

RE: ISSUANCE OF SUBPOENA TO PRISONER NICANOR DE GUZMAN, JR.*A.M. No. 97-2-12-MTC. August 21, 1997*

Ponente: KAPUNAN, J.

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In the wake of media reports that ex-Congressman Nicanor de Guzman, Jr. of Nueva Ecija, presently detained in the National Bilibid Prison on a life sentence, celebrated his birthday in his hometown in Nueva Ecija on January 16, 17 and 18, 1997, it was ascertained that in an Order dated November 27, 1996, Acting Presiding Judge Geminiano A. Eduardo of the Municipal Trial Court of San Leonardo, Nueva Ecija directed the issuance of a subpoena in LRC File No. 9-96 entitled “Petition for the Issuance of Second Owner’s Duplicate Copy of TCT No. NT-185476 of the Register of Deeds of Nueva Ecija, Nicanor de Guzman, Jr., petitioner,” requiring the latter to appear at the said Court for hearing on January 16, 1997 at 8:30 in the morning.

As soon as the MTC Judge signed the order, Clerk of Court II Juana F. Edades issued a subpoena to petitioner with a First Indorsement, dated December 5, 1996, forwarding it to the National Bilibid Prisons, Muntinlupa City.

In a letter dated January 6, 1997 addressed to the Clerk of Court, MTC of San Leonardo, Nueva Ecija, which was received on January 10, 1997, Penal Superintendent Juanito S. Leopando of the Bureau of Prisons gave the information that “prisoner Nicanor de Guzman is a life term, hence permission from the Supreme Court must be secured first to enable this office to bring prisoner de Guzman before the Honorable Court in compliance with Administrative Circular No. 6 dated December 5, 1977 of the Honorable Chief Justice of the Supreme Court.”

Administrative Circular No. 6 dated December 6, 1977 provides that:

x x x pursuant to Administrative Circular No. 2 dated December 2, 1976, no prisoner sentenced to death or life imprisonment or detained upon legal process for the commission of any offense punishable by death or life imprisonment conferred in NBP is allowed to be brought outside of the said penal institution for appearance or attendance in any court except when the Supreme Court authorizes the Judge, upon proper application, to effect the transfer of the said prisoner. In addition, the said Circular directs every judge in Metro Manila and the Provinces of Rizal, Bulacan, Cavite and Laguna who requires the appearance or attendance of any of the aforesaid prisoners confined in the New Bilibid Prisons in any judicial proceedings to conduct such proceeding within the premises of the said penal institution.

In a letter, dated January 21, 1991, the Office of the Court Administrator thereby directed Acting Presiding Judge Geminiano A. Eduardo and Clerk of Court Juana F. Edades to explain why no disciplinary action should be taken against them for issuing said subpoena without authority from the Supreme Court in violation of the aforementioned circular.

In his letter explanation, Judge Eduardo stated:

1. That I admits (sic) that a certain Nicanor de Guzman, Jr. was subpoenad (sic) by the Municipal Trial Court of

San Leonardo, Nueva Ecija on December 5, 1996 to appear for hearing on January 16, 1997, at 8:30 in the morning in connection with LRC Case No. 9-96.

2. That the said subpoena was issued by the Clerk of Court in compliance with the order of the Court dated November 27, 1996.

3. That as soon as the undersigned had signed the said order dated November 27, 1996, the Clerk of Court Juana F. Edades issue (sic) a subpoena to the petitioner Nicanor de Guzman Jr. a resident of San Vicente Homes, Gapan, Nueva Ecija without knowing that the said Nicanor de Guzman Jr. is the same Nicanor de Guzman Jr. a life term presently detained at the New Bilibid Prison, Muntinlupa (sic) City. Hence, it is on this atmosphere that the subpoena was issued.

4. That the undersigned was only appointed Municipal Trial Court Judge in May 1983 and administrative Circular Nos. 2 and 6 was (sic) issued in 1977 and therefore admits that we have no copy of the said circulars on file in our Office, otherwise if I knew that the person to be subpoenaed is life term Nicanor de Guzman and I have the copy of the said circular I would have instructed my Clerk of Court to desist from issuing a subpoena.

5. That at present the undersigned has been acting as Presiding Judge of the towns of San Leonardo and Peñaranda, Nueva Ecija and special cases in Gapan, Nueva Ecija aside from his permanent assignment at General Tinio, Nueva Ecija, and because of pressure of work I have no more time to verify the real identity of the person to be subpoenaed as in this particular incident.

6. That the undersigned knew only on January 10, 1997 when we received a letter dated January 6, 1997 from the Penal Superintendent IV Juanito Leopando with the information that Nicanor de Guzman, Jr. a life term confined at the New Bilibid Prison and consequently a request must first be filed with the Honorable Supreme Court to enable them to bring Nicanor de Guzman, Jr. before the Court on January 16, 1997, at 8:30 in the morning.

Verily, the said Nicanor de Guzman Jr. was brought out from his detention cell not on the strength of the subpoena issued by the Clerk of Court of the Municipal Trial Court of San Leonardo, Nueva Ecija, but by another subpoena issued on January 14 and 15, 1997 by another Agency of the government over which the undersigned has no jurisdiction.

7. That the presence of Nicanor de Guzman Jr. a life term is necessary in LRC Case No. 9-96 especially in the identification and marking of the documentary exhibits.

8. That if ever a subpoena was issued to Nicanor de Guzman Jr., yet the latter disregarded the said subpoena and did not appear in Court on January 16, 1997.

9. That the violation if ever committed, has not been deliberate, unintentional and without malice and in good faith and promised not to happen again in the future to come.

