

**AGUILAR INTEGRATED NATIONAL POLICE, COMPLAINANT, VS.
HON. ANASTACIO ZAMUCO, MUNICIPAL JUDGE OF
AGUILAR--BUGALLON, PANGASINAN, RESPONDENT.**

Adm. Matter No. 2162-MJ. December 14, 1981

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

In a complaint dated November 15, 1978, Pedro C. Gelido, Station Commander of the Aguilar Integrated National Police, Pangasinan, charged Judge Anastacio Zamuco of the Municipal Court of Aguilar-Bugallon, Pangasinan, with habitual absenteeism and gross ignorance of the law.[1]

The complaint alleged that there were over 100 cases which pending before the Municipal Court of Aguilar-Bugallon as a result of habitual absenteeism of the Municipal Judge; and that some of these cases had been pending for more than five (5) years because the scheduled hearing thereof had been postponed several times in view of the failure of the respondent judge to attend said hearings.

The respondent judge was likewise charged with gross ignorance of the law in that (1) he dismissed Criminal Case No. 1848 on the mere affidavit of desistance and motion to dismiss filed by the complainant therein without the knowledge and intervention of the fiscal; (2) he dismissed Criminal Case No. 2256 for grave threat on the ground that there is no such crime because the threat was made in the absence of the person threatened; (3) he assumed jurisdiction over Criminal Case No. A--001 which was triable by the Military Tribunal; and he prohibited the Station Commander of Aguilar, Pangasinan to administer oaths.

In his comment dated May 21, 1979,[2] the respondent judge alleged that he had never been absent from his office except on those days when he had to attend seminars and other official functions, and that most of the cases which were pending in the Municipal Court of Aguilar-Bugallon were criminal cases involving non-payment of the Masagana loans wherein many of the accused were at-large.

As regards the charge of gross ignorance of the law, the respondent judge explained that (1) he dismissed Criminal Case No. 1848 only on the basis of the affidavit of desistance and motion to dismiss filed by the complainant therein because no fiscal had entered his appearance in said case; (2) Criminal Case No. 2256 for grave threat was dismissed by him for the reason that the complainant therein, Patricio Daño, Sr. was not present in his house when the alleged grave threat was made by the accused; (3) he conducted the first stage of the preliminary investigation of Criminal Case No. A-001 for violation of General Order No. 6 (carrying of fire-arms outside the residence), but it was not his intention to assume jurisdiction over said case because he knew that the same was triable before the Military Tribunal and that he could not conduct the second stage of the preliminary investigation because the accused was not apprehended, hence no report was submitted to the Secretary of National Defense; and (4) he did not prohibit the Station Commander of Aguilar, Pangasinan to administer oaths as in fact the complaint in Criminal Case No. A-001 and the affidavits attached thereto were subscribed and sworn to before the said Station Commander.

In a memorandum dated July 29, 1981, Deputy Court Administrator Romeo D. Mendoza directed Atty. Romanito Amatong, a lawyer in this Court, to examine and audit the case records and docket of the Municipal Court of Aguilar-Bugallon, Pangasinan.

After making a physical inventory of all cases pending in the Municipal Court of Aguilar-Bugallon, Atty. Romanito Amatong submitted a memorandum dated August 13, 1981,[3] wherein he reported that as of the date of inspection, there were only 179 criminal cases, 11 civil cases and 1 special proceeding, or a total of 191 pending cases in the Municipal Court of Aguilar--Bugallon, Pangasinan. Atty. Amatong concluded that Judge Zamuco had not been lagging behind in the disposal of cases contrary to complainant's allegations.

As regards the charge of gross ignorance of the law, Atty. Amatong reported that: (1) the respondent judge dismissed Criminal Case No. 1848 for slander by deed on the basis of the affidavit of desistance and motion to dismiss filed by the complainant, Perlita Fajardo, inasmuch as no fiscal had entered his appearance in this case in accordance with the ruling in *People vs. Beriales*, 76 SCRA 42; (2) the respondent judge dismissed Criminal Case No. 2256 on the ground that the complainant, Patricio Daño, was not present in his house when the alleged crime of grave threat was committed; (3) the respondent judge assumed jurisdiction over Criminal Case No. A-001 which was within the exclusive jurisdiction of the Military Tribunal, only for the purpose of conducting the preliminary investigation; and (4) the respondent judge did not prohibit the Station Commander of Aguilar from administering oaths.

From the facts of record, it cannot be said that the respondent had a clogged docket by reason of his absences. Most of the criminal cases pending had been archived because the persons charged of non-payment of the Masagana loans could not be arrested inasmuch as their whereabouts were not known.

No fiscal entered his appearance in Criminal Case No. 1848 of the Municipal Court of Aguilar-Bugallon. Hence, the respondent judge could dismiss the said case on the basis of the affidavit of desistance and the motion to dismiss of the complainant.

Municipal Courts had the authority to conduct the preliminary investigation of violations of the law on firearms and explosives provided that the Municipal Judge submitted a report to the Secretary of National Defense through the Provincial Commander outside the Greater Manila area. The accused was not apprehended, hence, the respondent judge could not conduct the second stage of the preliminary investigation and no report to the Secretary of National Defense was submitted.

It is a fact that the respondent judge accepted the affidavits attached to the complaint in Criminal Case No. A-001, all subscribed and sworn to before the Station Commander of the Aguilar Integrated National Police.

The respondent judge, however, committed an error when he dismissed Criminal Case No. 2256 for grave threat on the ground that the complainant was not present in his house at the time the accused shouted that he would kill the complainant. The crime of threat may be committed by indirect challenge to fight even if the complainant was absent when the threat was made. There is, however, no showing that the respondent judge dismissed the case for grave threat with a deliberate intent to perpetrate an injustice. Under the established facts of the case, the respondent judge should be reprimanded.

However, the respondent, Judge Anastacio Zamuco, had reached the retirement age of 70 years on April 27, 1981.

WHEREFORE, the respondent judge, Hon. Anastacio Zamuco, formerly of the Municipal Court of Aguilar--Bugallon, Pangasinan, is found guilty of erroneously dismissing Criminal Case No. 2256 of the Municipal Court of Aguilar-Bugallon, Pangasinan, for grave threat and is hereby reprimanded.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, and Melencio-Herrera, JJ., concur.
Plana, J., no part.

[1] Rollo, pp. 8-13.

[2] Rollo, pp. 21-26.

[3] Rollo, pp. 37-45.

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