

Reynaldo A. Sinaon, Sr., Chief of Police, San Mateo, Isabela, Complainant, vs. Judge Cesar M. Dumlao, MTC, San Mateo, Isabela, Respondent.*A.M. No. MTJ-04-1519 (Formerly OCA I.PI. No. 02-1286-MTJ). March 04, 2008*

Ponente: CHICO-NAZARIO, J.

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The instant administrative complaint[1] was filed by Reynaldo A. Sinaon, Sr., Chief of Police, San Mateo, Isabela (complainant Sinaon Sr.), against Judge Cesar M. Dumlao (Judge Dumlao), Presiding Judge of the Municipal Trial Court (MTC), San Mateo, Isabela, charging the latter with Grave Abuse of Authority, Misconduct, Dereliction of Duty and Ignorance of the Law, relative to Criminal Cases No. 02-06-250 and 02-06-251, both bearing the title, *People of the Philippines v. Romeo Vinoya y Agustin*, pending before said trial court.

On 17 July 2002, complainant Sinaon Sr. instituted complaints against Romeo Vinoya y Agustin (Vinoya) for Violation of Presidential Decree No. 1866, as amended by Republic Act No. 8294 entitled, “*People of the Philippines v. Romeo Vinuya y Agustin*,” and Violation of the COMELEC Gun Ban before the MTC of San Mateo, Isabela, which were eventually docketed as Criminal Cases No. 02-06-250 to 251, respectively. Complainant Sinaon Sr. believed that since the accused Vinoya was lawfully arrested without warrant by elements of the Philippine National Police (PNP) on 16 June 1992, in Sinamar Norte, San Mateo, Isabela, the Regional Trial Court thereof would have jurisdiction over the criminal cases against him. Hence, complainant Sinaon Sr. filed the criminal complaints against Vinoya with the MTC for preliminary investigation in accordance with Section 7, Rule 112 of the Rules on Criminal Procedure. However, Judge Dumlao, in a Joint Resolution dated 19 June 2002, dismissed the criminal complaints against Vinoya on the ground that the MTC had no jurisdiction to conduct a preliminary investigation since the alleged offenses were committed in Alfonso Lista, Ifugao. Complainant Sinaon Sr. claimed that Judge Dumlao’s dismissal of the criminal complaints was committed in grave abuse of his authority as he only had to determine the existence of probable cause. Judge Dumlao need not even issue a warrant as the accused was already under detention, pursuant to Section 6(c) of Rule 112 of the Rules on Criminal Procedure. According to complainant Sinaon Sr., Judge Dumlao appeared to have extended undue favor and benefit to Vinoya when he hastily dismissed the criminal complaints and ordered the release of the said accused.

In his supplemental complaint[2] dated 30 July 2002, complainant Sinaon, Sr. further alleged that Judge Dumlao, despite having issued his Joint Resolution dated 19 June 2002 dismissing the criminal complaints against Vinoya, failed to comply with Section 5, Rule 112 of the Rules on Criminal Procedure for he did not perform his ministerial duty to transmit the records of the cases to the Office of the Provincial Prosecutor within ten days after termination of the preliminary investigation. Thus, complainant Sinaon Sr. prayed for the grant of the same relief as in his original complaint.

On 2 August 2002, Judge Dumlao was then directed[3] by this Court, through the Office of the Court Administrator (OCA), to submit his comment on the complaint and supplemental complaint. Despite due notice, Judge Dumlao failed to file any comment.

On 5 November 2002, the OCA reiterated its directive to Judge Dumlao to file his comment.

On 12 January 2004, the case against Judge Dumlao was docketed as a regular administrative matter, and Judge Dumlao was required to submit his comment for the third time by the Court.

On 30 March 2005, the Court resolved[4] to consider the case submitted for resolution even without Judge Dumlao's comment.

In consideration of the fact that Judge Dumlao had just recently assumed office after serving his six-month suspension relative to A.M. MTJ-04-1556 (02-1286-MTJ), the Court resolved on 5 July 2006,[5] to give him one last chance to submit his comment on complainant Sinaon, Sr.'s complaint and supplemental complaint within fifteen days from notice hereof; otherwise the case shall be considered submitted for resolution.

Despite the numerous directives and opportunities given to him by the Court, Judge Dumlao still failed to file his comment. Thus, on 15 January 2007,[6] the Court deemed that Judge Dumlao waived the right to file his comment and referred the case to the OCA for evaluation, report and recommendation.

