

JESUS BANAWA, COMPLAINANT, VS. MUNICIPAL JUDGE GREGORIO B. DE JESUS OF BACOLOR, PAMPANGA, RESPONDENT.

A.M. No. 1381-MJ. June 29, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This decision resolves four administrative cases against Judge Gregorio B. de Jesus of Bacolor, Pampanga, who reached the compulsory retirement age on March 12, 1982.

In Administrative Matter No. 1381-MJ, the respondent judge was accused, in a verified letter dated August 26, 1976, of Jesus Banawa as having committed the following offenses:

- "1. Gross negligence of infidelity in the custody of documents;
- "2. Grave abuse of power and discretion;
- "3. Ignorance of the law;
- "4. Obstruction of justice; and
- "5. Oppression and acts unbecoming of a judge in connection with respondent's refusal to docket a criminal case for Less Serious Physical Injuries being filed by complainant (who had been criminally charged in Cases Nos. 1422 and 1423) on account of the fact that the pictures attached thereto were only "1x1" which is a size smaller than that required by law."

The charges were all denied by the respondent in his Comment dated September 27, 1976.

We referred the case to the Executive Judge of the Court of First Instance of Pampanga for investigation, report and recommendation. Investigating Judge Mariano Castañeda accordingly submitted his report as follows:

"At the initial hearing of this administrative case, complainant appeared without counsel alleging that he has sought the assistance of the Integrated Bar of the Philippines, Pampanga Chapter, thru its President, to assist him in this administrative case, however, up to this date of hearing no IBP member have appeared for him and at his instance he waived his right to be repre-sented by counsel; he requested the undersigned investigator that he be allowed to propound and answer questions by himself which was granted; that he charged the respondent Judge with gross negligence (infidelity in the custody of public documents), grave abuse of power and discretion, ignorance of the law, obstruction of justice, oppression and acts unbecoming of a judge; the undersigned advised the complainant to prove his case step by step and prove his charges one after the other; complainant marked the complaint as Exhibit "A"; his signature as Exhibit "A-1"; the signature of the subscribing officer Marcelo D. Mendiola which he identified as Exhibit "A-2"; the letter addressed to the respondent Judge, dated July 26, 1976, as Exhibit "A-3"; a similar letter addressed to the Chief of Police of Bacolor, Pampanga, copy furnished the respondent Judge, dated July 24, 1976, as Exhibit "A-4"; and a letter to the Chief of Police, copy furnished the respondent Judge as Exhibit "A-5"; as gleaned from the complainant's presented evidence, on July 19, 1976 at 2:30 o'clock in the afternoon, he went to the office of the respondent Judge to have his bail bond which was put up by the First Integrated Bonding and Insurance Co., Inc. for his

