Explanation in Compliance with the Order of the Honorable Court dated March 10, 1972 with Motion to Admit Manifestation dated March 6, 1972.

[2] Affidavit, Annex D to Explanation.

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