

**JUDGE DIVINA LUZ P. AQUINO-SIMBULAN, COMPLAINANT, VS.
PRESIDING JUDGE NICASIO BARTOLOME (RETIRED), ACTING CLERK
OF COURT ROMANA C. PASCUAL, CLERK OF COURT MILAGROS P.
LEREY (RET...**

A.M. No. MTJ-05-1588 [Formerly No. 04-9-511-RTC]. June 05, 2009

Ponente: PERALTA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/84c1d46f8cb3/>

PERALTA, J.:

Before this Court is a letter-complaint[1] dated April 27, 2004 filed by complainant Judge Divina Luz P. Aquino-Simbulan with the Office of the Court Administrator (OCA), alleging that respondents Judge Nicasio V. Bartolome, together with Romana Pascual, Milagros Lerey, and Amor dela Cruz, Acting Clerk of Court, retired Clerk of Court and Docket Clerk, respectively, all of the Municipal Trial Court (MTC) of Sta. Maria, Bulacan, committed grave errors and discrepancies in processing the surety bond for the accused Rosalina Mercado in Criminal Case No. 13360, entitled *People of the Philippines v. Rosalina Mercado, et al.*

In her complaint, Judge Simbulan alleged the following:

Criminal Case No. 13360 was originally raffled to the Regional Trial Court (RTC), Branch 41, San Fernando, Pampanga, where complainant Judge presides. On September 18, 2003, said branch of the RTC received an Indorsement from Warrant/Subpoena Officer PO3 Edwin Villacentino of the Sasmuan Municipal Police Station stating that the accused Mercado voluntarily surrendered before the MTC of Sta. Maria, Bulacan and posted her bail bond through Summit Guaranty & Insurance Co., Inc., which was duly approved by respondent Judge Bartolome on August 21, 2003. This prompted complainant to issue an Order[2] dated October 29, 2003, directing respondent Lerey, then Clerk of Court of the MTC, to transmit to the RTC within twenty-four (24) hours from receipt of said Order, the bond which the former court approved.

When the Clerk of Court failed to comply, complainant Judge issued an Order[3] dated January 12, 2004 directing the former to explain in writing within three (3) days from receipt thereof why she should not be cited in contempt for delaying the administration of justice.

On January 29, 2004, the RTC received a letter[4] from respondent Romana Pascual, then Acting Clerk of Court of the MTC, explaining that the bail bond in Criminal Case No. 13360 was approved by respondent Judge during the tenure of Lerey, and that the latter had retired on August 26, 2003.

On February 12, 2004, the RTC received a written explanation[5] from Lerey stating that she had misplaced and overlooked the subject surety bond, which resulted in the delay of its transmission to the RTC. Attached to Lerey's letter were the following documents: (1) the Court Order dated August 21, 2003 signed by respondent Judge; (2) Bond No. 46485 dated August 21, 2003 with attachments; (3) Undertaking dated November 22, 2003; (4) Certification from the Office of the Court Administrator, dated October 29, 2003; and (5) Certification from Summit Guaranty and Insurance Company, Inc., dated November 22, 2003.

Upon perusal of the documents, complainant Judge discovered that the subject surety bond bore some erasures, and its attachments were highly anomalous. In view of these findings, the RTC issued a subpoena to respondents Pascual and Leroy directing them to appear before it to explain the aforementioned errors.

During the hearing held on April 26, 2004, respondents Pascual and Leroy appeared before the RTC, Branch 41, San Fernando, Pampanga, and the following facts were established therein:

- That respondent Judge issued an Order of Release dated August 21, 2003 without a Certificate of Detention and Warrant of Arrest attached to the documents presented to him;
- That while the Order of Release was dated August 21, 2003, the Undertaking and Certification from the bonding company were dated November 22, 2003 and October 29, 2003, respectively;
- That it was Leroy who reviewed the documents before the surety bond was referred to respondent Judge for the latter's approval; and
- That the delay in the transmission of the bond and its supporting documents was attributed to Amor dela Cruz, Docket Clerk of the MTC of Sta. Maria, Bulacan.[6]

After the hearing, Public Prosecutor Otto Macabulos stated that he found the explanation too shallow and self-serving, and that he would file an indirect contempt case under Rule 71, Section 3 (d) of the 1997 Rules of Civil Procedure against Leroy and Dela Cruz. He filed said complaint[7] on June 21, 2004. The RTC, Branch 41, San Fernando, Pampanga then directed Leroy and Dela Cruz to explain in writing within fifteen (15) days why they should not be cited in indirect contempt of court or improper conduct in the processing of the bail bond of accused Mercado.[8]

In her Manifestation/Compliance[9] dated October 25, 2004, Leroy admitted lapses and negligence in processing the subject bail bond and was remorseful for what happened. On the other hand, Dela Cruz stated that there was no wrongdoing on her part in the processing of the subject bail bond and that she merely followed instructions in mailing the said bail bond to the RTC.[10]

In an Order[11] dated December 14, 2004, the RTC found Leroy guilty of indirect contempt and sentenced her to pay a fine of P10,000.00, which she duly paid. However, it absolved Dela Cruz from any liability as it found her explanation meritorious.

