

ATTY. SAMUEL D. PAGDILAO, JR., CHIEF OF POLICE, CALOOCAN CITY, COMPLAINANT, VS. JUDGE ADORACION G. ANGELES, RTC, BRANCH 121, CALOOCAN CITY, RESPONDENT.

A.M. No. RTJ-99-1467. August 05, 1999

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a complaint for grave abuse of discretion filed against respondent Judge Adoracion G. Angeles of the Regional Trial Court, Branch 121, Caloocan City. Complainant is the Chief of Police of Caloocan City, Samuel D. Pagdilao, Jr. The complaint stemmed from several orders of arrest issued by respondent against Caloocan City policemen for their failure to attend hearings in criminal cases and testify as state witnesses, which respondent wanted complainant to personally enforce.

The record shows that on August 10, 1998, respondent issued an order of arrest which reads as follows:[1]

In today's initial trial in Criminal Case Nos. C-53625 (98), 53626 (98), 53622 and 53623 (98), accused Manuel Mendoza and Romeo Cendaño appeared and assisted by Atty. Ojer Pacis of the Public Attorney's Office (PAO). However, there was no appearance on the part of PO2 Alexander Buan. The records will show however that he was duly notified of today's hearing but despite notice he did not appear thereby delaying the early termination of these cases.

Consequently, and on motion of the public prosecutor, let a warrant of arrest be issued against PO2 ALEXANDER BUAN and the Chief of Police, Caloocan City, Police Superintendent Samuel Pagdilao is hereby directed to effect the service of the warrant of arrest and to bring the body of the witness not later than 8:30 o'clock in the morning tomorrow, August 11, 1998 for him to testify in these cases.

The accused is likewise directed to appear tomorrow, August 11, 1998.

WHEREFORE, let the scheduled hearing for today be cancelled and have it reset tomorrow, August 11, 1998 at 8:30 o'clock in the morning.

SO ORDERED.

On August 11, 1998, respondent issued another order in another case (Criminal Case No. C-53081(97)), the pertinent portion of which reads:[2]

After the pre-trial in this case has been waived by the accused through counsel, the Public Prosecutor failed to present its evidence on the ground that his witnesses, mostly police officers, did not appear despite notices.

Consequently, on motion of the Public Prosecutor, let a warrant of arrest be issued against SPO1 Edgardo Fernandez and PO3 Eduardo S. Avila.

Let the service of the warrant of arrest upon SPO1 Edgardo Fernandez and PO3 Eduardo S. Avila be effected by no less than the Chief of Police of Caloocan City, Supt. Samuel Pagdilao and the latter is directed to make a

return on or before September 1, 1998.

On August 12, 1998, in Criminal Case No. C-53796(98), respondent issued an order reading:[3]

A cursory examination of the records will readily show that on June 23, 1998 P/Insp. Emmanuel R. Bravo appeared and signed for the scheduled hearing today, August 12, 1998 at 8:30 o'clock in the morning, but he did not appear despite notice thereby delaying the early termination of this case.

Let it be noted that the accused is a detention prisoner who is entitled to a speedy trial and the trial could not proceed in view of the non-appearance of the aforesaid witness.

Consequently, and on motion of the public prosecutor, let a warrant of arrest be issued against P/Insp. Emmanuel R. Bravo of the Caloocan City Police Force and let the warrant be served personally by the Chief of Police of Caloocan City, Police Superintendent Samuel Pagdilao and the latter is directed to make a return of the warrant not later than 8:30 o'clock in the morning tomorrow, August 13, 1998.

Apparently, resenting the tenor of the orders directed personally at him, complainant wrote respondent on August 14, 1998 asking for the reconsideration of the foregoing orders:[4]

14 August 1998

Honorable Adoracion G. Angeles
Acting Presiding Judge
RTC Branch 125, Caloocan City

Your Honor:

This is with regards to orders lately coming from that (sic) Honorable Court directing the undersigned to personally serve and return subpoenas and warrants of arrests against PNP personnel assigned within and/or outside the Caloocan City Police Station.

As Chief of Police of one of the three biggest Police Departments in the National Capital Region (next only to Manila and Quezon City), I have to attend to many matters which would prevent my personally performing the task of service on (sic) subpoena and warrants.

May I, therefore, respectfully request the Honorable Court to reconsider such orders and instead allow the undersigned to delegate to subordinate officers particularly, the Chief, Warrant and Subpoena Section and Sub-Station Commanders, the performance of this task. This will allow the undersigned to personally attend to the many operational activities of law enforcement as well as the various administrative functions as Head of the City's Police Department.

