

**ATTY. JULIANA ADALIM-WHITE, COMPLAINANT, VS. HON. JUDGE  
ARNULFO O. BUGTAS, PRESIDING JUDGE, RTC, BRANCH 2,  
BORONGAN, EASTERN SAMAR, RESPONDENT.**

*A.M. No. RTJ-02-1738 (formerly OCA IPI No. 01-1325-RTJ). November 17, 2005*

Ponente: AUSTRIA-MARTINEZ, J.

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**AUSTRIA-MARTINEZ, J.:**

Before us is a verified letter-complaint dated August 10, 2001, filed by Atty. Juliana Adalim-White against Judge Arnulfo O. Bugtas, Presiding Judge, Branch 2, Regional Trial Court (RTC) of Borongan, Eastern Samar, for ignorance of the law relative to Criminal Case No. 10772 entitled People of the Philippines vs. Manuel Bagaporo, Jr.

The full text of the letter-complaint is as follows:

I bring to the attention of your Honors the act of Honorable Judge Arnulfo O. Bugtas, Presiding Judge, Branches I and II, Regional Trial Court, Borongan, Eastern Samar for ordering the Release on Recognizance [of] Mr. Manuel Bagaporo, Jr., a convict of frustrated murder before terminating service of the minimum penalty, and pending the approval of the prisoner's application for parole.

Thank you.[1]

In an Indorsement dated August 28, 2001, the Office of the Court Administrator directed respondent to file his comment to the complaint.[2]

On October 29, 2001, respondent filed his Comment admitting that he issued an order allowing Manuel Bagaporo, Jr. (Bagaporo) to be released upon recognizance of the Provincial Jail Warden of Eastern Samar, Alexandrino R. Apelado, Sr. Respondent avers that: Bagaporo was convicted by the trial court of the crime of frustrated murder and meted the penalty of imprisonment ranging from four years and two months to eight years and one day; Bagaporo served sentence; subsequently, he filed an application for release on recognizance; in support of his application, Provincial Jail Warden Apelado issued a certification to the effect that Bagaporo has been confined at the Provincial Jail since February 9, 1996 and is already entitled to parole; another certification was issued by Supervising Probation and Parole Officer Eulalia R. Columbretis showing that Bagaporo had applied for parole in line with the Department of Justice's "Maagang Paglaya Program." Respondent contends that on the basis of these certifications and on the rule that bail being discretionary upon conviction by the RTC of an offense not punishable by death, reclusion perpetua or life imprisonment, the court granted Bagaporo's application for bail upon recognizance of Apelado.[3]

In our Resolution of November 25, 2002, we directed the parties to manifest to this Court if they are willing to submit this case for resolution on the basis of the pleadings filed.[4]

In his Manifestation dated January 27, 2003, respondent requested that a formal investigation be conducted to enable him to face his accuser.[5] On the other hand, despite due notice, complainant failed to comply with the

November 25, 2002 Resolution of this Court.

On November 16, 2004, respondent filed a Motion to Dismiss on the ground of lack of evidence and that complainant is not interested in prosecuting her complaint.[6]

In our Resolution of February 7, 2005, we referred the instant case to Justice Lucas P. Bersamin of the Court of Appeals (CA) for investigation, report and recommendation on grounds that desistance of a complainant is not a basis for dismissing an administrative case and because there is a need to establish certain facts surrounding the complained acts allegedly committed by respondent.[7] Thereafter, the Investigating Justice set the case for hearing on various dates.

