

**JOEL ALMERON AND EVANGELINE ALMERON, COMPLAINANTS, VS.
JUDGE AGUSTIN T. SARDIDO, MUNICIPAL TRIAL COURT,
KORONADAL, SOUTH COTABATO, RESPONDENT.**

A.M. No. MTJ-97-1142 (OCA IPI No. 96-221-MTJ). November 06, 1997

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

JOEL ALMERON and his wife EVANGELINE in a letter complaint dated 18 October 1996 alleged that their twelve-year old daughter Jojielyn was raped sometime in April and again in September 1996 by one Wilfredo Pino. As a result, two (2) criminal complaints for rape were filled with the Municipal Trial Court (MTC) of Koronadal, South Cotabato, presided over by respondent Judge Agustin T. Sardido.[1] However, without conducting a hearing and without forwarding the records to the Office of the Public Prosecutor, respondents Judge granted bail to the accused in the amount of P200,000.00 for each count of rape. The amount upon motion of the accused was reduced to P120,000.00. In addition, complainant spouses alleged that bail was posted using property of a person who has already been dead for seven (7) years.

On 22 January 1997 the Court directed Judge Sardido to answer the accusation which he did in his “Comment/Compliance” dated 20 February 1997.

In his defense respondent Judge alleged that he initially wrote the words “NO BAIL” on the face of the criminal complaints; however before he could issue a warrant of arrest, Atty. Bonifacio Pagunsan, counsel of the accused, engaged him in a legal argument inside his chambers about the feasibility of granting bail to the accused; that according to the “1996 Bail Bond Guide” of the Department of Justice rape not committed with the use of deadly weapon, by two or more men or not resulting in the insanity of the victim, or in the commission of a homicide by reason or on the occasion thereof, is penalized with reclusion temporal and bailable in the amount of P200,000.00; accordingly he change “No Bail” to P200,000.00 and reduced it to P120,000.00 after finding that the amount was excessive for the provincial folk; that he approved the property bond not knowing that the bondsman was already dead relying instead on the presumption of regularity in the performance by the notary public of his notarial function.

On 30 April 1997 this case was referred to the Office of the Court Administrator for evaluation, report and recommendation. In a Memorandum dated 11 August 1997 the Office of the Court Administrator recommended that respondent Judge be fined P10,000.00 for granting bail to the accused charged with rape on two (2) counts without a hearing thereby denying the prosecution the opportunity to prove that the evidence of guilt of the accused was strong.

We adopt the foregoing recommendation. Any self-respecting member of the bench or bar knows, or should know with little effort, that simple rape is punishable with reclusion perpetua as provided in Art. 335 of the Revised Penal Code.[2] Likewise, as lucidly provided in Sec. 7, Rule 114[3] of the Revised Rules on Criminal Procedure, no person charged with such an offense, when evidence of guilt is strong, shall be admitted to bail regardless of

the stage of the criminal prosecution. Hence a litany of cases emphasizes that bail is discretionary and not a matter of right on the part of the accused.[4] In exercising such judicial discretion, however, a judge is required to conduct a hearing wherein both the prosecution and the defense present evidence that would point to the strength or weakness of the evidence of guilt.[5] The discretion of the judge lies solely in the appreciation and evaluation of the weight of the evidence presented during the hearing but not in the determination of whether or not the hearing itself should be held[6] for such a hearing is considered mandatory and absolutely indispensable before a judge can aptly be said to be in a position to determine whether the evidence for the prosecution is weak or strong.[7]

Thus, when a judge grants bail to a person charged with a capital offense, or an offense punishable by reclusion perpetua or life imprisonment without conducting the required hearing, he is considered guilty of ignorance or incompetence the gravity of which cannot be excused by a claim of good faith or excusable negligence.[8] This is because members of the judiciary are supposed to exhibit more than just a cursory acquaintance with the statutes and procedural rules,[9] more so with legal principles and rules so elementary and basic that not to know them, or to act as if one does not know them, constitutes gross ignorance of the law.[10]

In the instant case, respondent Judge does not deny that he granted bail without a hearing to a person accused of two (2) counts of rape. He attempts to excuse himself by saying that he was misled by the “1996 Bail Bond Guide” of the Department of Justice which provides that simple rape is punishable by reclusion temporal and bailable at P200,000.00.[11] However, as already stated, ignorance of this type cannot be excused by a claim of good faith or excusable negligence.[12] Besides, the fact that he was even misguided only manifests his weakness and reinforces his gross ignorance. As early as in their freshmen year, aspiring members of the legal profession are already taught that felonies are defined and their corresponding penalties found in the Revised Penal Code, probably one of the most important codes in the legal profession. Hence, respondent Judge should not have been misled, purportedly at the prodding of the counsel for the accused, that the “1996 Bail Bond Guide” of the Department of Justice prevails over the explicit provisions of the Revised Penal Code on rape, especially considering that the Guide is addressed and intended for the guidance of all regional state prosecutors, city/provincial prosecutors and their assistants, and provides in its “whereas” clauses that bail shall not be recommended where the penalty is death, reclusion perpetua, or life imprisonment.[13]

In his ignorance respondent Judge not only deprived the prosecution due process of law by denying it the opportunity to contest the application for bail[14] but likewise acted in a manner contrary to Rule 2.01, Canon 2, of the Code of Judicial Conduct[15] in allowing counsel for the accused to engage him in a legal discussion inside his chambers, without the presence of any representative of the prosecution, about the possibility of granting bail to the accused.

