

CITY PROSECUTOR FRANCISCO A. VILLA, COMPLAINANT, VS. JUDGE SERGIO AMONROY, REGIONAL TRIAL COURT, NATIONAL CAPITAL JUDICIAL REGION, BRANCH 115, PASAY CITY, RESPONDENT.

A.M. No. RTJ-89-395. February 13, 1991

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PER CURIAM:

In a letter-complaint dated September 29, 1989 filed with the Court on October 2, 1989, Atty. Francisco A. Villa, the City Prosecutor of Pasay City, charged the respondent judge, Hon. Sergio Amonoy of the Regional Trial Court of Pasay City, of grave misconduct and/or gross negligence regarding the bail bonds posted by certain accused individuals in the following criminal cases pending in his Sala, to wit:

(1)

People v. Makalintal
Criminal Case No. 89-2500-P;

(2)

People v. Adams
Criminal Case No. 89-3254-P;
and

(3)

People v. Datu and De Guzman
Criminal Case No. 89-3367-P.

The complainant also prayed that the respondent judge be enjoined from hearing Criminal Case No. 89-3367-P wherein Representative Nicanor De Guzman, Jr. is one of the accused.

On October 3, 1989, the Court resolved to require the respondent judge to comment on the letter-complaint filed against him.[1] On the same date, the Court issued a restraining order enjoining the respondent judge from hearing Criminal Case No. 89-3367-P.[2]

On October 16, 1989, the respondent judge filed an answer to the letter-complaint, contesting therein the charges against him. Although the pleading filed by the respondent judge was erroneously designated as an answer, the same was considered as his comment on the letter-complaint. On October 26, 1989, the Court resolved to require the complainant to reply to the said answer/comment.[3]

The complainant filed his reply on October 30, 1989.[4] On November 3, 1989, the complainant filed a supplemental complaint against the respondent judge for grave misconduct, gross incompetence and ignorance of

the law in relation to the posting of bail bonds in the following cases, viz:

(1)

People vs. Rizal Criminal Case No. 89-2488-P;

(2)

People v. De Jesus Criminal Case No. 86-10125-P;

(3)

People v. Aquino Criminal Case No. 87-11832-P;

(4)

People v. Seto Criminal Cases Nos. 88-0722-P and 89-2628-P; and

(5)

People v. Seki Criminal Case No. 88-1317-P.[5]

On November 21, 1989, the Court resolved to require the respondent judge to comment on the supplemental complaint.[6] On the same date, the Court also resolved to reassign Criminal Cases Nos. 89-2500-P (People v. Jerome Makalintal), 89-3254-P (People v. Dominique Adams) and 89-3367-P (People v. Ponciano Datu and Nicanor De Guzman, Jr.) to Executive Judge Fermin Martin, Jr.[7]

On November 14, 1989, the respondent judge filed his supplemental answer, apparently in lieu of the required comment on the supplemental complaint.[8] On November 17, 1989, the complainant filed his reply to the supplemental answer filed by the respondent judge.[9] On February 3, 1990, the respondent judge manifested to the Court his position on the matter.[10]

On March 15, 1990, the Court resolved to refer the case to Justice Fernando A. Santiago of the Court of Appeals for investigation, report and recommendation thereon.[11] In due time, Justice Santiago submitted his report and recommendations to the Court.

Criminal Case No. 89-2500-P
(People v. Makalintal)

The accused was charged for a violation of the provisions of the Dangerous Drugs Act of 1972, as amended. The Northern Guarantee and Insurance Company issued a bail bond without notice to the prosecutor and without coursing the same through the Clerk of Court.

It appears that in a letter dated May 15, 1989, the Court Administrator informed the Regional Trial Court of Pasay City that the Northern Guarantee and Insurance Company is not authorized to transact business as a surety and/or bondsman. The prosecution moved for the cancellation of the bail bond on the ground that the same was issued by an unauthorized insurance company. On September 21, 1989, the respondent judge granted the motion. The bail bond was cancelled and the accused was given five days within which to post a new bail bond. Apparently, the

accused failed to post a new bail bond within the prescribed period.