On April 15, 2005, respondent again filed a Motion to Dismiss on the ground that complainant failed to appear during the hearings set by the Investigating Justice on March 30 and 31, 2005.[8]

On April 29, 2005, the Investigating Justice issued a Resolution denying respondent's Motion to Dismiss and resetting the hearing for the last time on May 31, 2005, with warning that the case shall be deemed submitted for study, report and recommendation should the parties fail to appear at the date set for hearing.[9]

In a Manifestation dated May 13, 2005, complainant indicated her desire to submit the case for resolution on the basis of the pleadings and annexes filed.[10] On the other hand, respondent sent a telegraphic communication dated May 31, 2005 manifesting that the CA may consider the case submitted for resolution; and praying that he be allowed to submit a memorandum.[11] The Investigating Justice granted respondent's motion.[12] On June 30, 2005, respondent filed his Memorandum through registered mail.[13]

On August 18, 2005, the Investigating Justice submitted his Report and Recommendation to this Court with the following findings:

The undersigned Investigating Justice concludes that Judge Bugtas was guilty of gross ignorance of the law and gross neglect of duty for committing the following acts and omissions in relation to the case of convict Bagaporo, Jr., to wit:

- Due to the penalty imposed on him, Bagaporo, Jr. should have been committed to the National Penitentiary upon his conviction (whether or not he appealed). The failure of Judge Bugtas, if he was the trial judge, to issue forthwith the mittimus to commit Bagaporo, Jr. as a national prisoner under Presidential Decree No. 29 to the New Bilibid Prison in Muntinlupa City was a serious disobedience to Circular No. 4-93-A dated April 20, 1992.

- In acting on Bagaporo, Jr.'s application for release, Judge Bugtas supposedly relied on the recognizance of Provincial Jail Warden Apelado, Sr. and on the other documents submitted in support of the convict's application for release on recognizance. Judge Bugtas contends that his act did not constitute a violation since bail was 'discretionary upon conviction by the Regional Trial Court of an offense not punishable by death, reclusion perpetua or life imprisonment.'

The undersigned Investigating Justice does not accept Judge Bugtas' good faith because Judge Bugtas was apparently lacking in sincerity. He was not unaware that Bagaporo, Jr. was serving final sentence for which his indeterminate penalty had a minimum of 4 years and 2 months. When Judge Bugtas ordered the release, Bagaporo, Jr. had not yet served even the minimum of the indeterminate sentence, a fact that Judge Bugtas should have known through a simple process of computation. Even if he was informed of Bagaporo, Jr.'s pending application for parole, Judge Bugtas had no legal basis to anticipate the approval of the application and to cause the convict's premature release. He was thus fully aware that Bagaporo, Jr. could not be released even upon the recognizance of the Provincial Jail Warden.

- Judge Bugtas' act of prematurely releasing the convict in effect altered the final sentence of Bagaporo, Jr. The

undersigned Investigating Justice submits that Judge Bugtas thereby violated Art. 86, Revised Penal Code which provides:

Art. 86. Reclusion perpetua, reclusion temporal, prision mayor, prision correccional and arresto mayor. – The penalties of reclusion perpetua, reclusion temporal, prision mayor, prision correccional and arresto mayor shall be executed and served in the places and penal establishments provided by the Administrative Code in force or which may be provided by law in the future.

Judge Bugtas could give no acceptable explanation for his act. A convict's release from prison before he serves the full term of his sentence is due either to good conduct allowances... or to the approval of his application for parole. The former is granted to him by the Director of Prisons (now Director of the Bureau of Corrections), pursuant to Art. 99, Revised Penal Code; the latter, by the Board of Pardons and Parole that was created and constituted pursuant to Act No. 4103, as amended. Obviously, the grant is not a judicial prerogative.

Consequently, Judge Bugtas arrogated unto himself authority that pertained under the law to an administrative official or agency.

- Judge Bugtas contends that his order of release on recognizance was correct considering that the convict had already been in custody for a period equal to the minimum imprisonment meted out by the trial court. To support his contention, he cites Sec. 16, Rule 114, 2000 Rules of Criminal Procedure, to wit:

Sec. 16. Bail, when not required; reduced bail or recognizance. – No bail shall be required when the law or these Rules so provide.

