

**ELEAZAR JOSEP, COMPLAINANT, VS. JUDGE JOVITO C. ABARQUEZ,
MUNICIPAL CIRCUIT TRIAL COURT STA. RITA TALALORA, SAMAR,
RESPONDENT.**

A.M. No. MTJ-96-1096 (Formerly OCA IPI No. 95-23-MTJ). September 10, 1996

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/cd2fb772a5d7/>

PADILLA, J.:

In a sworn complaint dated 16 January 1995, Eleazar Josep prayed that respondent Judge Jovito C. Abarquez, presiding judge of the Municipal Circuit Trial Court, Sta. Rita-Talalora, Samar, be held administratively liable for ignorance of the law and abuse of authority.

The complaint avers that:

1. complainant is the father of Eleazabille Josep who is charged with estafa in Criminal Case No. 94-12-175 pending in the sala of respondent Judge Abarquez;
2. sometime in December 1994, Eleazabille eloped with her boyfriend, a certain Ramil Malate;
3. complainant later took custody of his daughter and brought her back to their residence in Tacloban City;
4. on 29 December 1994, members of the Philippine National Police (PNP) went to their residence and arrested his daughter on the strength of a warrant of arrest issued by respondent judge-
5. on the same day, his daughter was brought to the house of Natividad Malate, the mother of Ramil Malate;
6. upon verification with the Municipal Circuit Trial Court of Sta. Rita, Samar, complainant learned that the complaint filed against his daughter was an ordinary collection case for payment of a Ten Thousand Peso (P10,000.00) debt;
7. it was improbable that his daughter would incur a Ten Thousand (P10,000.00) Peso debt since she was regularly receiving money from an American friend;
8. further verification showed that the complaint-affidavit upon which the complaint for estafa was based is not supported by any evidence of indebtedness;
9. in the course of complainant's verification of the status of his daughter's case, respondent Judge Abarquez tried to convince him not to interfere with the relationship of his daughter with Ramil Malate. He later learned that respondent judge is a relative of Ramil Malate;
10. he (complainant), therefore, believes that the warrant of arrest was issued by respondent judge only to get his daughter away from him;
11. the Constitution clearly provides that no one shall be imprisoned for non-payment of debt;
12. respondent Judge Abarquez thus should be held liable for gross ignorance of the law and abuse of authority,

Respondent Judge Abarquez filed his comment on the complaint dated 18 August 1995. He states therein that:

- a. it is not true that complainant's daughter Eleazabille Josep was brought to the house of Ramil Malate. Records show that she was detained at the Municipal Jail of Sta. Rita, Samar and was later released upon posting of her bail bond;
- b. after careful perusal and evaluation of the complaint of the PNP and the attached affidavit-complaint, he believed that the elements of estafa under Article 316 of the Revised Penal Code were adequately averred in the complaints;
- c. he acted within his jurisdiction in issuing the warrant of arrest;
- d. he never took up the matter of the relationship of complainant's daughter with Ramil Malate. He likewise denies being related to Malate;
- e. complainant, who apparently is having serious family problems, should not drag other people into his personal affairs nor try to destroy another's name and reputation.

On 29 November 1995, the Court referred the matter to Judge Godofredo P. Quimsing, Acting Executive Judge, Regional Trial Court, Basey, Samar for investigation, report and recommendation.

On 8 March 1996, Judge Quimsing submitted a report with the following findings:

1. Natividad Malate (the mother of Ramil Malate) was one of the witnesses to the complaint for collection of debt (estafa) filed by a certain Ana Marita Despogado against complainant's daughter;
2. Complainant's daughter was brought to respondent judge's house after her arrest. Complainant went with his daughter intending to post a cash bond. Respondent judge advised complainant to file the same with the Municipal Treasurer;
3. It is not denied that Natividad Malate and the complainant in the estafa case, Ana Marita Despogado, were at respondent judge's house when Eleazabille Josep was arrested and brought thereto;
4. Eleazabille Josep admitted borrowing Ten Thousand Pesos (P10,000.00) from Despogado which she has yet to pay. She also admitted that it was her father who requested that she be brought to respondent judge's house so they could post bail;
5. Complainant's wife, Maura Primo Josep, admitted that her daughter Eleazabille regularly turned over to her the money she received from her American friend;
6. The apparent reason of complainant in not allowing his daughter to go with Ramil Malate is his knowledge that they would be losing the money being sent to his daughter by her American friend;
7. There is basis for the charge of ignorance of the law;
8. The investigating judge knows respondent Judge Abarquez to be one of the more knowledgeable Municipal Circuit Trial Court Judges in their area of jurisdiction;
9. The reason for respondent judge's acts can only be surmised.