In the meantime, in his 1st Indorsement[12] dated February 26, 2004, Deputy Court Administrator (DCA) Jose P. Perez referred to the Clerk of Court of the MTC of Sta. Maria, Bulacan the Orders issued by complainant Judge relative to the surety bond for comment. However, there was nothing on record to show that said Clerk of Court complied with the directive.

DCA Perez also issued a 1st Indorsement[13] dated June 22, 2004 to respondent Judge referring to the letter dated April 27, 2004 of complainant Judge, which discussed the errors and discrepancies regarding the approval of the bail bond of the accused in Criminal Case No. 13360, with the instruction to the former to submit his comment thereto.

In compliance, respondent Judge submitted his 2nd Indorsement[14] dated July 13, 2004, wherein he denied any liability concerning his approval of the subject surety bond. According to him, Leroy had expressly admitted her negligence and lapses which caused the delay in transmitting the bond to the RTC. He stressed that just like any other judge, his Clerk of Court (Leroy) enjoys his trust and confidence on matters pertaining to the affairs of the court, including the review and approval of bail bonds. He added that he had no reason to doubt the official actions of Leroy as the latter had been serving the court for around 37 years.

In a Memorandum[15] dated March 1, 2005, then Court Administrator, now Associate Justice Presbitero J. Velasco, Jr., recommended that the letter dated April 27, 2004 (and the Orders attached thereto) of complainant Judge be treated as a formal administrative complaint and redocketed as such against respondents Judge Bartolome, Pascual, Leroy, and Dela Cruz, with the directive that the named respondents submit their respective Comments within ten (10) days upon receipt of the Order from the Court. Said Order[16] was issued by the Court on April 13, 2005, and all the respondents submitted their Comments on May 13, 2005.

Respondent Judge and Pascual both averred that in the case for indirect contempt, only Leroy was found guilty of negligence in the performance of her duties, and no other indictment was made against them.[17]

On the other hand, Leroy stated in her Comment[18] that she has already been found guilty of indirect contempt for failure to transmit the bail bond within the period directed by the court, and paid the fine therefor, while Dela Cruz clarified that she has already been exonerated from any liability or participation in said incident.

In a Resolution[19] dated June 22, 2005, the Court referred the administrative matter to the Executive Judge of the RTC of Malolos City, Bulacan for investigation, report and recommendation within 60 days from receipt of the record.

On April 7, 2006, 2nd Vice-Executive Judge Candido Belmonte submitted his Report,[20] which contained the following findings:

The Investigating Court takes judicial notice that certain functions of court which are not directly related to decision-making are delegated or reposed to court personnel. Under this category falls the preparation and evaluation of documents for bail, for the final approval of the judge. However, to rely solely on the representation made by the Clerk of Court without making even a perfunctory perusal of the records is also a mark of neglect. As such, this court finds the explanation of the respondent judge to be inadequate to exculpate him for the oversight he committed.

x x x x

With respect to court personnel Romana Pascual, it was established that, at the time of the commission of the subject administrative offense, she was not yet discharging the functions of an Officer-in-Charge. She had no hand in the approval of the bail. As a matter of fact, she immediately informed respondent Milagros Leroy, the former Clerk of Court, of the Order coming from Judge Simbulan of RTC-Branch 41, Pampanga requiring them to transmit the supporting documents for bail. However, it was the inaction of Milagros Leroy on the matter which caused the delay in the transmission. The Court notes that the Order of Judge Simbulan was received at the MTC-Sta. Maria, Bulacan at a time when there was a transition between Milagros Leroy and the present Clerk of Court. During that interregnum, it was Romana Pascual who was the OIC. As such, the letter-explanation of Romana Pascual, dated February 11, 2004, addressed to Judge Simbulan is deemed sufficient explanation by this Investigating Court. Hence, she is exonerated of the charges against her.

