

**ALFREDO L. CAMUS, JR., COMPLAINANT, VS. REYNALDO L. ALEGRE,
CLERK OF COURT, MUNICIPAL TRIAL COURT, PANIQUI, TARLAC,
RESPONDENT.**

A.M. No. P-06-2182. August 12, 2008

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PER CURIAM:

On July 7, 2005, the Office of the Court Administrator (OCA) received a letter[1] from Alfredo L. Camus, Jr. requesting an investigation of Direct Bribery filed against Reynaldo L. Alegre, Clerk of Court, Municipal Trial Court, Paniqui, Tarlac. Camus attached to said letter the following documents:

- 1) Information dated 20 May 2005 filed by Atty. Aladin C. Bermudez, Jr., Acting Provincial Prosecutor;
- 2) Affidavit of Laureano Mamaba y. Salvador and Darmie Castillo-Mamaba of Barangay Mabilang, Paniqui, Tarlac;
- 3) Affidavit of arrest executed by SPO3 Bobby A. Madamba, PNP; SPO1 James D. Lacamento, PNP; PO3 Romeo S. Parchamento, PNP and PO2 Jeffrey Ibanes, PNP, all members of the Paniqui Police Station, Paniqui, Tarlac; and
- 4) Release Order of accused Reynaldo L. Alegre dated 20 May 2005 issued by Judge Cesar M. Sotero of the RTC, Branch 67, Paniqui, Tarlac.

The OCA requested from Judge Cesar M. Sotero of the Regional Trial Court of Paniqui, Tarlac, Branch 67, certified true copies of said documents, and found that:

- The son of Sps. Laureano Mamaba and Darmie Mamaba has a pending criminal case for Reckless Imprudence Resulting to Serious Physical Injury and Damage to Property at the Municipal Trial Court of Paniqui, Tarlac. A warrant of arrest was issued by the court and the son was subsequently arrested and detained by the PNP, Paniqui, Tarlac.
- Sps. Mamaba coordinated with respondent Clerk of Court Reynaldo L. Alegre for the release of their son.
- On 19 May 2005, at 8:30 in the morning, Sps. Mamaba met with respondent who demanded P3,000.00 in exchange for the release order. However, the spouses had with them only P1,000.00 which respondent accepted with the condition that the spouses should raise the remaining P2,000.00.
- Sps. Mamaba coordinated right away with the PNP of Paniqui, Tarlac and an entrapment operation was undertaken the afternoon of the same day.
- Respondent was arrested by the PNP right after he received from the Sps. Mamaba the envelope containing marked money in the amount of P1,000.00. Later, the marked money was recovered from the drawer of respondent, in the presence of Judge Gregorio Rosete and Mayor Elpidio Ibarra.
- On 20 May 2005, a Release Order was issued by Judge Cesar M. Sotero of RTC, Branch 67, Paniqui, Tarlac, the respondent having posted a cash bond in the amount of P20,000.00 on the same date.

On June 21, 2006, respondent was directed to file comment. He was likewise placed under preventive suspension "pending the final outcome of the criminal case against him." [2]

In his Comment, [3] respondent alleged that the Sps. Mamaba executed an Affidavit of Desistance hence the Information for Direct Bribery filed against him was ordered dismissed; that he did not demand money from the Sps. Mamaba but that out of gratitude for the release of their son, the Sps. Mamaba gave him an envelope containing some amount for the "snacks" of the court personnel; that he refused to accept the envelope but Darmie Mamaba placed the same inside one of his open drawers; that there was no truth to the narration of the arresting police officers on how he was apprehended; that he immediately informed the police officers about the contents of the envelope which showed his innocence of the charge filed against him.

On October 12, 2006, respondent filed a Motion to Dismiss the instant case in view of the dismissal of the charge for direct bribery. [4]

On January 15, 2007, this Court referred the matter to Narciso T. Atienza, a Consultant of the OCA for evaluation, report and recommendation. [5] The case was set for hearing three times but Camus failed to appear hence, respondent moved for its dismissal.

