

PURITA LIM, COMPLAINANT, VS. JUDGE CESAR M. DURLAO, MUNICIPAL TRIAL COURT, SAN MATEO, ISABELA, RESPONDENT.

A.M. NO. MTJ-04-1556. March 31, 2005

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YNARES-SANTIAGO, J:

In a verified letter-complaint[1] dated June 5, 2003, complainant Purita Lim charged respondent Judge Cesar M. Dumlao of the Municipal Trial Court of San Mateo, Isabela, with Gross Ignorance of the Law and Grave Abuse of Authority.

Complainant averred that she filed two criminal cases for carnapping and theft with the Regional Trial Court of Santiago City, Isabela, Branch 35, against a certain Herman A. Medina. On May 8, 2003, Medina was apprehended and detained at the Bureau of Jail Management and Penology, Santiago City Jail, by virtue of a Warrant of Arrest issued by then Presiding Judge Fe Albano Madrid of Branch 35.

On May 9, 2003, respondent judge issued three separate orders for the release of Medina on the ground that he had posted bail with his court. Complainant alleged that respondent judge frequently approves bail bonds for cases filed in other courts and outside the territorial jurisdiction of his court. He also issues search warrants for implementation outside of his court's jurisdiction which, resultantly, are often quashed and the corresponding cases dismissed because the articles seized were inadmissible as evidence.

As proof, complainant attached copies of Search Warrant Nos. 2002-120,[2] 2002-173,[3] and 2002-180[4] issued by respondent judge. Search Warrant No. 2002-120 was ordered quashed on September 2, 2002[5] by Judge Anastacio Anghad for being infirmed and fatally defective. The crime was committed outside the territorial jurisdiction of the MTC of San Mateo, Isabela and no "compelling reasons" were stated in the application to justify its filing before the MTC of San Mateo, Isabela. What is more, it was found that respondent judge did not conduct a thorough and extensive inquiry to the deponent and his witnesses as required by the Rules on Criminal Procedure[6] in order to establish probable cause and the justification for the application.

Search Warrant No. 2002-173 was also ordered[7] quashed by Judge Anghad on December 18, 2002 as probable cause was not actually ascertained and searching questions and answers were not conducted. In another case, Search Warrant No. 2002-180[8] was likewise quashed and the articles seized by virtue of the warrant were declared inadmissible in evidence[9] because the applicant failed to prove "extreme and compelling circumstances" and the warrant issued did not particularly describe the place to be searched and the persons or things to be seized.

In view of these instances, complainant requested for an investigation into the activities of respondent judge. On June 30, 2003, the Court Administrator referred the complaint to respondent judge requiring his comment thereon within ten days from receipt,[10] but he failed to file the required comment notwithstanding his receipt of the order on July 28, 2003 as evidenced by the Registry Return Receipt. The Court Administrator sent a 1st Tracer[11] dated October 28, 2003 which respondent judge received on November 19, 2003. On June 28, 2004, this Court resolved to require respondent judge to show cause why he should not be disciplinarily dealt with or

held in contempt for his obdurate refusal to file his comment.[12] On December 8, 2004, with still no response from respondent judge, the Court resolved to dispense with the comment.[13]

The Office of the Court Administrator (OCA), through Court Administrator Presbitero J. Velasco, Jr. and Deputy Court Administrator Jose P. Perez, submitted to this Court a Memorandum dated February 15, 2005. In said memorandum, the Court was informed that respondent judge has been charged in six (6) administrative cases, including the instant case, to wit:

- MTJ-01-1339 (Efren Morales vs. Judge Cesar Dumlao) – for Abuse of Authority. Respondent was fined P5,000.00 in a decision dated February 13, 2002.
- MTJ-01-1350 (Lorenzo Pascual, et al. vs. Judge Cesar Dumlao) – for Gross Negligence and Gross Ignorance. Respondent fined P10,000.00 in a decision dated July 20, 2001.
- MTJ-03-1519 (Reynaldo Sinaon, Sr. vs. Judge Cesar Dumlao) – for Grave Abuse of Authority, Misconduct, Dereliction of Duty and Ignorance of the Law. The case is pending.
- 03-1442-MTJ (Ester Barbero vs. Judge Cesar Dumlao) – for Abuse of Authority. The case is pending.
- 97-394-MTJ (Artemio Alivia vs. Judge Cesar Dumlao) – for Anomalous Reduction of Bailbond. Case pending.

The OCA's evaluation stated:

The respondent's failure to submit his comment as required is further evidence of his defiance of directives issued by his superiors. It is, furthermore, indicative of his admission of the charges pending against him. Indeed, the practice of respondent accepting and approving bail bonds of detained persons who are charged of crimes in courts other than his own constitutes gross ignorance of the law.

