

LT. ROBERTO LASTIMOSO, COMPLAINANT, VS. MUNICIPAL JUDGE IGNACIO LAMBO OF MABINI, DAVAO DEL NORTE, RESPONDENT.*A.M. No. 243-MJ. May 28, 1979*

Ponente: FERNANDO, Actg. C.J.

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FERNANDO, Actg. C.J.:

It was the appearance of bias arising from a remark imputed to respondent Judge Ignacio Lambo that led to this administrative complaint. It was alleged by complainant Roberto T. Lastimoso, then Commanding officer of a Philippine Constabulary Company stationed at Tagum, Davao del Norte, that respondent Judge vouched for the character of an accused for illegal possession of firearms and expressed surprise why such a case was being filed. It was further stated in such complaint: "He did not of course reject the complaint, but we feel that he would not be able to prosecute the case successfully with this outburst. We requested him to issue the Warrant of Arrest against David Pailog as there is a prima facie case, but he denied this and said that he will conduct another preliminary investigation before issuing the Warrant of Arrest." [1]

When asked to comment, respondent Judge denied the allegation that he blamed the Philippine Constabulary for filing the complaint or that he "advised the complainant to desist from charging any violation of our laws." [2] By way of further explanation, he added: "The truth of the matter is that on July 5, 1972, Sgt. German Riogelon of the PC filed a criminal complaint signed by him and docketed as Criminal Case No. 811 of this Court for Illegal Possession of Firearms and Ammunitions against one David Pailog. When I went over the records, one of the sworn statements supporting the complaint was executed last June 26, 1972 and the other supporting affidavit, on the date the complaint was filed. Both were brief sworn statements. Upon seeing that the incident of the confiscation of the firearm and ammunitions was on June 11, 1972, I immediately asked the complainant Sergeant why the filing of the case was delayed. He said that the witnesses were on mission, so they could not file the case sooner. I asked that question precisely because I expected the filing of the complaint immediately after June 26, 1972, when the first affidavit was executed. Right then and there, I accepted and docketed the case, without much ado." [3]

Respondent Judge likewise denied the alleged delay in the issuance of the warrant of arrest. Thus: "After docketing the case and observing that the complainant Sgt. Riogelon expected that I issue immediately the warrant of arrest although he did not say so, I explained to him the necessity of conducting a preliminary examination to determine the probable cause before I issue the warrant of arrest. I told him it is a constitutional requirement and that the same was necessary in this case because the Court cannot just adopt the brief questions and answers given in the sworn statements of the witnesses supporting the complaint as they were not searching enough and were prepared by the PC in Tagum, Davao del Norte. He told the undersigned that there was already a prima facie case against the accused and for that matter the warrant of arrest can issue immediately. I insisted and told him that unless I have personally examined the complainant and his witnesses myself and is satisfied that there is probable cause, I cannot issue the warrant." [4]

The matter was referred to Judge Felix L. Moya for investigation. Complainant, Lt. Lastimoso, was required to

submit a verified complaint, but instead of doing so, there was a communication from Lt. Col. Pedro R. Martinez, the Officer-In-Charge of the Davao del Norte Constabulary Command at Tagum, to the effect that complainant was "not interested in filing an administrative case against respondent Judge Ignacio Lambo." [5] It was his recommendation, therefore, that the case be dismissed. With such a recommendation, the Office of the Judicial Consultant of this Court was in agreement.

This Court is likewise of the view that no further action need be taken on the matter and that the complaint be dismissed. The probabilities were that the Sergeant who sought the issuance of a warrant of arrest, unable to understand the procedure to be followed and fearful that the superior officer might consider it a mark of inefficiency, exaggerated matters. At any rate, this Court gave complainant every opportunity to prove his charge, but he failed to do so. Respondent Judge is thus entitled to be cleared. Nonetheless, it is not inappropriate as a reminder to every occupant of the bench that random remarks could be misinterpreted. Every effort should, therefore, be made so that the least doubt as to one's impartiality should not arise. So it has been from *Gutierrez v. Santos*, [6] a 1962 decision, to *Ignacio v. Villaluz*, [7] promulgated earlier this month.

WHEREFORE, this administrative complaint is dismissed. Let a copy of this resolution be entered on the record of respondent Judge Ignacio C. Lambo.

Antonio, (Actg. Chairman), Aquino, Santos, and Abad Santos, JJ., concur.
Barredo and Concepcion, Jr., JJ., on official leave.

[1] Complaint, 1.

[2] Comment of Respondent Judge, 1.

[3] *Ibid*, 2.

[4] *Ibid*, 3.

[5] Recommendation, 1.

[6] 112 Phil. 184.

[7] L-37527-52, May 5, 1979.

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