

**FIDEL MORTA, SR., COMPLAINANT, VS. MUNICIPAL JUDGE
CIPRIANO B. ALVIZO, JR. OF SANTIAGO, NOW CABADBARAN,
AGUSAN DEL NORTE, RESPONDENT.**

A.M. No. 1541-MJ. November 21, 1980

Ponente: AQUINO, J.

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AQUINO, J.:

On November 10, 1976, after the arraignment in Criminal Case No. 090 of the municipal court of Santiago, Agusan del Norte, Judge Cipriano B. Alvizo, Jr. rendered a decision in open court convicting Edilberto Magayones of less serious physical injuries, upon his plea of guilty, and sentencing him to two months of arresto mayor. Plea of guilty was considered mitigating. No civil liability was imposed.

According to Judge Alvizo, after the arraignment, he contacted Fidel Morta, Sr., the father of the victim, and explained to him that the victim's presence at the arraignment was not necessary and that he (Morta) could not be reimbursed the medical expenses because the prosecution did not present evidence on that point after the accused had pleaded guilty.

Not satisfied with that explanation, Fidel Morta, Sr. complained to the Secretary of Justice in his letter dated January 13, 1977 that respondent judge "prostituted the judicial process" by convicting Magayones without having heard the victim. The complainant could not understand why judgment was rendered without any trial being held.

We hold that Judge Alvizo overlooked the elementary rule that every person criminally liable for a felony is also civilly liable. When a criminal action is instituted, the civil action for the civil liability arising from the offense is impliedly instituted with the criminal action, unless the offended party expressly waives the civil action or reserves his right to institute it separately (Art. 100, Revised Penal Code and sec. 1, Rule 111, Rules of Court).

After Magayones had pleaded guilty, Judge Alvizo should have set the case for hearing for the reception of the offended party's evidence on the civil liability (*Veloso vs. Carmona*, Adm. Matter No. 502-MJ, June 30, 1977, 77 SCRA 450).

It was alleged in the criminal complaint that the victim suffered injuries which would require medical attendance for a period of seven to ten days and incapacitate him for performing his customary labor for the same period. According to Fidel Morta, Sr., his son, the aggrieved party, had to be hospitalized for the treatment of his injuries.

The civil liability may be claimed in the criminal action even if there is no specific allegation of damages in the complaint or information (*Roa vs. de la Cruz*, 107 Phil. 8; *People and Manuel vs. Coloma*, 105 Phil. 1287; *People vs. Celorico*, 67 Phil. 185; *People vs. Ursua*, 60 Phil. 252).

WHEREFORE, respondent judge is warned and admonished to be more careful in the performance of his duties. A copy of this resolution should be attached to his personal record.

SO ORDERED.

Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

Barredo, J., (Chairman), In concurring in the above situation, I wish to express the view that perhaps there is still time for the complainant to resort to a separate civil action.

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