provisional liberty being an accused in Crim. Cases Nos. 1422 and 1423, be approved; upon presenting his bail bond for approval by the respondent Judge the record of the cases were not available because at that time the Clerk was out but after 20 seconds have passed the records were located; when complainant presented his bail bond to respondent Judge, the latter questioned the 1" x 1" ID picture attached to the bond; respondent Judge wanted 2" x 2" ID picture as required by law; complainant requested the respondent Judge to let him be photographed downtown which is only very near in order to meet the requirements but respondent Judge told the complainant that he could not wait for it for it is already time and no longer within office hours and instead he ordered that the complainant be jailed; complainant banking on the premise that he was a government employee and personally known to the respondent Judge because they are townmates and alleged that he is not a criminal person but instead a law abiding citizen; he asked the respondent Judge that he will substitute the picture the following day but his request was denied by the respondent Judge and was told that it is the law that requires 2" x 2" ID pictures; Banawa did not question anymore the approval of his bailbond (TSN May 17, 1977, page 7, Jover) instead he filed a complaint for less serious physical injuries against Ricardo Butiu; the Chief of Police of Bacolor, Pampanga prepared the complaint and affidavit which were sworn to before respondent Judge; respondent Judge conducted a preliminary investigation, first stage; Banawa requested the respondent Judge to include in the case the name of two (2) persons Ben Sazon and Ricardo Butiu who were the principal accused but respondent told him to bring before him the record of the Chief of Police; but when the complainant arrived in the office of the Chief of Police it was already 4:30 o'clock in the afternoon, so the Sergeant told the complainant to come back the following day; the complainant returned to the respondent bringing with him a Medical Certificate, the affidavits and the complaint prepared by the Chief of Police; respondent Judge told the complainant that he could not accept the complainant's complaint for insufficiency of evidence against one Ruben Sazon; while the complainant and the respondent were discussing about said case, complainant reasoning out that his affidavit and that of his witnesses and the complaint of the Chief of Police proved a prima facie evidence against Sazon, respondent tore the complaint already sworn and criss-crossed the affidavits of Roy Basa and Banawa with his pen with blue ink, in the presence of the Chief of Police and other witness; that respondent was not satisfied with complainant's request; the original complaint charged only Ricardo Butiu and the affidavit of the complainant is only against Butiu; when the complainant saw that the respondent was temperamental he (complainant) stepped out of the room and told the Chief of Police that he might transfer the case to the Fiscal's office; two or three days after, complainant sent a letter to respondent Judge inquiring the whereabouts of the complaint, medical certificate and the affidavits in order that he can file them in the Fiscal's office, said letter is dated July, 1976, Exhibit "B", which according to complainant remains unanswered by the respondent up to this time; that on July 19, 1976, after the respondent disapproved the bond, torn and criss-crossed the documents and the complainant was put in jail though actually not inside but he was under detention and custody of the Police, at around 10:00 or 11:00 o'clock, complainant was attacked by heart failure and dizziness and was taken to the hospital and stayed there for 10 days; that the complainant was trying to see the respondent to get the documents which were in the possession of the respondent in order that complainant could file the case against the persons who maltreated him; that the complaint against Ruben Sazon was unnumbered and undocketed; that respondent refused to give the documents asked by the complainant, so said complainant filed a case in the Fiscal's Office which is still pending, hence this present administrative action; that this administrative complaint was not entertained because it was not under oath as required by law that was why the Judicial Consultant required the complainant to have it under oath to which he complied with; that complainant charged the respondent in the Fiscal's office for infidelity and the respondent filed a counter affidavit, dated September 8, 1976, Exh. "C" and Exhs. "1 and 1-A" for the respondent; that the complainant requested for the issuance of subpoena duces tecum and testificandum but it was denied by the investigating officer for this investigation is strictly private and confidential; that if subpoena will be issued the very purpose of private and confidential matter will be destroyed; that the respondent is revengeful against the complainant for when he was still working in Court and because of the complainant's report to the CFI Judge years ago regarding the actuation of the respondent in the case of 'People of the Philippines vs. Diosdado Nicdao, et al' for Robbery involving a truck battery worth P60.00 to be unailable and the respondent was summoned and warned by the CFI Judge for his actuation and

since then respondent bore a grudge against the complainant; that a nephew of the complainant was robbed and a case was filed in the office of the respondent and the latter knowing that the victim was a nephew of the complainant herein, the respondent upon filing of said case outrightly dismissed the case against the accused without any proper hearing in his Court; that complainant considered the tearing and criss-crossing of the complaint and affidavit as an act unbecoming of a Judge, gross negligence, grave abuse of discretion and infidelity in the custody of public documents; the complainant marked as his Exh. "G", the transcript of stenographic notes taken before the Fiscal, I.S. No. 8134, pages 30-31; that the documents mentioned in his letter were produced in the Fiscal's office on October 29, 1976, a period of 180 days from July 19, 1976, which caused the delay in the administration of justice and of the filing of complainant's complaint in the Fiscal's office; that complainant made personal and written demand for the production of the subject documents which were left in the custody of the respondent, Exhs. "B" and "C"; that the complaint filed by the complainant against Ruben Sazon in the Fiscal's office was given due course and now pending at the Municipal Court of Bacolor, Pampanga, which hearing is pending because of the retirement of the Judge; that Banawa insinuated that he will seek the legal opinion of the Department of Justice and the Supreme Court regarding the issuance of subpoena to his witnesses because his witnesses refused to come along with him; that the complainant insisting that his witnesses be subpoenaed but the investigating officer informed the parties that the procedure he is adopting in this case is the same procedure he has been adopting with all other Municipal Judges facing administrative charges before him because he is not sitting as a Court of general jurisdiction but as an Investigating Officer.