Instead of dismissing the case, the Consultant recommended that the investigation be referred to the Executive Judge of the Regional Trial Court of Tarlac, based on the Evaluation [6] that:

Prosecutor Bermudez erred in issuing a resolution dismissing the complaint filed against accused Reynaldo Alegre based on the alleged affidavit of desistance executed by private complainants Laureano and Darmie Mamaba. The Office of the Provincial Prosecutor of Tarlac had already lost jurisdiction of the case after the information was filed in court. Since the court had directed Prosecutor Bermudez to conduct the requisite preliminary investigation pursuant to Section 7, Rule 112 of the Rules of Court, it is his duty to submit to the court a report on the result of the preliminary investigation. He may file a motion to withdraw or dismiss information if evidence adduced during the preliminary investigation so warrants. Only the court can order the dismissal of the information since it has already acquired jurisdiction over the case and the person of the accused after the latter had posted a bond for his provisional liberty.

On the other hand, the presiding [judge] RTC, Branch 67, Paniqui, Tarlac also erred when he ordered the dismissal of the information for Direct Bribery (Criminal Case No. 2371-05) against accused Reynaldo Alegre on the basis of the motion filed by counsel for the accused without the conformity/approval of the Prosecutor. All criminal prosecutions, either commenced by a complaint or information, shall be prosecuted under the direction and control of the public prosecutor. Prosecution of offenses is a matter of public interest and it is the duty of the government to prosecute cases until its termination. Direct bribery is a crime against the state or a public offense which cannot be dismissed based on the affidavit of desistance executed by the private complainants.

x x x x

The dismissal of the criminal information filed against herein respondent in RTC, Branch 67, Paniqui, Tarlac, did not render the instant administrative case moot and academic. The Court retains jurisdiction over the case either to pronounce respondent innocent of the charge or declare him guilty thereof. Administrative investigation is different from criminal prosecution and the dismissal of the latter is not a bar to the former.

x x x x [7]

Thus, on June 13, 2007, the Court resolved to direct the Executive Judge of the Regional Trial Court of Paniqui, Tarlac, to conduct a formal investigation of the case, [8] to wit:

Upon recommendation of Hon. Atienza, the Court resolves to DIRECT the Executive Judge of the RTC,

Paniqui, Tarlac, to conduct a formal investigation of the case and submit his report and recommendation thereon within ninety (90) days from receipt of the records. (Emphasis supplied)

The Resolution was followed by a letter dated July 9, 2007, of then Deputy Court Administrator Jose P. Perez directing Judge Liberty O. Castañeda, thus:

The investigation should be private and confidential and should be completed within the period stated in the Resolution computed from the receipt hereof. A report containing the findings of facts, the conclusions of law and your recommendation, in at least five (5) legible copies, together with the complete records of the case, the evidence adduced by the parties, and the transcript of the stenographic notes taken, must be submitted to the Court immediately for final action. (Emphasis supplied)

However, in an Order[9] dated August 14, 2007, Judge Liberty O. Castañeda ruled, thus:

ORDER

In today's hearing, only the respondent Reynaldo L. Alegre appeared. The complainant, Mr. Alfredo Camus, Jr. for the third time, did not appear despite due notice for the last three (3) hearings.

As prayed for by the respondent, for the apparent lack of interest of Alfredo Camus, Jr., this case is hereby DISMISSED.

x x x x

In its Memorandum of April 14, 2008, the OCA noted that Investigating Judge Castañeda erred in ordering the dismissal of the complaint due to the alleged lack of interest on the part of complainant Camus. The OCA observed that Camus filed the instant administrative complaint as a taxpayer and concerned citizen; and that he was not privy to the alleged misconduct of respondent Alegre. Thus, according to the OCA, the Investigating Judge should have summoned not only Camus, but also the Sps. Mamaba, in order to ferret out the truth.

The OCA also observed that despite the failure of Camus to appear during the hearing, respondent Alegre is not entirely without liability. The OCA opined that Alegre could be held liable for Conduct Prejudicial to the Best Interest of the Service because although it was not established that he demanded money from the Sps. Mamaba, the envelope containing P1,000.00 intended for the snacks of the court personnel was found inside his drawer.

The OCA[10] recommended, thus:

(1)

That Reynaldo L. Alegre, Clerk of Court, MTC, Paniqui, Tarlac, be found GUILTY of Conduct Prejudicial to the Best Interest of the Service.

(2)

That the period of one-and-a-half years (1 ½) Clerk of Court Alegre has served while under preventive suspension be CONSIDERED AS SUFFICIENT SERVICE OF THE PENALTY for the offense;

(3)

That the preventive suspension of Clerk of Court Alegre be immediately LIFTED; and

(4) That Clerk of Court Alegre be STERNLY WARNED that a repetition of the same act or a similar infraction in the future shall be dealt with more severely by the Court.