On October 13, 1989, the trial court promulgated a judgment of conviction. This judgment notwithstanding, the respondent judge granted the accused provisional liberty until October 18, 1989 for the purpose of allowing the accused to secure a new bail bond. In the meantime, the accused filed his notice of appeal and moved for an extension of time to obtain a new bail bond. The prosecution opposed the motion. Thus, the respondent judge directed the accused to surrender within five (5) days or a warrant for his arrest will be issued. Thereafter, the case was reassigned to Judge Fermin Martin, Jr. A warrant for the arrest of the accused was subsequently issued. The accused, however, remained at large.

There is no evidence to show that the respondent judge approved the bail bond with the knowledge that the bonding company is not authorized to issue bail bonds. The respondent judge alleged that received notice of the letter of the Court Administrator regarding the status of the said company only on June 6, 1989, or around two weeks after May 23, 1989, the date the bail bond in question was issued. It appears that the respondent Judge failed to course the bail bond through the Clerk of Court because the latter did not inform the respondent judge about a directive of the Court Administrator dated September 30, 1988 regarding the matter. Nevertheless, the respondent judge should have, as a matter of precaution, coursed such bonds through the Clerk of Court for verification before approving the same.

The respondent judge, however, failed to explain why the accused, who was then present in the courtroom when the judgment of conviction was promulgated, was not taken into custody since his bail bond was cancelled earlier. Moreover, the respondent judge even allowed the provisional liberty of the accused to secure another bail bond notwithstanding his conviction for drug-pushing, a non-bailable crime.

In this regard, the Court finds that the respondent judge committed gross malfeasance in allowing the release of the accused, without bail, after his conviction for drug-pushing.

Criminal Case No. 89-3254-P
(People v. Adams)

The accused, Dominique Adams, was charged for illegal possession of firearms. The respondent judge approved the bail bond of the accused, purportedly issued by the BF General Insurance Company, Inc., also without coursing the same through the Clerk of Court. On September 7, 1989, the insurance company filed a motion to declare the bond null and void on the ground that it never issued the same. The respondent judge did not take any action on the motion. On October 3, 1989, the prosecutor filed a motion to resolve the motion filed by the insurance company. No action was taken by the respondent judge with respect to both motions. As of this writing, the accused is reportedly out of the country.

No satisfactory explanation was given by the respondent judge as to why he did not resolve the motions filed by the insurance company and the prosecutor. Needless to say, the motion filed by the insurance company should have been resolved immediately considering that the accused was released by virtue of a bail bond which appears to be spurious.

The conclusion is ineluctable that the respondent judge committed serious nonfeasance when he failed to resolve the motions filed by the insurance company and the prosecutor and/or to cancel the bail bond in favor of the accused, which the insurance company denied having issued, thereby allowing the accused, charged for illegal possession of firearms, to enjoy provisional liberty without posting a bail bond. Thus, the accused successfully fled the country.

Criminal Case No. 89-3367-P

(People v. Datu and De Guzman)

On September 9, 1989, the accused posted a bail bond and the respondent judge approved the same without coursing the matter through the Clerk of Court. It appears, however, that the Zenith Insurance Company, which issued the bail bond, was blacklisted as of the said date. It was only after the case was reassigned to another sala when the bail bond was replaced by a cash bond.

When respondent judge approved the bail bond posted by the accused on September 9, 1989, it was again without previous verification by the Clerk of Court. The practice of the respondent judge of approving the bail bond in this and in the other cases without taking the precautionary measure of having it checked by the Clerk of Court is clear negligence.

Criminal Case No. 89-2488-P

(People v. Rizal)

Pacifico Rizal and Julian Pimentel were charged for selling regulated drugs in violation of the Dangerous Drugs Act of 1972, as amended. The said accused were temporarily released on bail bonds supposedly issued by the Northern Guarantee and Insurance Company, a blacklisted insurance company, again without previous verification by the Clerk of Court.

In due time, the trial court rendered a judgment of conviction and sentenced both accused to suffer the penalty of reclusion perpetua. Pimentel was present during the promulgation of the judgment. Rizal, however, failed to appear. Although the trial court ordered the immediate arrest of Rizal, it allowed Pimentel to be released, albeit, provisionally, under the same bond.

