

**RE: ELMO S. ABAD, 1978 SUCCESSFUL BAR EXAMINEE, ATTY.
PROCOPIO S. BELTRAN, JR., PRESIDENT OF THE PHILIPPINE TRIAL
LAWYERS ASSOCIATION, INC., COMPLAINANT, VS. ELMO S. ABAD,
RESPO...**

BM No. 139. October 11, 1984

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

On March 28, 1983, this Court held respondent ELMO S. ABAD in contempt of court for unauthorized practice of law and he was fined P500.00 with subsidiary imprisonment in case he failed to pay the fine (121 SCRA 217). He paid the fine.

On May 5, 1983, Atty. Procopio S. Beltran, Jr., the complainant, filed a MOTION TO CIRCULARIZE TO ALL METRO MANILA COURTS THE FACT THAT ELMO S. ABAD IS NOT AUTHORIZED TO PRACTICE LAW.

Asked to comment on the Motion, Mr. Abad opposed it. He denied the allegations in the Motion that he had been practicing law even after our Decision of March 28, 1983.

Because the Motion and the Opposition raised a question of fact, in Our resolution of April 10, 1984, We directed "the Clerk of Court to conduct an investigation in the premises and submit a report there-on with appropriate recommendation."

In a comprehensive and well-documented Report which is hereby made a part of this Resolution, the Clerk of Court concluded:

"The aforesaid documentary and testimonial evidence, as well as the above report of the NBI, have clearly proved that respondent Abad is still practicing law despite the decision of this Court of March 28, 1983."

The Clerk of Court makes the following recommendations:

"a. imposed a fine of P2,000.00 payable within ten (10) days from receipt of this resolution or an imprisonment of twenty (20) days in case of non-payment thereof, with warning of drastic disciplinary action of imprisonment in case of any further practice of law after receipt of this resolution; and

b. debarred from admission to the Philippine Bar until such time that the Court finds him fit to become such a member.

"It is further recommended that a circular be issued to all courts in the Philippines through the Office of the Court Administrator that respondent Elmo S. Abad has not been admitted to the Philippine Bar and is therefore not authorized to practice law."

We find the Report to be in order and its recommendations to be well-taken. However, the latter are not

sufficiently adequate in dealing with the improper activities of the respondent.

The Report has found as a fact, over the denials of the respondent under oath, that he signed Exhibits B, C, and D, and that he made appearances in Metro Manila courts. This aspect opens the respondent to a charge for perjury.

The Report also reveals that Atty. Ruben A. Jacobe collaborated with the respondent as counsels for Antonio S. Maravilla one of the accused in Criminal Case Nos. 26084, 26085 and 26086 of the Regional Trial Court of Quezon City. (Exhibit D.) Atty. Jacobe should be called to account for his association with the respondent.

WHEREFORE, Elmo S. Abad is hereby ordered to pay a fine of P2, 000.00 within ten (10) days from notice, failing which he shall be imprisoned for twenty (20) days. He is also warned that if he persists in the unauthorized practice of law he shall be dealt with more severely.

The Court Administrator is directed to circularize all courts in the country that the respondent has not been authorized to practice law. A copy of the circular should be sent to the Integrated Bar of the Philippines.

The Clerk of Court is directed to file with the City Fiscal of Manila an appropriate complaint for false testimony against the respondent.

Finally, Atty. Ruben A. Jacobe is required to explain within ten (10) days from notice why he should not be disciplined for collaborating and associating in the practice of the law with the respondent who is not a member of the bar.

SO ORDERED.

Teehankee, Acting C.J., Makasiar, Aquino, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., De La Fuente, and Cuevas, JJ., concur.

Guerrero, J., no part.

Fernando, C.J., and Concepcion, Jr., J., on leave.

SUPREME COURT OF THE PHILIPPINES MANILA

August 29, 1984

REPORT AND RECOMMENDATION:

RE: Bar Matter No. 139 -

Elmo S. Abad, 1978 Successful Bar Examinee.

This report is submitted in compliance with the resolution of April 10, 1984.

In the En Banc decision of March 28, 1983 in the above-entitled case, the Court found respondent Elmo S. Abad, who passed the 1978 Bar Examinations but has not been admitted to the Philippine Bar, in contempt of Court for illegal practice of law, and imposed upon him a fine of P500.00. Respondent paid the fine on May 2, 1983.

On May 5, 1983 complainant filed a motion to circularize to all Metro Manila courts the fact that respondent is not authorized to practice law. The Court in its resolution of May 26, 1983 required respondent to comment on the said motion. Respondent filed "Opposition to Motion and Manifestation" which was noted in the resolution of June 30, 1983.