Regarding the charge against court personnel Amor dela Cruz, it appears to this Court that although she was the one who finally delivered the supporting bail documents to RTC-Branch 41, Pampanga, she has nothing to do with the act of delay. This seems to be the implication of the admission of Milagros Leroy that at the time of the approval of the bail bond the supporting documents were incomplete. She only put the documents in order after there was an Order from RTC-Branch 41, Pampanga to transmit the same. The delay took place during this period. Once Milagros Leroy handed the documents to Ms. Dela Cruz, she immediately transmitted them to RTC-Branch 41, Pampanga. These facts borne out by her Comment submitted in the Indirect Contempt Case before RTC-Branch 41, Pampanga dated July 19, 2004, which this Investigating Court finds sufficient.[21]

Based on the foregoing, the Investigating Judge submitted the following recommendations:

1)

For respondent Judge Nicasio Bartolome, he be found to be negligent of his duty to supervise his court employees in the discharge of their respective functions. It is further recommended that a fine of P5,000.00 be imposed on him.

2)

For respondent Milagros Leroy, she be found to be grossly negligent of the discharge of her functions as a Clerk of Court. It is further recommended that a fine of P5,000.00 be imposed on her over and above the fine of P10,000.00 imposed on her in the Indirect Contempt Case.

3)

For respondents Romana Pascual and Amor dela Cruz, there was no direct documentary or testimonial evidence that shows they have handled the bail bonds. Furthermore, they are not responsible for the delay in the transmission of the pertinent documents. As such, it is recommended that they be exonerated of the charges against them.

City of Malolos, Bulacan, April 7, 2006.[22]

In a Resolution[23] dated October 11, 2006, the Court referred the Report of the Investigating Judge to the OCA for evaluation, report and recommendation within thirty (30) days from receipt of records.

In his Memorandum[24] dated November 20, 2007, DCA Jose P. Perez observed that:

- In approving the surety bond of the accused, respondent Judge violated Section 17, Rule 114 of the Rules of Court.[25] In the instant case, the accused Rosalina Mercado was not arrested. That being the case, she should have filed her bail bond with the court where her case was pending, i.e., the Regional Trial Court, Branch 41, San Fernando City, Pampanga. In the absence of the judge thereof, it could be done at another branch of the same court within the province of Pampanga or City of San Fernando. Instead, accused Mercado filed her bond in the Municipal Trial Court of Sta. Maria, Bulacan, where respondent Judge presides, who approved the same and ordered her release from custody.

- Respondent Judge did not require the accused to submit the supporting documents pertinent to the application for a bond. It appears that there was no Certificate of Detention presented to him; hence, there was no legal justification for him to issue the Order of Release and process the bond since the accused was not detained within his jurisdiction. Also, there was no Warrant of Arrest attached to the documents presented to him. Moreover, all the supporting papers were belatedly filed: (a) Undertaking was dated 22 November 2003; (b) Certification from the Office of the Court Administrator was dated 29 October 2003; and (c) the Certification from Summit Guaranty & Insurance Co., Inc. was dated 22 November 2003.

- Respondent Judge failed to live up to the standards of a good magistrate. Not only did he approve the bail bond of the accused without the requisite authority to do so, his manner of doing so showed a flagrant disregard for the applicable procedural law he had sworn to uphold and serve. He committed gross misconduct by blatantly disregarding the Rules and settled jurisprudence.

These findings led DCA Perez to recommend the following:

Considering that Judge Bartolome has compulsorily retired from the service effective on 11 October 2006, we recommend that a fine in the amount of Forty Thousand Pesos (P40,000.00) be deducted from his retirement benefits.

With respect to Clerk of Court Milagros Leroy, who already retired from the service on 26 August 2003, we also find her guilty of gross misconduct. As can be gleaned from the records, she admitted her wrongdoing. Had she not retired, we could have meted her the extreme penalty of dismissal. We, therefore, recommend that she be fined in the amount of Forty Thousand Pesos (P40,000.00).

With respect to respondents Romana Pascual and Amor dela Cruz, there being no evidence linking them to the processing of the questioned bond, it is recommended that the charges against them be dismissed.[26]

In a Resolution[27] dated April 2, 2008, the Court required the parties to manifest within ten (10) days from notice whether they were willing to submit the case for decision on the basis of the pleadings/records already filed and submitted. All respondents manifested their willingness to submit the case for decision: respondents Leroy, Pascual and Dela Cruz having complied on May 13, 2008, and Judge Bartolome on May 23, 2008. The Court submitted the administrative case for resolution on July 25, 2008.

