

HADJIRUL TAHIL, COMPLAINANT, VS. ATTY. CARLITO A. EISMA, MUNICIPAL JUDGE OF PARANG, SULU, RESPONDENT.

A.M. No. 276-MJ. June 27, 1975

Ponente: ANTONIO, J.

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ANTONIO, J.:

Respondent Municipal Judge Carlito A. Eisma, of Parang, Sulu, is charged by complainant Hadjirul Tahl with dishonesty in not reporting regularly to his office, contrary to the recitals of his daily time record. In his "Investigation, Report and Recommendation" dated February 29, 1973, Judge Felix V. Barbers of the Court of First Instance of Sulu, Branch III, 16th Judicial District, who investigated the case, recommended the dismissal of the charge.

According to the findings of the Investigating Judge:

"... respondent has been regularly reporting to his office except on certain days when he marked himself absent during which he explained, his salary was correspondingly deducted therefrom.

"The filing of this complaint, the respondent declared, is motivated by hatred, anger and revenge on the part of the complainant. This is occasioned by the fact, when complainant brought the bail bond of his nephew Bakkal Ilahal charged in Criminal Case No. 241-N before the Court of respondent, for approval of the latter. Because of the failure of the bondsmen to appear before him, respondent did not approve of the bail bond. Again on another occasion, complainant filed in the Court of respondent a motion to dismiss Criminal Case No. 372-N, wherein the same nephew of the complainant, Bakkal Ilahal, is also charged with the crime of illegal possession of firearms. A scrutiny of the motion to dismiss and its annexes, offered in evidence by respondent, will show that the same is based on documents merely certified to by the clerk of the counsel of Bakkal Ilahal. Respondent in his order denying this motion to dismiss ruled:

'After a thorough perusal and study of the issues involved in the motion to dismiss and the opposition thereto, the Court finds that the reasons of Lt. Rodialo Gumtang in his oral opposition are more logical and justifiable because the evidence upon which accused thru counsel relies in their motion to dismiss are documentary in nature and the Court is not in a position to accept this kind of evidence without confronting the persons who executed and prepared the documents in question. Furthermore, some of the documents presented by accused thru counsel are merely certified true copies, the validity and originality of which are subject to question.

'Accused thru counsel can have all the opportunity to present all their evidence during the trial of the case, hence, to pass and decide upon the validity of the documents attached to the motion to dismiss is premature and the proper subject of a trial on the merits.

'WHEREFORE, in view of the foregoing consideration, this Court denies the motion to dismiss of accused and orders that this case be set for trial on April 15, 1971. Let copy of this order be issued to the parties with the waling that no postponements shall be entertained.

'SO ORDERED.'

"Without going to the merits of the above-mentioned two cases, this Court finds that respondent acted judiciously on the matter. His disapproval of the bail bond without the bondsmen appearing before him in the first case (murder) is correct, because as the approving officer he must satisfy himself that those who made the undertaking to bail the accused are the same persons whose names appear on the bail bond and whose signatures are affixed thereto, otherwise, if only for the sake of friendship to accommodate the complainant, would make the bond a useless scrap of paper, and which respondent can be held responsible.

"A scrutiny of the bail bond (Exhibit 1) which We believe is the original thereof, the same is not even signed by the principal, who is the accused to be bailed. Neither has it been shown that the current taxes of the real properties offered as bond had been paid. The receipts of payment or a certificate of the municipal treasurer to this effect is not even attached, which are requirements to be accomplished pursuant to existing circulars of the Department of Justice.

"As to the order denying the motion to dismiss in the other case (illegal possession of firearm), this Court finds and is convinced that respondent acted legally. A scrutiny of the motion to dismiss and the grounds thereof, are grounds that could be taken and proven during the trial on the merits of the case. Respondent not having been satisfied with the documents annexed to the motion which are purely certified copies made by the clerk of the accused's counsel, respondent acted correctly and legally.

"On this score, complainant has all the reasons to be angry at respondent taking into consideration their previous friendship, and now respondent has failed to accommodate him as hereinabove described. A lot of persons, because of friendly relations they have with judicial authorities, consider that when their wishes are not complied with or accommodated in cases pending before the courts of which they have an interest, it is the end of such friendship and to their eyes the judge is not a friend but a foe. Their nearsightedness on these matters could be like a poison to their mental faculties so that they would like the judge who failed to accommodate them, face their wrath and displeasure. Complainant became wrathful, but wrath must be properly channeled or it may work out a grave injustice. But, certainly, a judge in the exercise of his judicial function, does not see whether one is a friend or foe, whether one is influential or not, but rather, whether he acts within the law he is to apply, whether his actuations are prescribed by the rules of court and whether he has acted judiciously.

"As to the alleged falsification of the respondent of his daily time record and the allegation that he only reports to his office during Mondays and Thursdays, do not find credibility, and naturally should not be given weight."

It appears, however, that in the aforementioned Criminal Case No. 241-N for murder, respondent admitted having granted bail to the accused upon the request of a congressman, despite his belief that the evidence of guilt against the accused was strong. On the basis of this admission, the Judicial Consultant recommends that the respondent Judge "be fined in an amount equivalent to his salary for one (1) month and warned that a repetition of such a breach of integrity will be dealt with more sternly."

Under the Constitution, all persons shall, before conviction, be bailable by sufficient sureties, except those charged with capital offenses when evidence of guilt is strong. The discretion of the court to grant bail in a capital offense, before conviction, must be based upon the Court's determination as to whether or not the evidence of guilt is strong. This discretion may only be exercised after the evidence is submitted at the summary hearing conducted pursuant to Section 7 of Rule 114 of the Rules.

Respondent's admission that he granted bail because of the request of a congressman, despite his belief that the evidence of guilt against the accused is strong, is indeed reprehensible. But it is not clear from the record whether or not a summary hearing was conducted by respondent Judge in Criminal Case No. 241-N for the purpose of bail and, on the basis of his appreciation of the evidence submitted, granted bail to the accused. Moreover, respondent

was not specifically charged and investigated in this regard, and in the absence of any specific finding that respondent gravely abused his discretion in granting bail to the accused in said case, this Court has no basis to impose a fine upon respondent.

WHEREFORE, in view of all the foregoing, the charge against respondent is DISMISSED. Considering his admission, however, he is hereby admonished to demonstrate a greater degree of competence, intellectual courage and independence in the discharge of his judicial duties, for only in that manner can he merit the judicial position that he occupies and the support and confidence of the people.

Fernando, (Chairman), Barredo, Aquino, and Concepcion, Jr., JJ., concur.

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