Thus, respondent Judge’s disregard of an established rule of law (not conducting a hearing in an application for bail) thereby depriving the prosecution the opportunity to prove the strength of the evidence of guilt of the accused which amounts to gross ignorance of the law subjects him to disciplinary action.[16]

In *Cabilao v. Judge Sardido*,[17] an administrative case for grave ignorance of the law, gross misconduct and abuse of discretion, the same respondent Judge was fined the amount of P5,000.00 and sternly warned against the commission of same or similar acts. Considering the foregoing and the seriousness of the present offense which cannot be excused by a claim of good faith, respondent should be imposed a stiffer penalty so that he would better grasp the importance of being proficient in both substantive and procedural laws, particularly in this case, on the subject matter of bail. This could be achieved without need for the Court to issue any “bail bond guide,” as respondent judge suggests, since the present Revised Rules on Criminal Procedure and jurisprudence on the matter are clear and enlightening enough.

ACCORDINGLY, respondent Judge Agustin T. Sardido is fined P10,000.00 payable in two (2) equal monthly installments of P5,000.00 each, to be deducted from his monthly salary. He is sternly WARNED that, considering that this is the second time that he is administratively sanctioned by this Court, the commission of the same or similar acts in the future will be dealt with more severely including, if warranted, his dismissal from the service.

SO ORDERED

Davide, Jr., (Chairman), Vitug, and Kapunan, JJ., concur.

[1] Docketed as Crim. Cases Nos. 13860 and 13861.

[2] However, whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death. When by reason or on the occasion of the rape, the victim has become insane or a homicide is committed the penalty shall be death (as amended by RA No. 7659 which took effect 31 December 1993).

[3] Sec. 7.- Capital offense or an offense punishable by reclusion perpetua or life imprisonment not bailable. - No person charged with a capital offense, or an offense punishable by reclusion perpetua or life imprisonment, when evidence of guilt is strong, shall be admitted to bail regardless of the stage of the criminal prosecution.

[4] Santos v. Ofilada, A.M. No. RTJ-94-1217, 16 June 1995, 245 SCRA 56, 61; Baylon v. Sison, A.M. No. 92-7-360-0, 6 April 1995, 243 SCRA 284, 293; Cardines v. Rosete, A.M. No. MTJ-94-1000. 22 March 1995, 242 SCRA 557, 563; Concerned Citizens v. Elma, A.M. No. RTJ-94-1183, February 1995, 241 SCRA 84, 88; People v. Nitcha, G.R. No. 113517, 19 January 1995, 240 SCRA 283, 294-295; Guillermo v. Reyes, Jr., A.M. No. RTJ-93-1088, 18 January 1995, 240 SCRA 154, 158-159; Lardizabal v. Reyes, A.M. No. MTJ-94-897, 5 December 1994, 238 SCRA 640, 642; Borinaga v. Tamin, A.M. No. RTJ-93-936, 10 September 1993, 226 SCRA 206, 213-214.

[5] Paderanga v. Court of Appeals, G.R. No. 115407, 28 August 1995, 247 SCRA 741, 754.

[6] Gimeno v. Arcueno, Sr., A.M. No. MTJ-94-981, 29 November 1995, 250 SCRA 376, 378; Baylon v. Sison, A.M. No. 92-7-360-0, 6 April 1995, 243 SCRA 284, 295.

[7] Gimeno v. Arcueno, Sr., A.M. No. MTJ-94-981, 29 November 1995, 250 SCRA 376, 380; Santos v. Ofilada, A.M. No. RTJ-94-1217, 16 June 1995, 245 SCRA 56, 61; Concerned Citizens v. Elma, A. M. No. RTJ-94-1183, 6 February 1995, 241 SCRA 84, 88; Aurillo, Jr. v. Francisco, A. M. No. RTJ-93-1097, 12 August 1994, 235 SCRA 283, 288.

[8] De los Santos-Reyes v. Montesa, Jr., A.M. No. RTJ-93-983, 7 August 1995, 247 SCRA 85, 95; Estoya v. Abraham-Singson, A.M. No. RTJ-91-758, 26 September 1994, 237 SCRA 1, 21; Re: Report of the Judicial Audit and Physical Inventory of the Record of Cases in the Regional Trial Court, Branch 43, Roxas, Mindoro Oriental, A.M. No. 93-9-1249-RTC 22 September 1994, 236 631, 639.

[9] Mamolo, Sr. v. Narisma, A.M. No. MTJ-96-1072, 31 January 1996, 252 SCRA 613, 618; Lim v. Domagas, A.M. No. RTJ- 92-899, 15 October 1993, 227 SCRA 258, 263; Libarios v. Dabalos, A.M. No. RTJ-89-286, 11 July 1991, 199 SCRA 48, 55-56;

[10] Uy v. Dizon-Capulong, A.M. No. RTJ-91-766, 7 April 1993, 221 SCRA 87, 95.

[11] Department Circular No.4 issued by Secretary of Justice Teofisto T. Guingona, Jr., which took effect 1 February 1996.

[12] See Note 8.

[13] See Note 11, p.2.

[14] Sule v. Biteng, A.M. No. MTJ-95-1018, 18 April 1995, 243 SCRA 524, 528-529; Lardizabal v. Reyes, A.M. No. MTJ-94-897, 5 December 1994, 238 SCRA 640, 643; People v. Nano, G.R. No. 94639, 13 January 1992, 205 SCRA 155, 160; People v. San Diego, No. L-29676, 24 December 1968, 26 SCRA 522, 524.

[15] Rule 2.01. – A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.

[16] Libarios v. Dabalos, A.M. No. RTJ-89-286, 11 July 1991, 199 SCRA 49, 55-56.

[17] A.M. No. MTJ-93-818, 14 July 1995, 246 SCRA 94.

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