After a careful evaluation of the records and the Reports of the Investigating Judge and the OCA, the Court holds that there were indeed grave errors and discrepancies committed by respondents Judge Bartolome and Leroy in processing the surety bond for the accused in Criminal Case No. 13360.

The following provisions of the Revised Rules of Criminal Procedure apply before an accused can be released on bail:

Sec. 14. Bail, where filed. (a) Bail in the amount fixed may be filed with the court where the case is pending, or, in the absence or unavailability of the judge thereof, with another branch of the same court within the province or city. If the accused is arrested in a province, city or municipality other than where the case is pending, bail may be filed also with any regional trial court of said place, or, if no judge thereof is available, with any metropolitan trial judge, municipal trial judge or municipal circuit trial judge therein. x x x

Sec. 16. Release on bail. The accused must be discharged upon approval of the bail by the judge with whom it was filed in accordance with Section 14 hereof.

Whenever bail is filed with a court other than where the case is pending, the judge accepting the bail shall forward the bail, the order of release and other supporting papers to the court where the case is pending, which may, for good reason, require a different one to be filed.

The OCA's Report revealed that the accused Rosalina Mercado was not arrested. The proper procedure, according to the above-cited rules, would have been to file her bail bond with the RTC Branch 41, San Fernando, Pampanga where her case was pending. Had complainant Judge been absent or was unavailable at that time, the accused could file for bail with another branch of the RTC in Pampanga or in San Fernando City. However, the accused filed her surety bond with the MTC of Sta. Maria, Bulacan, where it was approved by respondent Judge.

Not only did respondent Judge erroneously order the release of the accused, but he also failed to require submission of the supporting documents needed in the application for a bond. There was no Certificate of Detention or Warrant of Arrest attached to the bond transmitted by the MTC to the complainant Judge. Moreover, the other supporting documents were belatedly filed. Records show that respondent Judge approved the bail bond on August 21, 2003, but the Undertaking was dated November 22, 2003, the Certification from the OCA was dated October 29, 2003, and the Certification from Summit Guaranty and Insurance Co., Inc. was dated November 22, 2003.

Respondent Judge contends that Leroy, who has been Clerk of Court for 37 years, was given the simple matter of examining the documents attached to the application for a bail bond. For her part, Leroy admitted her negligence when she misplaced and overlooked the surety bond policy, resulting in the delay in the transmission of said documents to the RTC. Notably, she also failed to give an explanation for the erasures which complainant discovered on the surety bond. By such acts, it is evident that Leroy did not measure up to the standards required by Section 1, Canon IV of the Code of Conduct for Court Personnel[28] as quoted:

Section 1. Court personnel shall at all times perform official duties properly and with diligence. They shall

commit themselves exclusively to the business and responsibilities of their office during working hours.

In addition, a clerk of court has a vital function in the prompt and sound administration of justice since his or her office is the hub of adjudicative and administrative orders, processes, and concerns.[29] He or she also has the duty to ensure an orderly and efficient record management system in the court and to supervise the personnel under her office to function effectively. [30]

However, Leroy's admission of negligence cannot excuse respondent Judge from liability in the irregular processing of the bail bond. Pertinent provisions of the Code of Judicial Conduct[31] state that:

Rule 3.08. - A judge should diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of other judges and court personnel.

Rule 3.09. - A judge should organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and finality.

In *Bellena v. Judge Perello*,[32] wherein respondent Judge attributed the delay in transmittal of records to her clerk of court, the former was still found guilty and sentenced to pay a fine. The Court held that, although the clerk of court is primarily responsible for the implementation of respondent judge's orders, the fact remains that respondent judge is tasked with administrative supervision over his or her personnel. It is the responsibility of the judge to always see to it that his/her orders are properly and promptly enforced, and that case records are properly stored and kept. Thus, in the present case, respondent Judge himself should have verified that the documents for bail were complete and correct instead of relying on the representations of his clerk of court.

With regard to respondents Pascual and Dela Cruz, the Court observes that there is no evidence to show that they have contributed to the irregularities or delay in transmittal of the bail bond. At the time of the commission of the administrative offense, Pascual was not yet discharging the functions of an Acting Clerk of Court. Dela Cruz, on the other hand, merely delivered the supporting documents to the RTC.

Having thus established the respondents' liabilities, what remains for the Court's contention are their penalties.