After weighing complainant Sinaon, Sr.'s evidences and arguments, the OCA submitted its report,[7] recommending the dismissal of the charges of Grave Abuse of Authority, Misconduct, Dereliction of Duty and Ignorance of the Law against Judge Dumlao, but then also recommending the imposition upon him of suspension for six months for failure to comply with the directives of the court to file his comment. The fallo of the OCA report thus reads:

Premises considered it is respectfully recommended that;

(a)

The instant charge against respondent be DISMISSED for lack of merit; and

(b)

Judge Cesar M. Dumlao be SUSPENDED for six (6) months from the service without pay and WARNED for the last time that a repetition of the same offense shall be dealt with more severely.[8]

The OCA justified the dismissal of the complaint by Judge Dumlao in this wise:

Pertinent portions of the assailed order of the respondent judge provides;

X X X X

As narrated, the incident initially happened at a quarry site at Barangay Sinamar Norte, San Mateo, Isabela, where allegedly, the suspect threatened two employees of the Coloma Construction with the use of firearm. The two reported the incident to the PNP of San Mateo, which office immediately responded, by (sic) witness SPO4 Michael Basilio.

The suspect was not actually apprehended in the possession of a firearm an armalite, at the place he first threatened the two employees. He was actually apprehended at a certain place admitted to be within the territorial jurisdiction of Barangay Calupaso, Alfonso, Lista, Ifugao. This fact is confirmed by a Barangay Kagawad of the place, Dominador S. Bonalos, who proceeded to the place to verify.

As it appears, this Court has no authority to proceed further with the investigation for lack of jurisdiction, the place of commission of the offenses charged being with the municipality of Alfonso Lista, Ifugao. Without going into the merits of the complaints the court has to dismiss these charges.

WHEREFORE, for lack of jurisdiction, the charges are hereby ordered dismissed, without prejudice to the filing of the charges in the proper jurisdiction.

Accordingly, the accused is hereby ordered released from further detention.

So ORDERED.

San Mateo, Isabela, June 19, 2002

Signed CESAR M. DUMLAO
Municipal Trial Judge

x x x x

Pertinent provisions of the Rules of Court provide:

Rule 112

Preliminary Investigation

Sec. 2 of Rule 112 of the Revised Rules of Court among others provide

“(b) Judges of the Municipal Trial Courts and Municipal Circuit Trial Courts.

Their authority to conduct preliminary investigations shall include all crimes cognizable by the proper court in their respective territorial jurisdictions. (2a)

Sec. 3 Procedure – The preliminary investigation shall be conducted in the following manner:

“(b) Within ten (10) days after the filing of the complaint, the investigating officer shall either dismiss it if he finds no ground to continue with the investigation.

x x x x

“Their authority to conduct preliminary investigation shall include all crimes cognizable by the proper court in their respective territorial jurisdiction.”

x x x x

(b) Section 3

“Within ten (10) days after filing of the complaint, the investigating officer shall either dismiss the same if he finds no ground to continue with the inquiry or issue a subpoena etc.”

x x x x

The act of respondent judge in dismissing the complaint is in accordance with the above-mentioned provisions. If respondent made a mistake in his determination that the alleged offense was committed outside or beyond his jurisdiction, then however erroneous this may seem to complainant, such is not subject to disciplinary action in the absence of fraud, dishonesty or corruption.

Complainant’s supplemental complaint, except for his mere allegations also cannot prosper, in the absence of additional evidence adduced or submitted. The alleged failure to transmit the records to the office of the Provincial Prosecutor is not supported by any document or sworn statement.

In the administrative proceedings, the complainant bears the onus of establishing evidence, the averments of his complainant. Notatus dignum is the presumption of regularity in the performance of a judge’s functions (A.M. No. RTJ-03-1750, 14 January 2005) hence, bias, prejudice and even undue interest cannot be presumed specially if weighed against a judge’s sacred obligation under oath of office to administer justice without respect to any person and do equal right to the poor and to the rich (Pimentel vs. Salonga 21 SCRA 161).

3.

The same may be said of the allegation that the respondent judge may have extended undue favor and benefit to the accused when he dismissed the case.

In a long line of cases decided by this Court, it was held that bare allegations of bias are not enough in the absence of clear and convincing evidence to overcome the presumption that the judge will undertake his noble role to dispense justice according to law and evidence and without fear or favor. In *Sinnott v. Barte* (A.M. No. RTJ-99-1453, 14 December 2001, 372 SCRA 282) it was further held, mere suspicion that a judge is partial to one of the parties is not enough. There should be clear and convincing evidence to prove the charge of bias and partiality. Extrinsic evidence is required to establish bias, bad faith, malice or corrupt purpose, in addition to the palpable error that may be inferred from the decision or order itself. Although the decision may seem so erroneous as to raise doubts concerning a judge's integrity, absent extrinsic evidence, the decision itself would be insufficient to establish a case against the judge.

The rule is that disciplinary proceedings do not complement, supplement, or substitute judicial remedies. Any inquiry to the administrative liability of a judge may be resorted to only after the available remedies have been exhausted and decided with finality. There is nothing on record to suggest that complainant availed of such remedy before filing the complaint against respondent (A.M. No. RTJ-02-1717, 28 May___).[9]

On 18 July 2007, upon recommendation of the OCA, the Court resolved to (1) dismiss the charges against Judge Cesar M. Dumlao for lack of merit; (2) re-docket the case as a regular administrative complaint for the failure of Judge Dumlao to comment on the matter despite notice; and (3) require Judge Dumlao to manifest whether he was willing to submit the case for decision on the basis of the pleadings/records already filed and submitted, within ten (10) days from notice.