At the outset, we do not agree with the order of Investigating Judge Castañeda dismissing the instant case based

on the alleged lack of interest on the part of complainant Camus. It will be recalled that in the Court's Resolution of June 13, 2007, the Investigating Judge was given recommendatory powers only, to wit:

Upon recommendation of Hon. Atienza, the Court resolves to DIRECT the Executive Judge of the RTC, Paniqui, Tarlac, to conduct a formal investigation of the case and submit his report and recommendation thereon within ninety (90) days from receipt of the records.

Likewise, in the letter of then Deputy Court Administrator Perez dated July 9, 2007, the Investigating Judge was expressly directed to submit a report with recommendation, because the final action rests with this Court. Judge Castañeda is therefore reminded to strictly follow the directives of this Court.

Judge Castañeda was given a period of 90 days from receipt of the records to submit a report and recommendation. Assuming that she received the records on the same day it was transmitted by the Court on July 9, 2007, the last day to submit a report with recommendation was on October 7, 2007. However, as early as August 14, 2007, and only after three settings during which complainant Camus failed to appear thrice, Judge Castañeda issued an Order dismissing the case.

It must be emphasized that "(a)ministrative actions cannot depend on the will or pleasure of the complainant who may, for reasons of his own, condone what may be detestable. Neither can the Court be bound by the unilateral act of the complainant in a matter relating to its disciplinary power. Desistance cannot divest the Court of its jurisdiction to investigate and decide the complaint against respondent. To be sure, public interest is at stake in the conduct and actuations of officials and employees of the judiciary. And the program and efforts of this Court in improving the delivery of justice to the people should not be frustrated and put to naught by private arrangements between the parties." [11]

In the instant case, there was no express or categorical desistance on the part of Camus. However, it appearing that Camus was not privy to the circumstances which led to the filing of the Information for direct bribery against respondent, Judge Castañeda should have summoned the Sps. Mamaba, the police officers, the Municipal Trial Court Judge, the Municipal Mayor, or any of the court personnel of the Municipal Trial Court of Paniqui, Tarlac, who allegedly saw respondent receiving the marked money, in order to properly conduct the investigation as directed by this Court. However, she dismissed the case after complainant Camus failed to appear thrice, without exercising its coercive powers to compel the presence of Camus in court.

The issue in administrative cases is not whether the complainant has a cause of action against the respondent, but whether the employee against whom the complaint is filed, has breached the norms and standards of service in the judiciary. Clearly, this court has the power and the duty to root out misconduct among its employees, regardless of the complainant's desistance. [12]

Based on the supporting documents presented by the complainant which respondent failed to rebut, and on the latter's admissions, we find that respondent is guilty of grave misconduct.

In his Comment, respondent alleged that:

Upon being arraigned on May 17, 2005 - assisted by the PAO - Atty. Bienvenido Perez - accused pleaded guilty and was sentenced to an imprisonment of one (1) year and to pay the aggrieved party the sum of PhP30,800.00. Since the accused remained in detention, Jhomon's parents, Laureano and Darmie Mamaba, pleaded to the respondent to assist them in causing the immediate release of their son, hence, out of pity and for humanitarian assistance, and the fact that he is also a former member of the religious sect of the said spouses (INC), and that his staff then were not busy, respondent instructed one of his staff to prepare all the documents in connection with Jhomon's Application for Probation. [13]

As a Clerk of Court, it is not respondent's function, or any of "his staff," to prepare the documents for the accused's application for probation. Respondent is a court employee hence he is not allowed to act as the accused's counsel. The initiative to apply for probation should have come from the accused, who was assisted by his counsel, Atty. Perez. Thus, it was incumbent upon the latter to file accused's application for probation.