Under the Uniform Rules on Administrative Cases in the Civil Service,[33] the acts of respondent Judge and Leroy may be classified as gross neglect of duty, which is punishable by dismissal under Rule IV, Section 52 A(2) thereof. Neglect of duty denotes the failure of an employee to give one's attention to a task expected of him. Gross neglect is such neglect which, from the gravity of the case or the frequency of instances, becomes so serious in its character as to endanger or threaten the public welfare.[34]

In *Ulat-Marrero v. Torio, Jr.*,[35] the Court has categorized as a grave offense of gross neglect of duty, the failure of a court process server to serve summons which resulted in the delayed resolution of a case. As corollarily applied to the present case, where respondents released the accused on temporary liberty despite the absence of the required supporting documents for bail, the former are likewise liable for gross neglect of duty.

Were it not for the fact that both respondents, Judge Bartolome and Leroy, have retired on October 11, 2006 and August 26, 2003, respectively, the Court would have dismissed them from the service. Instead, it orders respondents to pay a fine to be deducted from their retirement benefits, in accordance with its rulings in *Moncada v. Cervantes*,[36] *Office of the Court Administrator v. Paredes*,[37] and *Soria v. Oliveros*. [38]

WHEREFORE, in view of the foregoing, the Court finds:

- Presiding Judge Nicasio Bartolome (retired) GUILTY of GROSS NEGLIGENCE OF DUTY for which he is meted a fine in the amount of Forty Thousand Pesos (P40,000.00), to be deducted from his retirement benefits; and

- Clerk of Court Milagros Leroy (retired) GUILTY of GROSS NEGLIGENCE OF DUTY for which she is meted a fine in the amount of Forty Thousand Pesos (P40,000.00), to be deducted from her retirement benefits.

SO ORDERED.

Ynares-Santiago, (Chairperson), Carpio*, Corona**, and Nachura, JJ., concur.

[*] Designated to sit as an additional member, per Special Order No. 646 dated May 15, 2009.

[**] Designated to sit as an additional member, per Special Order No. 631 dated April 29, 2009.

[1] Rollo, pp. 10-13.

[2] Id. at 34.

[3] Id. at 15-16.

[4] Id. at 37.

[5] Id. at 43.

[6] TSN dated April 26, 2004, id. at 69-94.

[7] Rollo, pp. 59-61.

[8] Id. at 95-96.

[9] Id. at 97.

[10] Id. at 100-102.

[11] Id. at 44-45.

[12] Id. at 14.

[13] Id. at 7.

[14] Id. at 8-9.

[15] Id. at 25-28.

[16] Id. at 29-30.

[17] Id. at 31-33; 57-58.

[18] Id. at 47-48.

[19] Id. at 106.

[20] Id. at 153-158.

[21] Id. at 156-157.

[22] Id. at 158.

[23] Id. at 191.

[24] Id. at 199-205.

[25] SEC. 17. Bail, where filed.(a) Bail in the amount fixed may be filed with the court where the case is pending, or, in the absence or unavailability of the judge thereof, with any regional trial judge, metropolitan trial judge, municipal trial judge, or municipal circuit trial judge in the province, city, or municipality. If the accused is arrested in a province, city or municipality other than where the case is pending, bail may also be filed with any Regional Trial Court of said place, or, if no judge thereof is available, with any metropolitan trial judge, municipal trial judge, or municipal circuit trial judge.

[26] Id. at 204.

[27] Id. at 231.

[28] A.M. No. 03-06-13-SC issued by the Supreme Court on June 1, 2004.

[29] Office of the Court Administrator v. Judge Trocino, A.M. No. RTJ-05-1936, May 29, 2007, 523 SCRA 262, 274.

[30] Fonghe v. Bajarias-Cartilla, A.M. No. P-05-1987, February 10, 2006, 482 SCRA 142, 147.

[31] Issued on September 5, 1989.

[32] A.M. No. RTJ-04-1846, January 31, 2005, 450 SCRA 122, 133.

[33] Promulgated by the Civil Service Commission through Resolution No. 99-1936 dated August 31, 1999 and implemented by Memorandum Circular No. 19, series of 1999.

[34] Rodrigo-Ebron v. Adolfo, A.M. No. P-06-2231, April 27, 2007, 522 SCRA 286, 293.

[35] A.M. No. P-01-1519, November 19, 2003, 416 SCRA 177.

[36] A.M. No. MTJ-06-1639, July 28, 2006, 497 SCRA 1.

[37] AM. No. P-06-2103, April 17, 2007, 521 SCRA 365.

[38] A.M. No. P-00-1372, May 16, 2005, 458 SCRA 410.

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.