"That the complainant gave the complaint, his affidavit, the affidavit of his witness and the medical certificate to the respondent; that the complaint was not docketed; that his criminal complaint is against two (2) persons Ben Sazon and Ricardo Butiu; that said accused are relatives of the offended party in the case filed against the complainant herein; that since the complaint was torn by the respondent, the affidavits and the medical certificate were also given to the respondent on July 19, 1976 and the complainant never saw them except on October 29, 1976; that the last time the complainant saw the said documents, the same were in the possession of the respondent; that the complainant executed a letter dated July 26, 1976, addressed to the respondent, Exh. "1"; that the criminal complaint was not signed by the complainant but by the Chief of Police as the complainant; that in the complaint which was torn by the respondent, there was originally only one accused appearing but when amended another accused by the name of Ben Sazon was included because the complainant included said accused in his affidavit which was criss-crossed by the respondent; that when respondent affixed his signature in the jurat of the criminal complaint before it was torn, there was only one accused; that the complainant asked the respondent to amend his affidavit and in consequence thereof, the latter told the former to take the complaint to the typist of the Chief of Police to include the name of Ben Sazon; that it was the Chief of Police who brought back the criminal complaint to the respondent; that respondent tore the criminal complaint after the name of another accused by the name of Ben Sazon was inserted therein; that the complainant insisted to include the name of Ben Sazon in the criminal complaint before filing the same but the Chief of Police filed a case with only one (1) accused; that the complainant did not make a formal request for the inclusion of the name of the other accused by the name of Ben Sazon; that the Chief of Police told the complainant that it was the respondent who definitely does not want to include the name of Ben Sazon in the complaint; that because of this information the complainant was prompted to file this administrative case against the respondent; that everytime the complainant goes to the respondent's office he often saw the adverse party, making the complainant doubtful of the integrity of the respondent; that the Chief of Police refused to make another complaint or amend the complaint because that is the instruction of the respondent to the Chief of Police; that they know from time to time the Chief of Police of Bacolor, Pampanga refers the matter first to the respondent; that the complainant knows that the Chief of Police is under instruction by the respondent to file charges against only one (1) accused; that the respondent was not present when the complainant's statement was being made; that the reason of the respondent in tearing the complaint was that the complainant was debating and arrogant; that the complainant was discussing with the respondent regarding the latter's order wherein the complainant was ordered to be placed in jail because on that very day, with a

difference of 20 minutes the respondent refused to approve the complainant's bail bond in criminal charges against him; that besides the warrant of arrest issued in the two (2) criminal cases filed against the complainant the respondent ordered the Chief of Police to detain the complainant.

"EVIDENCE FOR THE RESPONDENT:

"That respondent knows the complainant being a townmate of him; that he received the letter complaint and was asked to comment within ten (10) days to which he complied evidencing the document dated August 26, 1976, Exh. "3"; that respondent confirms under oath the truth and correctness of all the contents of that document including the Annexes and identified all the signatures appearing therein; that aside from this Administrative Case there is another complaint filed in the Fiscal's office against him which was dismissed by said office, Exh. "4"; that respondent admitted having torn the original complaint because there was an insertion made or another accused was intercalated in the complaint; that the original complaint was only for one (1) accused; that the alteration was made by the Chief of Police through the instruction of the complainant to have another accused be inserted by the name of Ben Sazon and instructed the Chief of Police to re-type said complaint; that the original complaint was taken on the table of the respondent without his knowledge; that he did not have any participation in the alteration; that respondent accepted the complaint of only one (1) accused, Ricardo Butiu, based on the affidavit attached to the complaint, filed by the Chief of Police; that the respondent had it retyped when he noticed that there were two (2) accused; that he asked the Chief of Police why there were two (2) accused in the complaint and the Chief of Police answered that the complainant herein made it appear to the Chief of Police that it was upon the instruction of the respondent; that there is no evidence against Ben Sazon and that was why respondent did not accept the complaint wherein the two (2) accused appeared; that respondent gave instruction to the Chief of Police to file a case against Butiu only; that the Chief of Police told the respondent that the insertion was made through and upon respondent's instruction as conveyed by the complainant herein; that respondent did not give any instruction to the complainant for the insertion of the name of another accused and even asked the complainant, 'did I give you that instruction?'; that it was the complainant who took the complaint from the respondent's table; that respondent admitted having torn the complaint of the complainant; that he crossed out his name or signature in the jurat of the sworn statement because there were handwritten insertion in the original, while in the duplicates there were none and instructed the Chief of Police to retype the same so that every copy shall have the same wording; that respondent had given the complaint and other documents to the Chief of Police; that the criminal complaint was not docketed; that the Chief of Police did not ask permission to include another accused; that because of the actuation of the complainant, respondent got angry; that the criminal complaint which respondent tore was not subscribed or sworn to before him and never docketed up to the present time for the Chief of Police never filed it again; that before he tore the complaint he asked the Chief of Police if he has the draft of the original complaint and the Chief of Police answered in the affirmative and ordered it retyped; that the respondent placed the torn complaint in his drawer; that he handed the complainant's sworn statement and that of his witnesses to the Chief of Police in the presence of the complainant, as confirmed by the complainant in his letter dated July 23, 1976, addressed to the Chief of Police, copy furnished the respondent Judge, Exhibit "5"; that respondent admitted having received complainant's letter, dated July 26, 1976, marked as Exhibit "1 and 1-A"; that respondent did not answer said letter because he knew that the documents were not in his possession; that he did not approved the bail bond of the complainant herein and accused in two (2) criminal cases in his court because of the picture requisites and that he considered him a friend and an acquaintance, even showed him sample of the bailbond on his table; that there were no pictures attached to the bail bond and that accused therein and complainant herein pulled out his wallet and took out two (2) pictures 1" x 1" which were blacklisted and respondent told the complainant those pictures will not do; that accused therein and complainant herein was there by virtue of a warrant of arrest issued against him and had with him his personal bail bond; that he had the order or release typewritten in the same afternoon and only the picture came the following day and that was why the order or release bears the date July 19, and that he modified the date to July 20, Exhibit "6 and 6-A" order of release in Crim. Case No. 1423, and Exhibit "7 and 7-A" and also adopted by the complainant as Exhs. "L, L-1 and L-2"; that respondent admitted that his Court is a court of

record; that on July 19, 1976, there was a preliminary investigation conducted by him; Banawa was the complainant and that proceedings were had in his investigation; that the proceedings was not recorded because his Clerk was absent then; that he did not have any notes or order to show that there was a preliminary investigation because he was not yet through with his investigation; that he did not ask for a receipt when he handed the complainant's supporting documents to the Chief of Police; that the insertion in the original bears the initial of the complainant but not in the duplicate copies; that respondent produced the documents subject of this case to the Provincial Fiscal which he took from the Chief of Police in order to comply with the subpoena issued by the Provincial Fiscal; that he was present during the investigation of the Fiscal.

"FINDINGS:

"That upon the enactment and approval of Republic Act No. 6031, Municipal Courts became Courts of records, ' Celestino Luzano vs. Hon. Honorio Romero,' L-33245, SCRA 41, pp. 247-259; that respondent did not live up to the preview of the Rules of Court in conducting preliminary examination, first stage: 1) that he did not have the case docketed; 2) that he did not record his proceedings; and 3) that he did not ask searching questions and answers to the complainant and his witnesses.