Moreover, respondent did not deny receipt of the envelope containing marked money from the Sps. Mamaba. However, he justifies that:

Maybe, out of gratitude for the assistance extended to them that led to the release of Jhomon, Laureano and Darmie Mamaba handed to respondent a small envelope and told him that the same was just for "snack" (pang meryenda nyo) with the court personnel; Respondent refused to accept said envelope but the same was placed by Darmie Mamaba in one of the drawers of respondent's office tables - which happened to be open at the time and just beside where Darmie was standing. After the spouses left the office - and before respondent could verify the contents of the said envelope - said policemen arrived and suddenly frisked and search the person of the respondent and when they found nothing on him, they searched his drawers and retrieved thereat said envelope containing Php1,000.00.[14]

We are not persuaded; respondent's narration does not inspire belief. Accepting money from party litigants is a grave misconduct. This Court is inclined to give more credence to the narration of SPO3 Bobby A. Madamba, SPO1 James D. Lacamento and PO3 Romeo S. Parchamento in their Affidavit of Arrest,[15] to wit:

x x x x

That further investigations resulted to the confiscation of the marked money from the drawer of the suspect in the presence of Judge Gregorio Rosete, Municipal Trial Court Judge and Mayor Elpidio Ibarra, Municipal Mayor of Paniqui, Tarlac.

Respondent could have presented Judge Rosete and Mayor Ibarra in order to disprove the arresting officers' allegation that they confiscated the envelope from respondent's drawer, but he did not. He could have presented also the Sps. Mamaba, particularly Darmie Mamaba, who according to respondent was the one who placed the envelope inside the drawer, but he did not. Finally, respondent could have presented a co-employee who would corroborate his version, but again he failed. Thus, we accord more weight to the narration of the police officers contained in their Affidavit of Arrest vis-à-vis the self-serving, uncorroborated and bare denial of the respondent. Absent strong and convincing proof to the contrary, this Court is bound by the presumption that the arresting officers were aware of the legal mandates in effecting arrest and strictly complied with the same.[16]

Finally, we held in *Rodriguez v. Eugenio*:

Misconduct has been defined as any unlawful conduct, on the part of the person concerned with the administration of justice, prejudicial to the rights of the parties or to the right determination of the cause. It generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose. The term, however, does not necessarily imply corruption or criminal intent. Misconduct is a transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, unlawful behavior, willful in character, improper or wrong behavior; while "gross" has been defined as "out of all measure beyond allowance; flagrant; shameful; such conduct as is not to be excused."

Respondent's act of demanding and receiving money from the uncle of a party litigant constitutes grave misconduct in office. It is this kind of gross and flaunting misconduct, no matter how nominal the amount involved on the part of those who are charged with the responsibility of administering the law and rendering justice quickly, which erodes the respect for law and the courts.

Pursuant to Section 23, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order 292, Grave

Misconduct, being in the nature of grave offenses, carries the extreme penalty of dismissal from the service with forfeiture of retirement benefits except accrued leave credits, and perpetual disqualification from re-employment in government service.

In addition, respondent's solicitation of money from complainant in exchange for a favorable decision violates Canon I of the Code of Conduct for Court Personnel which took effect on 1 June 2004 pursuant to A.M. No. 03-06-13-SC. Sections 1 and 2, Canon 1 of the Code of Conduct for Court Personnel expressly provide:

"SECTION 1. Court personnel shall not use their official position to secure unwarranted benefits, privileges, or exemption for themselves or for others.

SECTION 2. Court personnel shall not solicit or accept any gift, favor or benefit on any explicit or implicit understanding that such gift shall influence their official functions." [17]

WHEREFORE, respondent Reynaldo L. Alegre, Clerk of Court of the Municipal Trial Court of Paniqui, Tarlac, is found GUILTY of GRAVE MISCONDUCT. He is DISMISSED from the service with forfeiture of all retirement benefits, except accrued leave credits, with prejudice to reemployment in any branch or instrumentality in the government, including government-owned or controlled corporations. This judgment is immediately executory.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, Leonardo-De Castro, and Brion, JJ., concur.

[1] Rollo, p. 1.

[2] Id. at 15.

[3] Id. at 20-23.

[4] Id. at 28-29.

[5] Id. at 41.

[6] Id. at 53-60.

[7] Id. at 58-59.

[8] Id. at 105.

[9] Id. at 107.

[10] Through Court Administrator Zenaida N. Elepaño and Deputy Court Administrator Antonio H. Dujua.

[11] Rodriguez v. Eugenio, A.M. No. RTJ-06-2216, April 20, 2007, 521 SCRA 489, 501.

[12] Id.

[13] Rollo, p. 21.

[14] Id. at 22.

[15] Id. at 10.

[16] Rodriguez v. Eugenio, supra note 11 at 497.

[17] Id. at 505-507.

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