When a person has been in custody for a period equal to or more than the possible maximum imprisonment prescribed for the offense charged, he shall be released immediately, without prejudice to the continuation of the trial or the proceedings on appeal. If the maximum penalty to which the accused may be sentenced is destierro, he shall be released after thirty (30) days of preventive imprisonment.

A person in custody for a period equal to or more than the minimum of the principal penalty prescribed for the offense charged, without application of the Indeterminate Sentence Law or any modifying circumstance, shall be released on a reduced bail or on his own recognizance, at the discretion of the court.

The undersigned Investigating Justice opines that Judge Bugtas' contention compounds his already dire situation. He seems to believe that the quoted rule applies to a convict like Bagaporo, Jr. He has no realization at all (or, if he has, he conceals it) that the rule applies only to an accused undergoing preventive imprisonment during trial or on appeal; and that the rule has absolutely no application to one already serving final sentence. Such ignorance, whether pretended or not, is terrifying to see in a judicial officer like Judge Bugtas, a presiding judge of the Regional Trial Court.

- Judge Bugtas labors under a mistaken notion about the Indeterminate Sentence Law, that once the convict has been in custody for the duration of the minimum of the indeterminate sentence, he may be released even if his application for parole is still pending. He thereby ignores that the benefit under the Indeterminate Sentence Law is accorded to the convict only after the Board of Pardon and Parole has determined his application favorably after considering all the cogent circumstances. ...

...

It is crucial that Judge Bugtas be reminded that the convict must remain in prison pending the consideration of the convict's application for parole by the Board of Pardons and Parole, for there is no assurance of the grant of his application.

- In any case, Judge Bugtas should have outrightly denied the application of the convict for release on

recognizance not only because the convict had yet to complete even the minimum of the indeterminate sentence but also because the convict must serve his sentence even beyond the minimum unless in the meantime the Director of the Bureau of Corrections granted him the allowances for good conduct that offset the unserved portion pursuant to Art. 97 and Art. 99, Revised Penal Code; or unless the Board of Pardons and Parole approved the convict's application for parole.[14]

Accordingly, the Investigating Justice recommended that respondent be fined in the amount of P25,000.00.[15]

We agree with the Investigating Justice that respondent is guilty of gross ignorance of the law but not as to the recommended penalty.

Respondent is being charged with ignorance of the law for having ordered the release of Bagaporo pending approval of the latter's application for parole and before his completion of the minimum period of the sentence imposed upon him.

Respondent contends that his order allowing the release on recognizance of Bagaporo is in consonance with the provisions of Section 16, Rule 114 of the Rules of Court which provides as follows:

Sec. 16. Bail when not required; reduced bail or recognizance. – No bail shall be required when the law or these Rules so provide.

When a person has been in custody for a period equal to or more than the possible maximum imprisonment of the offense charged to which he may be sentenced, he shall be released immediately, without prejudice to the continuation of the trial thereof or the proceedings on appeal. In case the maximum penalty to which the accused may be sentenced is destierro, he shall be released after thirty (30) days of preventive imprisonment.

A person in custody for a period equal to or more than the minimum of the principal penalty prescribed for the offense charged, without application of the Indeterminate Sentence Law or any modifying circumstance, shall be released on a reduced bail or on his own recognizance, at the discretion of the court.[16]

Based on the above-quoted Rule, respondent argues that since Bagaporo had already been in prison for a period which is equal to the minimum of his sentence, his release on recognizance is in order. Respondent also contends that he simply exercised his discretion in allowing Bagaporo to be released on bail on the strength of the provisions of the first paragraph of Section 5, Rule 114 of the Rules of Court which provides that upon conviction by the RTC of an offense not punishable by death, reclusion perpetua or life imprisonment, the court, on application, may admit the accused to bail.[17]

We are not persuaded.