"That respondent stooped to the level of a layman when he tore the criminal complaint with an inserted additional accused and should he have used the coercive power of the Court, if need be; that the sworn statement wherein he criss-crossed his name on the jurat which was already a public document being all the formalities of law having been complied with; that if it were true that the affidavit, medical certificate and other documents which the complainant has been demanding from him, were not in his possession; why then did he produce them before the Fiscal when subpoenaed on October 29, 1976; that his only reason as to why he took them from the Chief of Police was just to comply with the subpoena; human experience proved to be the contrary; why bother himself of taking the documents from the Chief of Police and produce them before the Investigating Fiscal?; he could have just made a manifestation that the documents were not in his possession but were in the possession of the Chief of Police; in the approval of the bail bond the Court has in its discretion to approve or disapprove bail bond, while it is true he is legally right in denying complainant's bail bond, but for legal technicalities, however, justice can be tempered with mercy regarding the personal liberty of the complainant; had he docketed the case before conducting the first stage of the preliminary examination and did he not tear the criminal complaint, then the complainant can be charged of falsification of public documents through intercalation; that the Daily Time Record of his Clerk, Josefa S. Nunga for the month of July 1976 shows that his Clerk reported for office work on July 19, 1976 (7:55-12:00 noon - 12:50-5:00 PM) and duly approved by him and submitted before this Court, as Executive Judge.

"Complainant is a former Deputy Clerk of Court of this Court, Branch I and a resident of Bacolor, Pampanga; his government service is known to government police agencies especially the Chief of Police of his town; that is why he made his way to the Chief of Police in adding another accused in the original complaint.

"IN VIEW OF THE FOREGOING, it is respectfully recommended that Respondent Judge be adjudged guilty of negligence, of acts unbecoming of a Judge, and to be reprimanded for such acts."

In the light of the findings of the investigating judge, We believe that his recommendation that the respondent be reprimanded is overly lenient.

Administrative Matter No. 1633-MJ has the following factual backdrop:

In Criminal Case No. 1394 of the Municipal Court of Bacolor, Pampanga, Ricardo T. Nuqui and six others were accused of illegal cockfighting. Seven (7) gaffs or " tari" were taken from Nuqui and presented in evidence. Nuqui pleaded guilty and was fined P25.00. The gaffs were not ordered forfeited to the State but were kept by Judge Gregorio B. de Jesus.

Sometime later, Nuqui and his friend Alex Umangay approached Judge de Jesus. They pleaded that the gaffs be

lent to Nuqui as he had no means of livelihood to feed his big family. Apparently he was a gaffer without gaffs. Judge de Jesus, out of compassion, lent the gaffs to Nuqui under a receipt dated November 5, 1976, with a "promise to return the same anytime the said Judge would order me to surrender the same for verification." The receipt was witnessed by Alex Umangay.

On April 11, 1977, Judge de Jesus asked Nuqui to return the gaffs but the latter refused to do so. As a result, the judge ordered the detention of Nuqui who was kept in jail from 9:00 a.m. to past 8:00 p.m. on April 11, 1977.

Nuqui filed a complaint against Judge de Jesus for arbitrary detention, issuing unjust interlocutory order, and violation of R.A. No. 3019 (Anti-Graft Law) in the Office of the Provincial Fiscal of Pampanga. It was denominated I.S. No. 8624 (77). After investigation of the complaint it was "dismissed for lack of prima facie case" on January 13, 1978.

Nuqui also filed an administrative complaint, dated May 26, 1977, against Judge de Jesus. The complainant charges respondent with the following:

1. Committing acts punishable under the Anti-Graft Law, for having on several occasions demanded and collected from the complainant P10.00 for every day that a cockfight was held in the town of Bacolor, Pampanga, as rental of the seven gaffs (tari) delivered by the respondent to the complainant, although no receipt was issued by the respondent for the money received or collected by him.
2. Grossly violating the civil rights and liberties of the complainant when on April 11, 1977, the respondent ordered his arrest and detention for "indirect contempt" for failing to surrender the aforementioned seven gaffs when ordered to do so although said gaffs, not having been forfeited to the State remained as property of the complainant.
3. Ignorance of the law, for citing the complainant for "indirect contempt" and ordering him committed to jail immediate-ly, although under the law indirect contempt may be punished only after a charge has been filed and opportunity is given to the accused to be heard by himself or by counsel.
4. For conduct prejudicial to the best interest of the judiciary service, as a consequence of the foregoing three grounds complained of.