The order of the Honorable Judge to the undersigned Chief of Police disregards the time honored tradition and system of Command and Control practiced in our organization and reduces the level of the Chief of Police into a subpoena server and arresting officer. A job which can be readily accomplished by the Chief of Warrant and Subpoena Section and by other officers whom the Commander may direct under this system.

Records show that service of warrants and subpoena to PNP personnel have all been duly accomplished by our warrant and Subpoena Section.

I hope that this request will merit your favorable consideration.

Very respectfully yours,
(signed)

ATTY. SAMUEL D. PAGDILAO JR.
Police Superintendent (DSC)

Chief of Police

Copy Furnished:

The Honorable Chief Justice, Supreme Court

The Honorable Court Administrator, Supreme Court

The Chief of the Philippine National Police

Respondent's reaction was just as acerbic. In an order, dated August 21, 1998, denying complainant's request for reconsideration, she said:[5]

Before this court for consideration is a Letter-Request dated August 14, 1998 filed by P/Supt. Samuel D. Pagdilao, Jr., Chief of Police of the Caloocan City Police Department.

He assails the orders coming from this court directing him to personally serve and return subpoenas and warrants of arrest against PNP personnel assigned within and/or outside the Caloocan City Police Station. He further contends that such orders disregard the time-honored tradition and system of Command and Control practiced in their organization and reduces the level of the Chief of Police into a subpoena server and arresting officer.

Apparently, P/Supt. Samuel D. Pagdilao, Jr. perceives the assailed orders as an affront to the eminence of his position as Chief of Police above all else.

Nonetheless, this court has never entertained thoughts of debasing the Chief of Police or anybody else for that matter. Nor was it ever enticed to employ dictatorial schemes to abbreviate its proceedings despite the fact that the Presiding Judge is practically handling three (3) salas at the moment - the first as the duly appointed judge, the second in an acting capacity and the third as the pairing judge for the presiding judge thereat who has been on leave for quite some time already.

Notwithstanding the incessant pressure inherent in the job, this court takes pride in the fact that it has never lost its clear vision that it exists primarily for the proper and expeditious administration of justice.

Indeed, this court has always been very zealous in the discharge of its bounden duties. Nonetheless, its earnest efforts to promote a speedy administration of justice has many times been unduly hampered by the frequent non-appearances of police officers in court hearings despite sufficient notice. It has always been a big disappointment to the court that its dedication to duty is sometimes not matched by some law-enforcement officers.

Hence, in order to solve this dilemma, the Court directed the Chief of Police to personally ensure the attendance of his men in court hearings so much so that (sic) their testimonies are very vital to the outcome of the criminal cases herein. The Orders of the court were never meant to disregard the system of Command and Control being employed in the Police Force. Its only concern was that such system of Command and Control must be effectively used to address the lukewarm attitude of the Chief of Police's subordinates relative to their duty to appear in court.

It is noteworthy to mention that since the issuance of the assailed Orders, the concerned law enforcement officers have shown an impressive attendance in court hearings which confirms that it makes a lot of difference when the Chief of Police himself acts to ensure the compliance of his subordinates to a lawful court Order.

Needless to state, the court was able to solve a perennial problem with the renewed cooperation of the City's police force.

The court should not therefore be taken to task for its issuance of the questioned Orders because the same was done in the interest of justice.

On the other hand, the Chief of Police must be reminded that this is not the time to be onion-skinned and regard the said Orders as a personal insult to his dignity.

During this time when criminality is on the rise, would it not be more prudent for the Chief of Police to lay aside his egotistical concerns and instead work with the courts of justice in addressing the more pressing problems of criminality, violence and injustice?

WHEREFORE, premises considered, the Letter-Request of the Chief of Police of Caloocan City is duly noted but the court reiterates its stand that its foremost concern is the administration of justice and with this consideration indelibly etched in its mind, it will issue such Orders which are geared towards the achievement of its noble purpose.

Let copies of this Order be furnished upon the Honorable Chief Justice and Honorable Court Administrator of the Supreme Court as well as to the Chief of the Philippine National Police (PNP).

SO ORDERED.

In his complaint, dated October 28, 1998, complainant avers that respondent's orders betray her ignorance of the rulings of this Court in several cases that non-attendance at a trial does not constitute direct but indirect contempt punishable only after written charge and hearing under Rule 71 of the Rules of Court. He states that the action of respondent not only seriously affects the service records of the concerned policemen but also jeopardizes their promotions.