The complainant on March 14, 1984 reiterated his motion to circularize to all Metro Manila courts that respondent is not authorized to practice law, with prayer that the latter be punished with greater severity. He stated that "Mr. Abad is still practicing law as evidenced by the fact that last December 8, 1983 at about 2:00 o'clock in the afternoon, Mr. Abad appeared before the Regional Trial Court, National Capital Judicial Region, Branch 100 located at the 11th Floor, City Hall, Quezon City presided by the Honorable Judge Jorge C. Macli-ing; that Mr. Abad appeared as counsel for a certain Caroline T. Velez in Criminal Case Nos. 26084, 26085 and 26086 entitled People of the Philippines vs. Maravilla, et al. Mr. Abad even cited in the pleading his Professional Tax Receipt to prove that he is a licensed legal practitioner which is utterly false. Mr. Abad gave his address as Ruben A. Jacobe & Associates, Ground Floor, ADC Building, Ayala Avenue, Makati, Metro Manila."

Respondent filed an "Opposition to Motion" denying the complainant's allegation, to wit:

"4. xxx respondent is not presenting himself to the general public as a Practicing Lawyer like what Atty. Procopio S. Beltran insists to the Honorable Court;

"5. That this motion is motivated by Atty. Beltran's personal desire to inflict malice and oppression upon the respondent who even until now does not accede to the terms and conditions of the former in connection with several cases filed against him by the said Atty. Beltran;

"6, Respondent respectfully submits that Atty. Beltran is trying his very best to harass the respondent under the guise of conducting a Crusade personally with the end in view that respondent submit to his ill-desires and veiled threats and finally come into terms with him."

In the hearings conducted by the undersigned, to prove the allegations in his motion, complainant presented the records in Criminal Cases Nos. 26084, 26085, and 26086, entitled "People of the Philippines vs. Antonio S. Maravilla, Jr., et al." of Branch 100, Regional Trial Court, Quezon City, which were brought to this Court and identified by Atty. Candido A. Domingo, Clerk of Court of said trial court, and marked by the undersigned as the following exhibits:

1. Transcript of stenographic notes taken down during the initial trial of the aforesaid criminal cases on December 8, 1983, at 1:30 in the afternoon (Exhibit "A") where it is stated that Atty. Elmo Abad was counsel for Juan del Gallego III (Exhibit "A-I");
2. Urgent motion for withdrawal from custody of motor vehicle filed for Caroline T. Velez by Elmo Abad (Exhibit "B") with his name and signature appearing therein as counsel for the said movant (Exhibit "B-I");
3. Page 4 of aforesaid motion (Exhibit "C") with the name and signature of Elmo Abad appearing therein as submitting the aforesaid motion for consideration of the trial court (Exhibit "C-I"); 4. Urgent motion for deferment of arraignment and trial filed for accused Antonio S. Maravilla, assisted by counsel Ruben A. Jacobe with Elmo Abad (Exhibit "D"), with the names and signatures of Elmo Abad and Ruben A. Jacobe appearing as counsel for the accused movant Antonio S. Maravilla (Exhibit "D-I");
5. Also page 3 of the aforesaid motion for deferment of arraignment and trial where the name and signature of Elmo Abad, together with those of Ruben A. Jacobe, appear as submitting the aforesaid motion for the consideration and approval of the trial court (Exhibit "D-2"); and
6. Order of Judge Jorge C. Macli-ing dated July 26, 1983 (Exhibit "E") wherein on page 1 thereof appears the statement that the urgent motion for deferment of arraignment and trial and the urgent motion for withdrawal from court of motor vehicle were filed by "Atty. Elmo Abad" (Exhibit "E-I"), Complainant also presented Exhibit "F", his letter to the Branch Clerk of Court, Branch 100, Regional Trial Court, Quezon City requesting for certification that Mr. Abad had appeared as counsel for a certain Ma. Caroline T. Velez in the case entitled People vs. Maravilla, et al., with Exhibit "F-I" to indicate that said Clerk of Court was the addressee of the said

letter. After the original of the above records were presented to and marked as exhibits by the Investigator, the same were xeroxed and the xerox copies were certified by Atty. Candido Domingo, Clerk of Court of Branch 100, Regional Trial Court, Quezon City.

Complainant also testified that on December 8, 1983 he was at the 11th floor of the Quezon City Regional Trial Court NCJR, Branch 100, Quezon City and saw respondent Abad pass by in coat and tie and because he knew that Mr. Abad is a respondent in a case before the Supreme Court and had been declared as a non-lawyer in its decision of March 28, 1983, he (complainant) got curious and followed respondent and saw the latter enter the sala of Branch 100 of the Regional Trial Court of Quezon City; that he saw him there and after about twenty minutes when he went back to the same sala, he saw respondent in the place of the said court where the lawyers were supposed to be seated; that some days after, he went back to the said sala and inspected the records of the criminal cases numbered 26084, 26085 and 26086, which are the subject matters of the certification of the Clerk of Court, Atty. Domingo, before the Investigator (TSN, April 27, 1984, pp. 24-26).