We believe, however, that in the determination of the penalty, we should consider the fact that he presides over four (4) courts to wit: MTC, San Mateo, Isabela as presiding judge; MCTC, Alfonso-Lista-Aguinaldo as acting presiding judge; MTC, Ilagan, Isabela as acting presiding judge, and MCTC of Tumauni-Delfin Albano also as acting presiding judge.

Thus, the OCA recommended:

Respectfully submitted for the consideration of the Honorable Court with the recommendations that the respondent Judge be required to pay a fine of TEN THOUSAND PESOS (P10,000.00) for his obdurate refusal to file his comment on the complaint. Further, respondent judge be required to pay a fine of TWENTY ONE THOUSAND PESOS (P21,000.00) and warned that a repetition of the same offense will be dealt with more drastically for approving bail bonds for accused persons who were detained in places outside his territorial jurisdiction.

We agree with the recommendations of the OCA, except as to the penalty.

Section 17, Rule 114 of the Rules of Criminal Procedure provides:

Section 17. Bail, where filed. — (a) Bail in the amount fixed may be filed with the court where the case is pending, or, in the absence or unavailability of the judge thereof, with any regional trial court judge, metropolitan trial judge, municipal trial judge, or municipal circuit trial judge in the province, city or municipality. If the accused is arrested in a province, city or municipality other than where the case is pending, bail may also be filed with any Regional Trial Court of said place, or if no judge thereof is available, with any metropolitan trial judge, municipal trial judge, or municipal circuit trial judge therein.

It is not disputed that the criminal cases filed by complainant against Herman Medina were pending before the

Regional Trial Court of Santiago City, Isabela, Branch 35. In fact, the warrant of arrest was issued by Judge Fe Albano Madrid, presiding judge of the said court. The order of release therefore, on account of the posting of the bail, should have been issued by that court, or in the absence or unavailability of Judge Madrid, by another branch of an RTC in Santiago City. In this case, however, there is no proof that Judge Madrid was absent or unavailable at the time of the posting of the bail bond. In fact, complainant Lim avers that on the day respondent judge ordered the release of Medina, Judge Madrid and all the judges of the RTC of Santiago City, Isabela were at their respective posts.

It is elementary that a municipal trial court judge has no authority to grant bail to an accused arrested outside of his territorial jurisdiction. The requirements of Section 17(a), Rule 114 as quoted above must be complied with before a judge may grant bail.[14] The Court recognizes that not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, but only in cases within the parameters of tolerable misjudgment.[15] Where, however, the law is straightforward and the facts so evident, not to know it or to act as if one does not know it constitutes gross ignorance of the law.[16]

Respondent judge undeniably erred in approving the bail and issuing the order of release. He is expected to know that certain requirements ought to be complied with before he can approve Medina's bail and issue an order for his release. The law involved is rudimentary that it leaves little room for error. In the case of *Español and Suluen v. Mupas*,[17] we have stated:

Thus, a judge who approves applications for bail of accused whose cases were not only pending in other courts but who were, likewise, arrested and detained outside his territorial jurisdiction is guilty of gross ignorance of the law and violates Rule 3.01 of the Code of Judicial Conduct. It must be emphasized that the rules of procedure have been formulated and promulgated by this Court to ensure the speedy and efficient administration of justice. Failure to abide by these rules undermines the wisdom behind them and diminishes respect for the law. Judges should ensure strict compliance therewith at all times in their respective jurisdictions.[18]

It is settled that one who accepts the exalted position of a judge owes the public and the court the ability to be proficient in the law and the duty to maintain professional competence at all times.[19] When a judge displays an utter lack of familiarity with the rules, he erodes the confidence of the public in the courts. A judge owes the public and the court the duty to be proficient in the law and is expected to keep abreast of laws and prevailing jurisprudence. Ignorance of the law by a judge can easily be the mainspring of injustice.[20]

Respondent judge's predicament is further aggravated by his unauthorized or irregular issuance of search warrants not once but a number of times. To our mind, his violations cannot be excused as mere lapses in judgment but blatant and conscious disregard of basic rules of procedure.

Moreover, records show that he has been previously charged and found guilty of similar charges. Respondent judge has been previously fined Five Thousand Pesos for notarizing the revocation of a Special Power of Attorney in violation of Supreme Court Administrative Circular No. 1-90.[21] In another case, he was found guilty of gross ignorance of the law and negligence in the performance of duties for issuing a temporary restraining order and granting a party's motion without the benefit of a proper hearing. He was fined Ten Thousand Pesos.[22]

Section 8, Rule 140 of the Rules of Court characterizes gross ignorance of the law and procedure as a grave offense. The penalties prescribed for such offense are: (1) Dismissal from service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government owned or controlled corporations, provided, however, that the forfeiture of benefits shall in no case include accrued leave credits; (2) Suspension from office without salary and other benefits for more than

three (3) months but not exceeding six (6) months; or (3) a fine of more than P20,000.00 but not exceeding P40,000.00.

