IN RE: ATTY. DAVID BRIONES

A.C. No. 5486 (Formerly A.C. CBD Case No. 00-690). August 15, 2001

Ponente: PUNO, J.

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PUNO, J.:

This matter arose from the continued failure of Atty. David P. Briones, counsel for accused-appellant in G.R. No. 130965 (People of the Philippines vs. Restituto Cabacan) pending before the Second Division of this Court, to file the required appellant's brief.

The notice to file appellant's brief was mailed to Atty. Briones on July 30, 1998. The registry return card shows that it was received by the addressee on August 6, 1998. Counsel was given thirty (30) days from receipt of the notice within which to file the brief. Atty. Briones failed to file the required brief within the period which expired on September 5, 1998.

On April 28, 1999, the Court ordered Atty. Briones to show cause why he should not be disciplinarily dealt with or held in contempt for such failure and to submit the required brief within ten (10) days from notice. Atty. Briones failed to comply with the Court's directive within the specified period. Copy of said resolution was returned to the Court unserved without specific reason.

On August 9, 1999, the Court issued a resolution stating among others that the resolution of April 28, 1999 is considered served on Atty. Briones by substituted service pursuant to Section 8, Rule 13 of the 1997 Rules of Civil Procedure. The Court also referred the matter of the repeated failure of Atty. Briones to file appellant's brief to the Integrated Bar of the Philippines (IBP) for evaluation, report and recommendation. The administrative case was docketed as CBD Case No. 00-690.

In a letter dated September 27, 1999, IBP Commissioner Victoria Gonzales-De Los Reyes informed Atty. Briones of the Court's referral of the matter to the IBP and required him to file his Comment within five (5) days from receipt of the letter. The registry return card shows that the letter was received by the agent of Atty. Briones on October 7, 1999. Atty. Briones, however, did not file any Comment.

Commissioner De Los Reyes submitted her Report dated January 25, 2000 with the following observation and recommendation:

> "Unfortunately, despite the lapse of the required period of time within which to submit his Comment, respondent failed to do so despite due notice as evidenced by the registry return card.
>
> As can be gleaned from the files, G.R. No. 130965 has remained pending in view of the negligence of Atty. Briones to file the required appellant's brief. It is therefore evident that respondent violated Rule 18.03 of Canon 18 of the Code of Professional Responsibility to wit:
> A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

Likewise, respondent's repeated failure to file the appellant's brief and his Comment to the Commission in

connection with the Supreme Court Resolution dated August 9, 1999 are apparently tantamount to wilfull disobedience to the lawful orders of the Honorable Supreme Court which could not be tolerated, and respondent should not be allowed to go scot-free.

IN VIEW OF THE FOREGOING, the undersigned Commissioner finds that Atty. David P. Briones had the propensity of defying lawful orders, and recommends that for his violation of Rule 18.03 of the Canon 18 of the Code of Professional Responsibility, he be SUSPENDED from the practice of law profession for a period of six (6) months."

On March 18, 2000, the Board of Governors of the IBP passed Resolution No. XIV-2000-56 stating:

> "RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution/Decision as annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, Respondent is SUSPENDED/or BARRED from the practice of law for six (6) months for violation of Rule 18.03 of the Canon 18 of the Code of Professional Responsibility."

On May 26, 2000, Atty. Briones filed with the IBP a Motion for Reconsideration/Reinvestigation. The motion was grounded on the alleged denial of due process in the course of the investigation. Atty. Briones claimed that he filed a Comment on the administrative case but the same was not considered by the investigating commissioner. Neither did the IBP conduct a formal investigation.

On July 29, 2000, the Board of Governors of the IBP issued Resolution No. XIV-2000-439 denying the motion for reconsideration, thus:

> "RESOLVED to DENY Respondent's Motion for Reconsideration of the Board's Decision in the above-entitled case there being no substantive reason to reverse the finding therein, moreover, the pleading is improper as the remedy of the respondent is to file the appropriate Motion with the Supreme Court within fifteen (15) days from receipt of notice of said Decision pursuant to Section 12 (c) of Rule 139-B."

On October 5, 2000, Atty. Briones filed with the Court a Manifestation praying that his Comment submitted to the IBP on October 13, 2000 be considered by the Court. He attached a copy of the Comment to the Manifestation.

Atty. Briones explained both in his Manifestation and his Comment that he failed to file an appellant's brief in G.R. No. 130965 because he never received a copy of the resolution requiring him to file said brief. If ever a copy was received by his secretary, the latter was not able to give it to him because he had already ceased practicing law. He further explained that the case was assigned to him as member of the IBP Tarlac Legal Aid Office. After filing the Notice of Appeal, he resigned from the Legal Aid Office because of his failing health. Hence, he presumed that the relatives of the accused would engage the services of a new counsel, or would go directly to the IBP Legal Aid Office. He admitted that he forgot to notify the Legal Aid Office about the case.

We adopt the recommendation of the IBP.

The failure of the counsel to submit the required brief within the reglementary period is an offense that entails disciplinary action.[1] The pernicious effect of Atty. Briones' omission cannot be gainsaid. His failure to file an appellant's brief in G.R. No. 130965 has caused the appeal to remain inactive for more than a year, to the prejudice of his client, the accused himself, who continues to languish in jail pending the resolution of his case. The accused in a criminal case has the right to a swift and just disposition of his case. Lawyers are obliged to protect, not defeat, such right.

We have considered the explanation of Atty. Briones for his failure to comply with the Court's directive and we find the same unsatisfactory. Such omission can be attributed to pure negligence on the part of Atty. Briones

which we deem inexcusable. He cannot deny that his office received a copy of the Court's resolution ordering him to submit an appellant's brief. The registry return card shows that the notice to file appellant's brief was received by the addressee on August 6, 1998. To exonerate himself from liability, Atty. Briones claims that his secretary did not forward to him the mail matters received in his office. He, however, cannot pass the blame to his secretary as he is personally responsible for his own communications. As a member of the Bar, he is expected to exercise due diligence in the practice of his profession. He should not have passively waited for his secretary to inform him about the letters and communications received in his law office, especially those coming from the courts. He should have taken the initiative to check with her if there are important matters requiring his action or attention. Neither is the cessation of his law practice an excuse for his failure to file the required brief. Even if it were true that Atty. Briones has stopped practicing law, he still could not ignore the directives coming from the Court. It does not appear from the records of G.R. No. 130965 that Atty. Briones has withdrawn his appearance. Unless he has withdrawn his appearance in the case, the Court would still consider him as counsel for the accused-appellant and he is expected to comply with all its orders and directives.

It should be stressed that every case a lawyer accepts deserves his full attention, diligence, skill and competence, regardless of its importance and whether he accepts it for a fee or for free.[2] A lawyer's fidelity to the cause of his client requires him to be ever mindful of the responsibilities that should be expected of him. He is mandated to exert his best efforts to protect within the bounds of the law the interest of his client. The Code of Professional Responsibility dictates that a lawyer shall serve his client with competence and diligence and he should never neglect a legal matter entrusted to him.[3]

IN VIEW WHEREOF, Atty. David P. Briones is SUSPENDED from the practice of law for six (6) months effective immediately. Let a copy of this Decision be furnished to the Office of the Bar Confidant, the Integrated Bar of the Philippines, and to all the courts.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

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[1] Mariveles vs. Mallari, 219 SCRA 44 (1993); People vs. Cawili, 34 SCRA 728 (1970).

[2] Santiago vs. Fojas, 248 SCRA 68 (1995).

[3] Villafuerte vs. Cortez, 288 SCRA 687 (1998).

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