Mrs. Eufrocina B. Ison, the Court Reporter who took down and transcribed the stenographic notes of the proceedings in the afternoon of December 8, 1983 in the said criminal cases in the aforesaid trial court, appeared before the undersigned Investigator and positively identified respondent Elmo Abad as the Atty. Elmo Abad who appeared as counsel for Juan del Gallego III in the aforesaid proceedings that afternoon of December 8, 1983 (pp. 1 & 2, TSN, May 11, 1984). She furthermore testified that she has no reason to be interested in this case in identifying respondent Abad as the one who appeared in said court on said afternoon of December 8, 1983 (pp. 19-20, TSN, May 11, 1984).

Respondent, when asked about the aforesaid motions, Exhibits "B" and "D", and the signatures therein, denied that he filed the same and that the signatures therein are his. He also denied that he appeared in the hearing in the afternoon of December 8, 1983 in the said trial court. According to him, he was in Batangas at the time. He also testified that the only explanation he could give regarding the signatures in the aforesaid exhibits is that the same could have been effected by Atty. Beltran to show the Supreme Court that he (respondent) was still illegally practicing law. In connection with his defense, he filed —

(1) a motion to present the video tape to show his whereabouts at the time of the said hearing in the afternoon of December 8, 1983 in Branch 100, Regional Trial Court, Quezon City; and

(2) a motion that his signature in the aforesaid motions filed in the said trial court in said criminal cases be compared with his genuine signature.

The Investigator orally denied respondent's motion to present the video tape for the reason that the matter intended to be proved thereby, that is the time of day, cannot be accurately determined from the film as the same could be doctored by lighting effects (p. 16, TSN, May 11, 1984).

As to the motion for examination and analysis of respondent's signature, the Investigator, to afford respondent full opportunity to prove his defense, sought the assistance of the National Bureau of Investigation to compare respondent's signature in the aforesaid exhibits with the signatures appearing in the pleadings that he filed in the Supreme Court, which latter signature he admits as genuine as his own.

On August 7, 1984, the National Bureau of Investigation submitted its report regarding the questioned signatures of respondent. Quoted hereunder are its findings and conclusion:

"Findings: Comparative examination of the specimens, under magnification and stereoscopic microscope, with the aid of photographic enlargements, reveals that there exist fundamental, significant similarities in writing characteristics and identifying details between the questioned and the standard signatures ELMO S. ABAD, such as in:

- "1. Structural formation of the elements of the signatures
- "2. Proportion characteristics
- "3. Movement impulses
- "4. Direction of strokes
- "5. Manner of execution which is free, spontaneous and coordinated.

"CONCLUSION: The questioned and the standard signatures ELMO S. ABAD were written by one and the same person"

The aforesaid documentary and testimonial evidence, as well as the above report of the NBI, have clearly proved that respondent Abad is still practicing law despite the decision of this Court of March 28, 1983.

Moreover, the Investigator, thru the Office of the Court Administrator, requested the Metro Manila courts to inform said Office if a certain Arty. Elmo Abad is appearing or has appeared in their courts. In response to said query, the Branch Clerk of Court, Branch XCIV, Quezon City sent to the undersigned certified xerox copies of the following that showed that Elmo Abad is appearing in Civil Case No. 36501: [*]

Case No.

Title

Court

Fow whom as Counsel

Certified True Xerox Copies of Court Recorded filed & signed by Elmo Abad

36501

Merian Estimada vs. May N. Avila

RTC NCJR Br. XCIV

For Defendant & Third Party Plaintiff

1. Motion for reconsideration dated Aug. 29, 1983 signed by Elmo Abad
2. Transcript of hearing of above motion in the morning (9:00A.M.) on September 22, 1983 show his appearance for said party.
3. Minutes of said hearing signed by Elmo Abad.

There was likewise received a certification dated May 9, 1984 from the Branch Clerk of Court of the Regional Trial Court, National Capital Judicial Region, Pasig, Branch CLIII, stating that Elmo Abad y Sanchez is appearing before said court as accused in Criminal Case No. 50651 ,[**] entitled "People of the Philippines vs. Atty. Elmo Abad y Sanchez" for Qualified Theft (Camapping).

The actuations of respondent as shown from the foregoing constitute contempt of court that should be punished more severely considering his temerity in still continuing the practice of law despite the decision of March 28, 1983.

It is thus respectfully recommended that respondent be:

- a. imposed a fine of P2,000.00 payable within ten (10) days from receipt of this resolution or an imprisonment of twenty (20) days in case of non-payment thereof, with warning of drastic disciplinary action of imprisonment in case of any further practice of law after receipt of this resolution, and
- b. debarred from admission to the Philippine Bar until such time that the Court finds him fit to become such a member. It is further recommended that a circular be issued to all courts in the Philippines through the Office of the Court Administrator that respondent Elmo S. Abad has not been admitted to the Philippine Bar and is therefore not authorized to practice law.

Respectfully submitted:

(Signed) GLORIA C. PARAS
Clerk of Court

[*] Still pending in said RTC; last appearance of respondent Abad was on October 29, 1983 per information of the clerk in said court concerned.

[**] Still pending in said RTC per information of the clerk in said court concerned.

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