In *Gomos, et al. v. Adiong*,^[23] the respondent judge therein was suspended from office without salary and benefits for six months after he was found guilty of gross ignorance of the law. We took judicial notice that previously, he was fined in the sum of P20,000.00 for gross ignorance of the law and another P5,000.00 for gross ignorance of the law and grave abuse of discretion.

In this case, respondent judge appears undeterred in disregarding the law. He has continued to exhibit such behavior that betray an unconcerned stance about the previous penalties he has received and the warnings previously given that any repetition of similar infractions shall be dealt with more severely. Thus, we are imposing a penalty more severe than a fine. Given the circumstances, suspension from office for six (6) months without salary and benefits is reasonable.

We agree with the OCA that the respondent judge must be held administratively liable for his unjustified failure to comment on an administrative complaint. This constitutes gross misconduct and insubordination. We held in *Imbang v. Del Rosario*, that:

The office of the judge requires him to obey all the lawful orders of his superiors. It is gross misconduct, even outright disrespect for the Court, for respondent judge to exhibit indifference to the resolution requiring him to comment on the accusations in the complaint thoroughly and substantially. After all, a resolution of the Supreme Court should not be construed as a mere request, and should be complied with promptly and completely. Such failure to comply accordingly betrays not only a recalcitrant streak in character, but also disrespect for the Court's lawful order and directive. (Emphasis supplied)^[24]

In that case, we fined the judge in the amount of P10,000.00 for his failure to comply with our directives. In the present case, a fine of Ten Thousand Pesos (P10,000.00) as recommended by the OCA is reasonable penalty for respondent judge's repeated failure to file his comment on the complaint.

WHEREFORE, premises considered, respondent Judge Cesar M. Dumlao of the Municipal Trial Court of San Mateo, Isabela, is found GUILTY of Gross Ignorance of the Law and Grave Abuse of Authority and is hereby SUSPENDED from office for a period of six (6) months without salary and other benefits with a WARNING that a repetition of the same shall merit a more serious penalty. He is likewise FINED the amount of Ten Thousand Pesos (P10,000.00) for his obstinate failure to file comment on the complaint filed against him despite proper notice.

SO ORDERED.

Davide, Jr., C.J., Quisumbing, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 2-5.

[2] Id. at 14.

[3] Id. at 15.

[4] Id. at 16.

[5] Id. at 17-23.

[6] Id. at 22-23.

[7] Id. at 24-36.

[8] Id. at 16.

[9] Id at 37-49.

[10] Id. at 50.

[11] Id. at 51.

[12] Id. at 57.

[13] Id. at 58.

[14] *Adapon v. Dumagtoy*, 333 Phil. 696 (1996).

[15] *Gomos, et al. v. Adiong*, A.M. No. RTJ-04-1863, 22 October 2004, citing *Mupas v. Español*, A.M. No. RTJ-04-1850, 14 July 2004; see also, *Carpio v. De Guzman*, 331 Phil. 115, 122 (1996).

[16] *Quindoza v. Banzon*, A.M. No. MTJ-04-1552, 16 December 2004; see also, *Guillen v. Cañon*, 424 Phil. 81, 89 (2002); *De Guzman, Jr. v. Sison*, A.M. No. RTJ-01-1629, 26 March 2001, 355 SCRA 69, 84-85; *Creer v. Fabillar*, 392 Phil. 406, 412 (2000); *Pacris v. Pagalilauan*, 392 Phil. 413, 430 (2000); *Rodriguez v. Bonifacio*, A.M. No. RTJ-99-1510, 6 November 2000, 344 SCRA 519.

[17] A.M. No. MTJ-01-1348, 11 November 2004.

[18] Id.

[19] *Gozun v. Liangco*, 393 Phil. 669, 681 (2000).

[20] *Dela Paz v. Adiong*, A.M. No. RTJ-04-1857, 23 November 2004, citing *Mutilan v. Adiong*, 433 Phil. 25, 32-33 (2002).

[21] *Morales v. Dumlao*, 427 Phil. 56 (2002).

[22] *Pascual v. Dumlao*, 414 Phil. 1 (2001).

[23] *Supra*, note 15.

[24] *Imbang v. Del Rosario*, A.M. No. 03-1515-MTJ, 19 November 2004.

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