At the outset, it must be noted that Bagaporo was sentenced to suffer the penalty of imprisonment ranging from four years and two months to eight years and one day. It is not disputed that he began to serve sentence on February 9, 1996. Counting four years and two months from said date the minimum period of Bagaporo's sentence should have been completed on April 9, 2000. Hence, we agree with the observation of the Investigating Justice that it is wrong for respondent to claim that Bagaporo had already served the minimum of his sentence at the time that he was granted bail on recognizance, that is, on February 16, 2000.[18]

Furthermore, it is patently erroneous for respondent to release a convict on recognizance.

Section 24, Rule 114 of the Rules of Court is plain and clear in prohibiting the grant of bail after conviction by final judgment and after the convict has started to serve sentence. It provides:

SEC. 24. No bail after final judgment; exception. – An accused shall not be allowed bail after the judgment has become final, unless he has applied for probation before commencing to serve sentence, the penalty and the

offense being within the purview of the Probation Law. In case the accused has applied for probation, he may be allowed temporary liberty under his bail, but if no bail was filed or the accused is incapable of filing one, the court may allow his release on recognizance to the custody of a responsible member of the community. In no case shall bail be allowed after the accused has commenced to serve sentence.[19]

The only exception to the above-cited provision of the Rules of Court is when the convict has applied for probation before he commences to serve sentence, provided the penalty and the offense are within the purview of the Probation Law.

In the instant case, there is no showing that Bagaporo applied for probation. In fact at the time of his application for release on recognizance, he was already serving sentence. When he was about to complete service of the minimum of his sentence, he filed an application for parole. However, there is no evidence to show that the Board of Pardons and Parole approved his application. We agree with the Investigating Justice in holding that a convict's release from prison before he serves the full term of his sentence is either due to good conduct allowances, as provided under Act No. 1533[20] and Article 97 of the Revised Penal Code, or through the approval of the convict's application for parole. A good conduct allowance under Act No. 1533 and Article 97 of the Revised Penal Code may be granted by the Director of Prisons (now Director of the Bureau of Corrections), while the approval of an application for parole is sanctioned by the Board of Pardons and Parole. In addition, a convict may be released from prison in cases where he is granted pardon by the President pursuant to the latter's pardoning power under Section 19, Article VII of the Constitution.[21] In the present case, aside from the fact that there is no evidence to prove that Bagaporo's application for parole was approved by the Board of Pardons and Parole, there is neither any showing that he was extended good conduct allowances by the Director of Prisons, nor was he granted pardon by the President. Hence, there is no basis for respondent in allowing Bagaporo to be released on recognizance.

Moreover, respondent should know that the provisions of Sections 5 and 16, Rule 114 of the Rules of Court apply only to an accused undergoing preventive imprisonment during trial or on appeal. They do not apply to a person convicted by final judgment and already serving sentence.

We have held time and again that a judge is called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules.[22] It is imperative that he be conversant with basic legal principles and be aware of well-settled authoritative doctrines.[23] He should strive for excellence exceeded only by his passion for truth, to the end that he be the personification of justice and the rule of law.[24] When the law is sufficiently basic, a judge owes it to his office to simply apply it; anything less than that would be gross ignorance of the law.[25] In the present case, we find respondent's ignorance or utter disregard of the import of the provisions of Sections 5, 16 and 24, Rule 114 of the Rules of Court as tantamount to gross ignorance of the law and procedure.

As to the imposable penalty, Section 8(9), Rule 140 of the Rules of Court, as amended, classifies gross ignorance of the law or procedure as a serious charge. Under Section 11(A) of the same Rule, the imposable penalty, in case the respondent is found culpable of a serious charge, ranges from a fine of not less than P20,000.00 but not more than P40,000.00 to dismissal from the service.

This is not the first time that respondent judge was found guilty of gross ignorance of the law and procedure. In *Docena-Caspe vs. Bugtas*,[26] respondent was fined P20,000.00 for having granted bail to an accused in a murder case without conducting hearing for the purpose of determining whether the evidence of guilt is strong. He was warned that a repetition of the same or similar act shall be dealt with more severely. Hence, we deem it proper to impose the penalty of P40,000.00.