It is respectfully prayed, therefore, that due consideration, compassion and understanding be accorded the foregoing explanation.

The Clerk of Court, on the other hand, explained that when she issued the subpoena, she was not aware of such circular considering that it was issued way back in 1977 and that the same was not on file in the usual place of safekeeping in the office. She further stated that after she issued the subpoena to Nicanor de Guzman, similar subpoena in a certain criminal case was also issued by the Prosecutor's Office at Gapan, Nueva Ecija. Finally, she averred that de Guzman did not appear in court on January 16, 1997, thereby showing that the subpoena issued by the MTC of San Leonardo, Nueva Ecija "had not been honored by him."

The Court finds the above explanations unacceptable. It cannot allow such misconduct to pass without sanction. Respondents pretended ignorance of the existence of such circular because no copy was on file or that the Judge was appointed much later than the date of issuance of said circular cannot be a valid excuse.

Circular No. 13 dated July 7, 1987, particularly enjoins “all members of the judiciary to keep abreast of the rulings and doctrines laid down by the Supreme Court and apply them to appropriate cases x x x.”

In *Ramirez v. Corpuz-Macandog*, 144 SCRA 462 [1996], the Court has stressed that:

Judges are required to observe due care in the performance of their official duties. They are likewise charged with the knowledge of internal rules and procedures, especially those which relate to the scope of their authority. They are duty bound to observe and abide by these rules and procedures, designed as they are, primarily to ensure the orderly administration of justice.

With the foregoing exhortation from the Court, respondent Judge’s unawareness of the circular is unexcusable. He has been in the Judiciary since 1983. With the length of service and experience in the bench, he cannot justifiably feign ignorance of the existence of Circular No. 6.

In *Ting v. Atal*, 231 SCRA 80 [1994], we explained that:

x x x. While it is true that respondent Judge failed in his duty to be updated in his knowledge of law, good faith and the lack of intent to cause prejudice or damage should be considered in his favor. In *Consolidated Bank and Trust Corporation v. Hon. Dionisio M. Capistrano*, this Court stated:

To be sure, good faith and absence of malice and corrupt motives or improper consideration are sufficient defenses protecting a judicial officer charged with ignorance of the law and promulgation of an unjust decision from being held accountable for errors of judgment, on the premise that no one called upon to try the facts or interpret the law in the administration of justice can be infallible.

Good faith and lack of malicious intent however cannot completely free respondent Judge Elpidio B. Atal from liability.

The role of justices and judges in the administration of justice requires a continuous study of the law and jurisprudence. Respondent judge in this case failed to meet this requirement and standard.

Administrative Circular No. 6 is not as obscure as respondents suggest it to be. While this may have been issued on December 5, 1977, by the then Chief Justice Fred Ruiz Castro, it is an important rule for all courts to take notice of and to follow in the issuance of subpoenas to witnesses serving or detained on a life sentence, necessitating meticulous care and extra precaution to prevent escape. There is no reason why respondent Judge may not be aware of such circular when it is so necessary for the proper administration of justice.

In any event, respondent Judge and Clerk of Court cannot invoke alleged oversight since their attention was duly called by the NBP Superintendent in a letter dated January 6, 1997, informing them that Nicanor de Guzman, Jr., who was serving life imprisonment at NBP cannot be released to attend the hearing of a case without the Supreme Court’s permission, pursuant to Circular No. 6. Said letter was received by respondent Judge on January 10, 1997. Despite such information, respondent Judge failed to act to rectify his error. He did not do anything to recall the subpoena or to secure permission or a ratification thereof from this Court. From the time that he received the letter until the scheduled hearing on January 16, 1997, respondent Judge had at least six (6) days to act with reasonable dispatch upon learning of such mistake.

Moreover, Circular No. 6 also provides that it was a judge’s duty to “examine and study carefully any application for the issuance of subpoena or summons involving detention prisoners filed with their court xxx.” If, indeed, the

Judge was not remiss in his duty in carefully examining the subpoena, then he would have clearly noticed that Nicanor de Guzman, Jr., a resident of San Vicente Homes, Gapan, Nueva Ecija, is the same Nicanor de Guzman, Jr., a life term presently detained at the NBP.

While Clerk of Court Edades admitted that she simply addressed the subpoena to Nicanor de Guzman, Jr. thru the Director of the NBP, Muntinlupa when she was informed that a similar subpoena in a certain criminal case was also issued by the prosecutor's office at Gapan, Nueva Ecija, she was at the very least negligent in the performance of her official function as Clerk of Court. Her position as clerk of court is just as essential in any judicial system. She must realize that her administrative functions are vital and must, therefore keep abreast of circulars and rules that are important and necessary for a prompt and proper administration of justice.

Likewise, we fault her for her deliberate inaction on her violation after her attention was called by the NBP Superintendent.

This Court has not been wanting in its warnings that judges and all court employees should endeavor to maintain at all times the confidence and high respect accorded to those who wield the gavel of justice. Respondents' actions indeed show their lack of familiarity with the laws, rules and regulations as to undermine the public confidence in the integrity of our courts (Cuaresma v. Aguilar, 226 SCRA 73 [1993])

IN VIEW OF THE FOREGOING, the Court finds respondents guilty of gross negligence in the performance of their duty and hereby IMPOSES a fine of Ten Thousand (P10,000.00) Pesos upon Judge Geminiano A. Eduardo and Five Thousand (P5,000.00) Pesos upon Clerk of Court Juana F. Edades with a stern warning that a repetition of the same or similar act in the future shall be dealt with more severely.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Mendoza, Francisco, Hermosisima, Jr., Panganiban and Torres, Jr., JJ., concur.

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