Again, respondent Judge Dumlao did not file the required manifestation despite notice sent to and received by him.

Resultantly, the Court considered as waived the right of Judge Dumlao to file his manifestation and submitted the case for decision based on the pleadings filed.

The Court agrees with the OCA that Judge Dumlao must be held administratively liable for his unjustified failure to comment on the administrative complaint filed against him, except for the recommended penalty.

The Office of the Judge requires him to obey all the lawful orders of his superiors.[10]

It appears that Judge Dumlao ignored and continued to ignore this Court's directive requiring him to file his comment on complainant Sinaon, Sr.'s administrative complaint. He had been afforded more than ample time within which to file the required pleading. As noted earlier, several Resolutions had been issued by the OCA and this Court requiring Judge Dumlao to comment on the complaint against him. The first Resolution was issued as early as 2 August 2002 and the last was issued almost three years later, or 5 July 2005, by which time, the Court already deemed waived Judge Dumlao's right to file his comment and considered the case submitted for decision based on the pleadings filed. Subsequently, Judge Dumlao again failed to comply with the order of this Court to file his manifestation in the re-docketed administrative complaint (concerning his non-filing of the comment) despite due notice.

Judge Dumlao had been given more than ample time to abide with the orders of this Court, yet he persistently failed to do so. Judge Dumlao neither offered any reason nor raised any defense for his failure to comply with the mandates of this Court. Nothing was heard from Judge Dumlao as to what had prevented him from complying with the Court's directives. Such insolence should not go unpunished.

It should be borne in mind that a resolution of the Supreme Court requiring comment on an administrative

complaint against officials and employees of the judiciary should not be construed as a mere request from the Court, nor should it be complied with partially, inadequately or selectively.[11] It 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.[12] Furthermore, this contumacious conduct of refusing to abide by the lawful directives issued by the Court has, likewise, been considered as an utter lack of interest to remain with, if not contempt of, the system.[13]

Thus, this Court in *Parane v. Reloza*[14] ruled that:

This contumacious conduct and his disregard of the Court's mandate should merit no further compassion. Respondent's continued refusal to abide by lawful directives issued by this Court can mean no less than his own utter lack of interest to remain with, if not his contempt of, the system to which he has all along pretended to belong.

Under Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC dated 11 September 2001, violation of Supreme Court rules, directives and circulars is categorized as less serious charge with the following sanctions: (a) suspension from office without salary and other benefits for not less than one nor more than three months; or (b) a fine of more than P10,000.00 but not exceeding P20,000.00.

Clearly, the six-month suspension recommended by the OCA for Judge Dumlao's failure to file the required comment is beyond the penalties provided for such a violation. In determining the appropriate penalty to be imposed upon Judge Dumlao for this instance, the Court takes into consideration his previous conduct.

The Court notes that the propensity of Judge Dumlao to disregard, if not challenge, the authority of this Court was already reflected in another administrative matter. In MTJ-04-1556, [15] Judge Dumlao was suspended for six (6) months for Gross Ignorance of the Law and Grave Abuse of Authority, and was fined P10,000.00 for his obstinate failure to file his comment therein.

It also came to the attention of this Court that Judge Dumlao was previously fined the amount of P5,000.00 in MTJ-01-1339[16] for Abuse of Authority, and P10,000.00 in MTJ-01-1350[17] for Gross Negligence and Gross Ignorance.

The Court, thus, deems it apt to suspend Judge Dumlao for two (2) months for his repeated disregard of the Court's lawful directives.

WHEREFORE, respondent Judge Cesar M. Dumlao is hereby **SUSPENDED** for two (2) months without pay for his obstinate failure to file comment on the complaint filed against him despite proper notice, with a warning that a repetition of the same or similar act will be dealt with more severely.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ., .concur

[1] Rollo, pp. 1-4.

[2] *Id.* at 17.

[3] *Id.* at 14.

[4] *Id.* at 26.

[5] *Id.* at 33.

- [6] Id. at 34.
- [7] Id. at 42-48.
- [8] Id. at 41.
- [9] Id. at 37-39.
- [10] Davila v. Generoso, 391 Phil. 466, 471 (2000).
- [11] Josep v. Abarquez, 330 Phil. 352, 359 (1996).
- [12] Tugot v. Judge Coliflores, 467 Phil. 391, 402-403 (2004).
- [13] Parane v. Reloza, A.M. No. MTJ-92-718, 7 November 1994, 238 SCRA 1.
- [14] Id. at 4.
- [15] Lim v. Judge Dumlao, A.M. No. MTJ-04-1556, 31 March 2005, 454 SCRA 196.
- [16] Morales, Jr. v. Judge Dumlao, 427 Phil. 56 (2002).
- [17] Pascual v. Judge Dumlao, 414 Phil. 1 (2001).

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