WHEREFORE, respondent Judge Arnulfo O. Bugtas is found guilty of gross ignorance of the law. He is ordered

to pay a FINE in the amount of Forty Thousand Pesos (P40,000.00) and is STERNLY WARNED that a repetition of the same or similar act shall be dealt with more severely.

**SO ORDERED.**

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, concur.

Sandoval-Gutierrez, J., on official leave.

Chico-Nazario, J., on leave.

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[1] Rollo, p. 1.

[2] Id., p. 8.

[3] Id., pp. 9-11.

[4] Id., p. 18.

[5] Id., p. 21.

[6] Id., p. 28.

[7] Id., p. 39.

[8] Id., p. 60.

[9] Id., p. 73.

[10] Id., p. 79.

[11] Id., p. 78.

[12] Id., p. 94.

[13] Id., p. 95.

[14] Report and Recommendation, pp. 6-10.

[15] Id., p. 12.

[16] The first paragraph of the amended provisions of Section 16, Rule 114 of the Rules of Court which took effect on December 1, 2000, provides:

Sec. 16. Bail, when not required; reduced bail or recognizance. – No bail shall be required when the law or these Rules so provide.

When a person has been in custody for a period equal to or more than the possible maximum imprisonment prescribed for the offense charged, he shall be released immediately, without prejudice to the continuation of the trial or the proceedings on appeal. If the maximum penalty to which the accused may be sentenced is destierro, he shall be released after thirty (30) days of preventive imprisonment.

A person in custody for a period equal to or more than the minimum of the principal penalty prescribed for the offense charged, without application of the Indeterminate Sentence Law or any modifying circumstance, shall be released on a reduced bail or on his own recognizance, at the discretion of the court.

[17] Under the amended Rules, Section 5, Rule 114 of the Rules of Court now reads as follows:

Sec. 5. Bail, when discretionary. – Upon conviction by the Regional Trial Court of an offense not punishable by death, reclusion perpetua, or life imprisonment, admission to bail is discretionary. The application for bail may be filed and acted upon by the trial court despite the filing of a notice of appeal, provided it has not transmitted the original record to the appellate court. However, if the decision of the trial court convicting the accused changed the nature of the offense from non-bailable to bailable, the application for bail can only be filed with and resolved by the appellate court.

[18] Rollo, p. 4.

[19] As amended, Section 24, Rule 114 of the Rules of Court reads:

Sec. 24. No bail after final judgment; exception. – No bail shall be allowed after a judgment of conviction has become final. If before such finality, the accused applies for probation, he may be allowed temporary liberty under his bail. When no bail was filed or the accused is incapable of filing one, the court may allow his release on recognizance to the custody of a responsible member of the community. In no case shall bail be allowed after the accused has commenced to serve sentence.

[20] An Act Providing For The Diminution Of Sentences Imposed Upon Prisoners Convicted Of Any Offense And Sentenced For A Definite Term Of More Than Thirty Days And Less Than Life in Consideration Of Good Conduct And Diligence.

[21] Sec. 19. Except in cases of impeachment, or as otherwise provided in this Constitution, the President may grant reprieves, commutations, and pardons, and remit fines and forfeitures, after conviction by final judgment.

He shall also have the power to grant amnesty with the concurrence of a majority of all the Members of the Congress.

[22] Marzan-Gelacio vs. Flores, A.M. No. RTJ-99-1488, June 20, 2000, 334 SCRA 1, 10.

[23] Ibid.

[24] Ibid.

[25] Delos Santos vs. Mangino, A.M. No. MTJ-03-1496, July 10, 2003, 405 SCRA 521, 527.

[26] A.M. No. RTJ-03-1767, March 28, 2003, 400 SCRA 37.

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