Complainant likewise assails the orders of respondent requiring him personally to arrest the policemen concerned, make a return of the orders, and in the case of PO2 Alexander Buan, to bring the latter to respondent's court not later than 8:30 in the morning of August 11, 1998. Complainant claims that the order is capricious and whimsical because the time given to him for serving the warrant was short and disregarded the "system of command and control, and the doctrine of qualified political agency in the administration of public offices." According to complainant, when he asked respondent to reconsider her order and allow his subordinates, particularly the Chief of the Warrant and Subpoena Section and the Sub-Station Commanders, to serve the orders in question, respondent "arrogantly dismissed [the principle complainant was raising] as nothing but a display of egotistical concerns."

In her comment on the complaint, respondent contended that the warrants of arrest against the Caloocan City policemen were issued merely for the purpose of compelling the attendance of the policemen at the court hearings as state witnesses as it had been her experience that the policemen ignored her orders. She stated that in issuing the orders in question she was never motivated by ill will but that her concern was solely to expedite the proceedings in two salas of the court over which she was presiding since justice delayed is justice denied. She reiterated what she said in her order denying complainant's request to be relieved from serving the orders. Respondent contends that a prior charge or hearing is not required before a warrant of arrest may be issued under Rule 21, §8 of the Rules of Court. She argues that this provision only requires proof of service of subpoena on a witness and the fact that the witness failed to attend the scheduled hearing before a court can exercise its power of compulsion.

On the allegation that complainant was given a very short period of time for serving the warrant of arrest against witness PO2 Buan, respondent points out that the policeman was right in the Caloocan City Police Station where complainant held office. As for her statement that complainant's letter was "nothing but a display of egotistical concerns," respondent said that obviously complainant took offense because of what he considered his "exalted position as chief of police."

Replying to respondent's comment, complainant argues that Rule 21, §8 invoked by respondent to justify her

orders is not applicable. He points out that the orders were intended not only to compel the attendance of policemen in court but also to punish them for contempt of court. He also alleges that, contrary to respondent's statement in her order dated March 10, 1999, in Criminal Case Nos. C-55145(98) and 55146(98), that he did not make a return of the warrant of arrest against PO3 Nestor Aquino, complainant says he made a return which, in fact, was received in respondent's court on March 10, 1999 at 10:22 a.m.[6]

Respondent's order reads as follows:[7]

In an order of the court dated March 8, 1999, a warrant for the arrest of PO3 Nestor Aquino, prosecution's witness in these cases were issued by the Court directing the Chief of Police of Caloocan City or the duly authorized representative of the latter to produce the body of the aforesaid police officer not later than March 10, 1999 at 8:30 o'clock in the morning.

A cursory examination of the records will show that the order was received by the Chief of Police of Caloocan City on the same date, March 8, 1999 but despite receipt thereof, the Chief of Police of Caloocan City did not bother to make a return of the warrant of arrest thereby delaying the early disposition of these cases.

Let it be stressed that this is a joint trial of Crim. Case No. 55145 (98) and Crim. Case No. C-55146 (98) for the violation of the drugs law.

This indeed does not speak well of the Chief of Police of Caloocan City.

WHEREFORE, the Chief of Police of Caloocan City is hereby given a period of three (3) days from receipt of a copy of this order to explain and to show cause why he should not be cited in contempt of court for failure to produce today, March 10, 1999, the body of the afore-said witness.

Let copies of this order be furnished upon the Director of the Philippine National Police (PNP) National Capital Judicial Region (NCJR), Bicutan, Metro Manila as well as to the Director General of the PNP, Roberto Lastimosa for them to know the actuation of the Chief of Police of Caloocan City in the discharged of its official function.

Complainant's return, bearing the stamp "RTC, Branch 121, Caloocan, City, received, 3/10/99, 10:22 a.m.," reads:[8]

Date 10 March 1999

Respectfully returned to the Branch Clerk of Court RTC BR 121 Cal City the attached Warrant/Order of Arrest in Crim. Case No. 55145-55146 (98) against PO3 NESTER AQUINO with address at DDEU, NPDC, Tanigue St., Kaunlaran Vill, Caloocan City for the crime of Non-appearance (at the scheduled hearing held on] 8 March 1999.

REASONS: UNSERVED. Subject PNP personnel was already dismissed from the service effective 16 February 1999. Attached herewith is the xerox copy of Spl Order No 366 relative to his dismissal.

