

CELESTINO ALGAS, COMPLAINANT, VS. WILFREDO GARRIDO, MUNICIPAL JUDGE OF JARO, LEYTE, RESPONDENT.

Adm. Mat. No. 289-MJ. November 15, 1974

Ponente: ANTONIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/bebe1f22b8f5/>

ANTONIO, J.:

The only issue in this complaint filed by Celestino Algas against respondent Municipal Judge Wilfredo Garrido of Jaro, Leyte, is whether or not the respondent, in issuing the warrant of arrest in Criminal Case No. 4866 (People vs. Celestino Algas, for attempted murder) on the basis of his examination of Loreto Pore, an alleged eyewitness, without examining the victim of the incident himself, committed manifest partiality, grave abuse of authority, or gross ignorance of law.

According to the report of Hon. Meneleo C. Melicor, District Judge of Leyte, who was designated to investigate this case, this complaint stemmed from the actuations of respondent Judge in the criminal complaint for attempted murder against Celestino Algas filed with the Municipal Court of Jaro, Leyte. Said criminal case arose from an incident on the evening of October 18, 1971, in Barrio Tinambacan, Municipality of Jaro, Province of Leyte, wherein a certain Catalino Lotrago was shot and wounded.

As a result of that incident, Police Sgt. Juan G. Fallorina of the Municipality of Jaro filed with respondent Judge on November 4, 1971, a complaint for attempted murder against Celestino Algas for the shooting and wounding of Catalino Lotrago. In support of the complaint, Sgt. Fallorina presented as an eyewitness one Loreto Pore.

According to the respondent, he conducted the requisite preliminary examination by asking the lone eyewitness, Loreto Pore, searching questions. He claimed that he could not examine the victim, Catalino Lotrago, as subpoenas issued requiring his appearance before his Court were returned unserved. It was later found out that said victim was brought to the City of Tacloban for medical treatment. On the basis of his examination of Loreto Pore, respondent Judge issued the warrant for the arrest of Celestino Algas.

Prior to November 4, 1971, however, or on October 26, 1971, after the victim, Catalino Lotrago, was released from the hospital in Tacloban City, he was investigated by the constabulary authorities. In that investigation, Catalino Lotrago allegedly executed a sworn statement to the effect that it was Loreto Pore who shot him with a revolver and wounded him in the right arm. In that same investigation, complainant Celestino Algas also testified before the constabulary authorities as a witness, claiming that while he did not actually see the shooting, he saw Loreto Pore carrying a revolver shortly before and immediately after, the shooting incident. The affidavits of these witnesses were transmitted by the constabulary authorities to the Office of the Provincial Fiscal. No criminal case was, however, filed by the fiscal against Loreto Pore.

Celestino Algas was arrested in the town of Jaro on the evening of November 4, 1971, pursuant to the warrant in Criminal Case No. 4866 issued by respondent Judge, and confined in the municipal jail until he was released on bail on November 8, 1971. The preliminary investigation of the case was set for November 15, 1971, but on that date, upon motion of complainant Celestino Algas, the hearing was transferred to December 5, 1971. In the

meantime, on November 18, 1971, Assistant Provincial Fiscal Redubla filed with respondent Judge a motion to dismiss the attempted murder case against Algas on the ground that his office was conducting a preliminary examination of the same incident on the basis of the sworn statements submitted by the constabulary authorities, and since there were two conflicting versions of the incident as to the identity of the assailant, it would be better to have the same jointly investigated by the Provincial Fiscal. This was denied by respondent Judge and he reset the hearing of the preliminary investigation for December 3, 1971. On this latter date, complainant Algas waived his right to the preliminary investigation, and, consequently, the case was remanded to the Court of First Instance of Leyte.

On August 23, 1972, an information for attempted murder was filed in the Court of First Instance by an Assistant Provincial Fiscal of Leyte against Celestino Algas (Criminal Case No. C-185). However, the aforesaid Criminal Case No. C-185 was dismissed provisionally by the Court on February 12, 1973 on motion of Assistant Provincial Fiscal Jose H. Almocera. The motion to dismiss was predicated on the averment that the hearing of the case had been postponed several times at the instance of the prosecution, in view of the absence of the complainant, Catalino Lotrago, and the witness, Loreto Pore, which witnesses could not be contacted, as Lotrago was no longer a resident of Jaro, Leyte, but allegedly a resident of Davao City, while Loreto Pore allegedly died in a shooting incident with elements of the constabulary on January 8, 1973, as evidenced by a death certificate issued by the Local Civil Registrar of Jaro, Leyte; and without the testimony of those witnesses, the prosecution would not be able to prove its case against the accused.

On the basis of the aforesaid facts, the Investigating lodge, finding that respondent had not acted with malice, recommended his exoneration. This recommendation is anchored on the observation of the Investigating Judge that the issuance of the warrant of arrest in Criminal Case No. 4866 on the basis of the testimony of the alleged eyewitness, without said respondent examining the offended party is not a transgression of the rules. He, however, recommended that respondent be admonished to be more careful in the discharge of his duties, considering that the arrest and detention of Celestino Algas on November 4, 1971, or a few days before the local elections on November 9, 1971, created the suspicion that the action of respondent was politically motivated.

It is true that respondent judge did not investigate the offended party, but it is not disputed that the aforesaid party could not be contacted in Jaro, as he was then in Tacloban City, and on the basis of Loreto Pore's testimony, the investigating judge was satisfied that the offense had in fact been committed and that there was reasonable ground to believe that the accused committed it. It must be noted that when a municipal judge investigates a complaint in order to determine whether or not to issue a warrant of arrest, it is not required that all reasonable doubt of the accused's guilt must be removed, but that the evidence be sufficient to establish probable cause that the accused committed the offense charged. At all events, the act of Algas in waiving his right to preliminary investigation in Criminal Case No. 4866 constituted waiver of his objection to any alleged irregularity in the conduct of the preliminary examination.

We cannot, therefore, conclude that by placing implicit reliance solely on the testimony of Loreto Pore, an alleged eyewitness to the incident, as a basis of his finding of the existence of a probable cause against Celestino Algas, the respondent Judge had acted with manifest partiality or with grave abuse of authority, or had shown a gross ignorance of the law.

Considering, however, that the complaint was filed a few days before the local elections of November 9, 1971, it would have been more prudent for respondent Judge, before issuing the warrant of arrest, to have required the police authorities to complete their investigation by questioning the victim, so as to avert any unfavorable suspicions that he acted hastily or improvidently.

WHEREFORE, the present complaint is dismissed, but respondent is admonished to exercise henceforth greater care in the discharge of his judicial duties.

Fernando, (Chairman), Barredo, Fernandez, and Aquino, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.