The respondent vehemently denied the first charge which he branded as false, baseless and malicious, intended purely to harass, embarrass and spite him; that he delivered the seven gaffs upon complainant's own request and without any condition except to return them to the court when required to do so; that said gaffs were exhibits in Crim. Case No. 1394 and he acceded to the request to borrow said gaffs because complainant's only means of livelihood was providing gaffs for a fee during cockfights, and if they were not lent to the complainant, the latter's wife and eight children would starve; and that he never collected or demanded any amount from the complainant nor had he ever suggested or intimated that the complainant pay any amount for the use of said gaffs.

On the second charge which the respondent likewise branded as false, groundless and malicious, he alleged that the detention of the complainant from about 9:00 A.M. to past 8:00 P.M. on April 11, 1977 was a "direct consequence of his being found guilty of contempt of court when, within the immediate presence of the court and the undersigned (the respondent herein) he arrogantly and stubbornly refused and failed, without any justifiable ground or reason to obey a direct order of the court to produce and return the seven gaffs"; that it is immaterial whether or not said gaffs were the private property of the complainant; that it was the complainant's stubborn, arrogant and contumacious behavior in refusing and failing without any justifiable reason to obey the order given in court that gave basis for his finding the complainant guilty of contempt.

In answer to the third charge which he also pronounced to be false, groundless and malicious, the respondent

averred:

"As already clearly demonstrated previously herein the conduct of the complainant in refusing to produce and return the aforesaid seven (7) gaffs to the court is tantamount to misbehavior in the presence of or so near a court or judge and/or disrespect towards the court or judge, which clearly comes within the category of contempt that may be punished summarily.

"However, notwithstanding that the aforesaid conduct of the complainant could be punished summarily, the undersigned still gave the complainant every reasonable opportunity to produce and return the aforesaid seven (7) gaffs to the court or explain his failure to return the said gaffs satisfactorily, but the complainant stubbornly and arrogantly refused and failed to produce and return the same gaffs to the court and had taken for granted and did not seem to mind the concern of the undersigned and the court for the production and return of the said gaffs. In finding the complainant guilty of contempt of court under these facts and circumstances, the undersigned merely acted in the performance of what he honestly believe was his sworn duty to uphold the dignity and integrity of the court and to compel subservience and obedience to its orders and processes. Indeed, the undersigned, as he is only human as any other member of the judiciary, may sometimes make a mistake in the interpretation and application of the law, but certainly it cannot be logically concluded that he is ignorant of the law and/or that he has deliberately disregarded the law."

In answer to the fourth charge which the complainant considered to collectively amount to conduct prejudicial to the best interest of the judiciary service, respondent stated that the complainant, Ricardo Nuqui, has a standing grudge against respondent caused by his having held him in contempt of court, and that complainant's witness, Alex Umangay, is his close friend and ally who would do and say whatever complainant tells him to do.

We do not take seriously the allegation that the respondent collected P10.00 every time the gaffs were used in a cockfight. Obviously, this allegation was made merely to bolster the complainant's claim that he was illegally detained by the respondent.

We find as meritorious the complainant's claim that his detention because of an order of the respondent was improper. The complainant could not have committed a direct contempt of court because at the time of the incident the respondent was not holding court. Assuming, without conceding, that the complainant had committed indirect contempt of court, he was nonetheless entitled to be charged in writing and given an opportunity to be heard by himself or counsel. This was not done.

In Administrative Matter No. 1645-MJ, complainants Ruben Lacs and Castor Carbungco charged the respondent with refusal to perform his official duty and conduct prejudicial to the best interest of the service.

The complainants alleged that on February 21, 1977, they went to the respondent to file two (2) criminal complaints for Qualified Theft against Nicanor Regala, et al., and for Resistance and Disobedience to a Person in Authority against Oscar Carreon, et al. Both complaints were signed by the Sub-Station Commander of Bacolor, Pampanga, but the respondent judge, without any just cause, refused to docket the complaints.