Complainant adds that, in Caloocan City, only respondent issues orders to policemen to serve court processes on short notice, and orders their arrest without hearing in case they fail to comply without taking into account that they also have other work to do. He states that he filed the instant complaint against respondent not to cause her dishonor but to promote respect for the law and to correct the misimpression that Caloocan City policemen are "inefficient or defying court orders."

The Office of the Court Administration (OCA) recommends the dismissal of the complaint against respondent for lack of merit. In its report, it states among other things:

A cursory reading of the records of this case shows the utter lack of merit of complainant's cause.

First, a perusal of the questioned orders issued by the respondent reveals that the subject policemen were not punished for contempt of court hence the contempt provisions under the Revised Rules of Court is not applicable. Prior written charge and hearing therefore is not necessary before Judge Angeles can issue warrant of arrest to compel their attendance in court hearings;

Second, a judge is not prohibited to issue orders directing heads of police stations to personally serve and return processes from the court;

Third, it cannot be considered as unreasonable the period given to complainant within which to effect the service of the warrants of arrest issued by the court considering that the police officers to be served by said warrants are working right at the Station headed by the complainant himself; and

Lastly, on the charge that respondent arrogantly regarded the letter of complainant as "nothing but a display of egotistical concerns" we are inclined to believe that the respondent's remarks were not tainted with malice and that her only concern is for the "speedy and efficient administration of justice."

Rule 21, §8, pursuant to which respondent issued her orders, states that "in case of failure of a witness to attend, the court or judge issuing the subpoena, upon proof of the service thereof and of the failure of the witness, may issue a warrant to the sheriff of the province, or his deputy, to arrest the witness and bring him before the court or officer where his attendance is required." Respondent is thus correct in contending that a judge may issue a warrant of arrest against a witness simply upon proof that the subpoena had been served upon him but he failed to attend the hearing. The purpose is to bring the witness before the court where his attendance is required, not to punish him for contempt which requires a previous hearing.[9] However, unnecessary tension and asperity could have been avoided had respondent simply called the attention of complainant to the failure of the latter's men to comply with her orders instead of directing complainant to personally serve the orders and bring the policemen himself to her sala. Moreover, as is clear from Rule 21, §8, the orders of arrest should have been addressed to the sheriff or the latter's deputy. Respondent could have done this while calling complainant's attention to the alleged disregard by policemen of her orders so that appropriate disciplinary action could be taken if necessary.

It would appear that respondent's order of August 10, 1998 in Criminal Case Nos. C-53625(98), 53626(98), 53622, and 53623(98), which provoked this incident and gave rise to the "word war" between the parties, was made because respondent thought that in the other cases (Criminal Case Nos. 55145(98) and 55146(98)) heard that morning, complainant ignored her order to produce a policeman whom she had ordered arrested. However, as already noted, the policeman could no longer be presented in court as he had already been dismissed from the service, and complainant did make a return informing the court of this fact, although his return did reach the court a few hours after the hearing in which the policeman's testimony was required.

It was this unfortunate incident which provoked the exchanges between complainant and respondent: respondent acting on the erroneous belief that complainant had ignored her order and, consequently, requiring complainant to personally arrest his own men and take them to her court, and complainant taking umbrage at the orders. The observance of restraint was never more demanded on the part of both parties.

Respondent acted a bit rashly while complainant reacted too strongly. The courts and the law enforcers are two of the five pillars of the criminal justice system, the other three being the prosecution, the correctional subsystem, and the community.[10] Cooperation among, and coordination between, the five pillars are needed in order to make the system work effectively. Indeed, complainant and respondent both avow a common objective of dispensing justice. More than that, the parties should observe mutual respect and forbearance.

WHEREFORE, respondent Judge Adoracion G. Angeles of the Regional Trial Court, Branch 121, Caloocan City is ADMONISHED to be more circumspect in the discharge of her judicial function with WARNING that

repetition of the same or similar acts will be dealt with more severely. The instant complaint is DISMISSED.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, and Buena, JJ., concur.

[1] Complaint, Annex C; Rollo, p. 7.

[2] Id., Annex A; Id., p. 5.

[3] Id., Annex B; Id., p. 6.

[4] Id., Annex E; Id., p. 7.

[5] Id., Annex "F"; Id., pp. 10-12 (Emphasis in original).

[6] Reply, Annex B; Id., p. 27.

[7] Id., Annex A; Id., p. 26.

[8] Id., Annex B; Id., p. 27 (Emphasis in original).

[9] 1 Moran, Comments on the Rules of Courts 588 (1979).

[10] Andres R. Narvasa, The Courts And The Criminal Justice System, 24 IBP Law J. 78, 88 (1998).

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