The First Assistant City Prosecutor of Pasay City informed the state prosecutor that the two accused were granted bail notwithstanding their conviction. Thus, on October 23, 1989, the state prosecutor filed an urgent motion seeking the cancellation of the bail bonds in question on the ground that the said accused were duly convicted of a non-bailable crime. On October 27, 1989, the trial court granted the said motion and thereafter ordered the cancellation of the bail bonds of both accused.

The Court notes, however, that the respondent judge was seriously negligent in allowing the release of the accused on bail, notwithstanding their conviction for a violation of the provisions of the Dangerous Drugs Act of 1972, as amended, a non-bailable offense.

Criminal Case No. 86-10125-P

(People v. De Jesus)

On July 9, 1986, the accused was arrested and charged for illegal possession of prohibited drugs. The said accused posted bail. On November 18, 1987, presumably after arraignment, he jumped bail. He was tried in absentia and convicted in a decision dated April 13, 1989.

On May 8, 1989, the accused filed a motion for reconsideration and the same was granted by the trial court in an order dated May 9, 1989. Thus, the trial court set aside its earlier decision, reopened the case for the reception of evidence for the accused, recalled the warrant of arrest it issued earlier, and allowed the provisional liberty of the accused on a bail bond issued by Northern Guarantee and Insurance Company. In due time, the accused was acquitted.

In this case the respondent judge approved the bail bond of the accused issued by a blacklisted insurance company without previously coursing the bond for verification by the Clerk of Court.

Criminal Case No. 87-11832-P

(People v. Aquino)

On May 25, 1987, the two accused were apprehended by customs authorities at the Ninoy Aquino International Airport for bringing in firearms and ammunitions. They were subsequently charged with illegal possession of firearms and ammunitions. After the prosecution rested its case the accused filed a motion to dismiss the criminal case by way of a demurrer to the evidence. Instead of resolving the motion, the trial court promulgated its decision acquitting the accused on the ground that the information failed to allege that, among others, the crime was committed outside the residence of the accused.

The Court is of the view that this involves a difference of opinion between the complainant and the respondent judge and does not suggest a wrongful act on the part of the latter.

Criminal Cases Nos. 88-0722-P and 89-2628-P

(People v. Seto)

The accused, a Japanese national, was apprehended on June 8, 1988 at the Ninoy Aquino International Airport when a crate brought in by his sister-in-law, whom he met at the airport, yielded a plastic bag containing marijuana leaves. Thereafter, he was charged for illegal possession of prohibited drugs. The trial court found that the accused had nothing to do with the marijuana leaves and thus, acquitted him.

The complainant alleges that on May 25, 1989, the accused was once again apprehended and charged for illegal possession of marijuana in another case, Criminal Case No. 89-2628-P, and that the accused was acquitted on the basis of the same defense. The complainant maintains that the acquittal of the accused in both criminal cases was attended with irregularities.

No evidence was presented to show that the accused was again charged in Criminal Case No. 89-2628-P. Moreover, the veracity of the allegations about the second criminal case cannot be ascertained. Thus, it may be said that the presumption of regularity of the acts of the respondent judge in deciding Criminal Case No. 88-0722 was not successfully challenged by the complainant.

Criminal Case No. 88-1317-P

(People v. Seki)

The accused was apprehended at the Ninoy Aquino International Airport for illegal possession of marijuana while he was about to depart for Japan. A criminal case was filed against him. The accused disavowed any criminal liability and argued that under the circumstances obtaining in the case, it was physically impossible for him to be in possession of the marijuana in question. The trial court acquitted the accused.

At the most, it appears that the complainant disagrees with the respondent judge on the matter of the appreciation of the evidence. The Court finds that no irregularity has been satisfactorily shown to have attended the action taken by the respondent judge.

By Way of Resume

All told, the Court finds the respondent judge guilty of gross malfeasance in Criminal Case No. 89-2500-P (People v. Makalintal) in allowing the release of the accused, without bail, after his conviction for drug-pushing, and resulting in the accused being at large up to the present; of serious nonfeasance in Criminal Case No. 89-3254-P (People v. Adams) when he failed to resolve the motions filed by the insurance company and the prosecutor and/or to cancel the bail bond in favor of the accused which the insurance company denies having issued, thereby allowing the accused, charged for illegal possession of firearms, to enjoy provisional liberty without posting a bail bond, and to flee the country; and of gross negligence in Criminal Case No. 89-2488-P

(People v. Rizal) in allowing the release of the accused on bail, notwithstanding their conviction for a violation of the provisions of the Dangerous Drugs Act of 1972, as amended, with the corresponding penalty of reclusion perpetua.