The complainants further alleged that the respondent judge likewise defended the accused by producing before them a xerox copy of an affidavit which stated that some of the offended parties had already forgiven the accused of the offenses for which they were being charged.

In his answer dated August 3, 1977, the respondent judge vehemently denied the charges. He explained that when the criminal complaints were presented to him by the complainants on February 21, 1977, he could not docket them for the reason that they were not under oath. Consequently, he advised the complainants to bring the complaining witness before him in order that he could examine him under oath as required by law.

The respondent judge likewise denied the charge that he defended the accused. He claimed that he only mentioned

to the complainants that the accused in said criminal complaints had already been forgiven by the offended parties in order to point out to the complainants the need to support the complaints with additional evidence. He added that he had absolutely no motive or reason to defend the accused. In fact, the respondent judge said that he docketed and gave due course to four (4) previous criminal cases filed against the same accused.

On October 28, 1981, this case was referred to Judge Mariano Castañeda, Executive Judge, Court of First Instance of Pampanga, for investigation, report and recommendation.

Judge Castañeda, in his Report dated February 19, 1982, recommended the dismissal of the case on the ground that the respondent judge acted in good faith and within the bounds of the law when he refused to docket the two (2) criminal complaints which were not verified. The investigating judge said that the respondent judge merely followed the procedure prescribed by law in the docketing of criminal complaints in municipal courts. He stated that since the law requires that all criminal proceedings in the municipal courts must be commenced by the filing of a complaint which must be under oath, the respondent judge was correct in insisting that the complaints should first be verified before they could be filed with the court.

We agree with the investigating judge that the instant administrative case be dismissed. The records clearly show that the complaints were not verified. Under Section 2, Rule 110 of the Rules of Court, a complaint which charges a person with an offense, must be subscribed by the offended party, any peace officer or other employee of the government or governmental institution in charge of the enforcement or execution of the law violated. Thus, the act of the respondent judge in refusing to docket the said criminal complaints which were not under oath, cannot be faulted since they did not comply with the requirements of the law.

In Administrative Matter No. 2042-MJ, the respondent is accused of ignorance of the law, grave abuse of discretion, and conduct unbecoming of a judge by Edilberto Mercado.

Complainant alleged that on July 20, 1978 he went to the respondent's court to file a complaint with a sworn statement for grave threats against one Fred Smith but the respondent threw them back to the complainant saying there was no case; that the complainant should go to the Fiscal's Office; that he could not believe the statement of the witness because he was the complainant's first cousin; and that he should not file the case for it would only aggravate matters.

In his comment, dated September 7, 1978, the respondent vehemently denied the charges and averred that he asked complainant whether there were other persons present during the incident other than a first cousin; that when Mr. Mercado told him there was Pat. Benjamin Samia, he told the complainant that the testimony of the peace officer would carry more weight than that of a first cousin; that he encouraged the complainant to settle the case with the other party who is his relative so as to restore and maintain the peace and harmony in the family.

The complaint was referred to Executive Judge Mariano Castañeda of the Court of First Instance of Pampanga, for investigation, report and recommendation. He recommends dismissal of the complaint "in view of the very apparent lack of interest on the part of the complainant to pursue his complaint as evidenced by his failure to present evidence in support thereof."

WHEREFORE, We adjudge the following:

1. In A.M. No. 1381-MJ, the respondent is ordered to pay a fine equivalent to his salary for seven (7) days to be deducted from his retirement benefits;
2. In A. M. No. 1633-MJ, the respondent is ordered to pay a fine equivalent to his salary for fifteen (15) days to be deducted from his retirement benefits;

3. In A.M. No. 1645-MJ, the respondent is exonerated from the charges considering that his actuations were in accordance with law; and

4. In A.M. No. 2042-MJ, the complaint is dismissed for lack of interest on the part of the complainant to prosecute the case.

SO ORDERED.

Barredo, (Chairman), Aquino, Guerrero, De Castro, and Escolin, JJ ., concur.
Concepcion, Jr., J., on leave.

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