The serious irregularities which attended the three criminal cases abovementioned are sufficient grounds for the Court to take disciplinary measures against respondent judge.

The Court finds the respondent judge guilty of gross misconduct when he allowed accused individuals duly convicted for non-bailable offenses -- and drug pushers at that -- to enjoy provisional liberty by way of bail. Under the facts obtaining in these cases, good faith cannot be resumed on the part of the respondent judge. The suspicious circumstances attending the cases in point are far too glaring to ignore.

In *Bartolav v. Belarmino*,^[12] this Court ordered the dismissal of a judge for nonfeasance alone. In the instant case, the respondent judge is guilty not only of non-feasance, but of malfeasance and gross negligence as well. Thus, the dismissal of the respondent judge is in order.

It is worth emphasizing that the office of a judge exists for one solemn end -- to promote justice by administering it fairly and impartially.^[13] The judge is the visible representation of the law and of justice. From him, the people draw their will and awareness to obey the law.^[14] In *Santos v. Lumang*,^[15] this Court said that a judge who, through gross ignorance of the law or serious misconduct, frustrates the people's search for justice, commits a rank disservice to the cause of justice which calls for rectification and the imposition of appropriate disciplinary measures.

Accordingly, the Court finds that it is in the best interest of the service that the respondent judge be purged from the judiciary.

WHEREFORE, the respondent judge is hereby DISMISSED from the service effective immediately.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Bidin, Sarmiento, Griño-Aquino, and Regalado, JJ., concur.

Medialdea, J., see separate opinion.

Padilla, J., no part.

[1] Page 18, Rollo.

[2] Pages 18 and 19, Rollo.

[3] Page 38, Rollo.

[4] Pages 46 to 49, Rollo.

[5] Pages 39 to 45, Rollo.

[6] Page 50, Rollo.

[7] Ibid.

[8] Pages 51 to 53, Rollo.

[9] Pages 77 to 80, Rollo.

[10] Pages 88 to 90, Rollo.

[11] Page 91, Rollo.

[12] 140 SCRA 38 (1985).

[13] Gonzales-Austria v. Abaya, 176 SCRA 634 (1989).

[14] De La Paz v. Inutan, 64 SCRA 540 (1975).

[15] 177 SCRA 435 (1989).

SEPARATE OPINION

MEDIALDEA, J.:

I concur in the finding that respondent judge is guilty of certain irregularities in Criminal Case No. 89-2500-P (People v. Makalintal) in allowing the release of the accused, without bail, after his conviction for drug pushing; in Criminal Case No. 89-3254-P (People v. Adams) when he failed to resolve motion to cancel the bail bond of the accused charged for illegal possession of firearms; and in Criminal Case. No. 89-2488-P (People v. Rizal) in allowing the release of the accused on bail, notwithstanding their conviction for violation of the provisions of the Dangerous Drugs Act of 1972, as amended. The malfeasance and nonfeasance of respondent judge in the first two cases resulted in the disappearance of the accused. But it is noteworthy that in the third case, there was no resulting harm as the bail bonds of the accused were cancelled in due time.

I vote instead for the imposition of a fine of Fifteen Thousand Pesos (P15,000.00) in line with Our ruling in A.M. No. RTJ-89-410 (Sgt. Emilio de Guzman v. Judge Felicidad M. Batoy, Regional Trial Court, Branch 15, Ozamis City, September 13, 1990, where respondent judge was meted out a fine for ordering the release on recognizance of the accused to a custodian when the said accused was a disqualified offender under the probation law and resulting in the disappearance of the accused. I believe that dismissal from the service is too harsh. In Bartolay v. Belarmino (A.M. No. R-14-MTJ), it is worthy to note that this Court took into consideration that respondent judge therein had a history of administrative charges.

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