Judge Quimsing recommends that Judge Jovito C. Abarquez be substantially fined with a warning that a repetition of the offense would be dealt with more severely.

The Office of the Court Administrator, in a memorandum dated 16 July 1996, recommends that the findings of Judge Godofredo P. Quimsing be adopted and a fine be imposed on respondent judge.

The estafa case involved in the present administrative complaint was filed by a certain Ana Marita E. Despogado. A portion of her affidavit-complaint dated 28 December 1994 reads as follows:

"02. Q - Why are you in the office of the Chief of Police, Sta. Rita PNP Stn Sta. Rita, Samar?

A - I want to file the formal complaint against ELEAZABILLE JOSEPH.

03. Q - What he have done wrong to you [sic] which compel you to file the formal complaint?

A - Because she is the person who had a debts. [sic]

04. Q - When and where did this incident happened, [sic] if any?

A - On the 10th day of August 1994, at about 11:00 o'clock in the morning at Brgy. San Pascual, Sta. Rita, Samar.

05,. Q - Will you please narrate to this investigation [sic] what fully happened? .

A - On the date and time above mentioned one Eleazabille Joseph come [sic] to my house and borrowed money amounted [sic] to (P10,000.00) Ten Thousand Pesos, Philippine Currency. She promise [sic] to pay her debt upon arrival, [sic] her expected money coming from her fiancée in [sic] abroad, after that Eleazabille failed to pay her obligation. So I force [sic] to file the complaint upon failure of her promised [sic] to pay."

Based on the above affidavit-complaint, the Chief of Police of the Sta. Rita, PNP Station filed a complaint dated 28 December 1994 for estafa before respondent Judge Abarquez, part of which complaint reads:

"That on the 10th day of August 1994, at about 11: 00 o'clock in the morning at Brgy. San Pascual, Municipality of Sta. Rita, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused in deceive [sic] or deceitful performance not to pay her debts amounted [sic] to P10,000.00 Ten Thousand Pesos, Philippine Currency, from one ANA MARITA E. DESPOGADO, did then and there willfully, unlawfully and feloniously failed to pay her debt, and with grave abuse of confidence, take and flee, and for his own good and benefit, and thus, against her will and to the damage and prejudice to the offended party." (underscoring supplied)

The allegations in the two (2) partially quoted complaints are clear enough even to an average law student that the acts of Eleazabille Josep complained of do not constitute estafa since they involve a simple case of non-payment of debt.

Respondent's contention that he relied on the phrase "take and flee," and "for [her] own good and benefit" which he took to mean that the debtor was about to run away or abscond which is an element of estafa is a much too simplistic even ridiculous argument. The above explanation of respondent judge rather than absolving him from administrative liability only supports the recommendation to impose a sanction for ignorance of the law.

The Court also notes that respondent in his comment on the complaint and rejoinder (which he submitted in lieu of his appearing before the investigating judge) does not deny that Eleazabille Josep was brought to his house after her arrest. Respondent, in his comment, stated that she was detained at the Sta. Rita Municipal Jail. The reason for the difference in the statements of the complainant (who alleged that his daughter was brought to the house of Natividad Malate), Eleazabille Josep (who stated that they first went to Judge Abarquez' house but she was later detained in the municipal jail since her father did not file their bail bond) and respondent judge (who merely relied on the affidavit executed by PO1 Mansueto Paca-anas to support his statements) is unexplained. However, as can be gathered from the investigation conducted by Judge Quimsing, Eleazabille was first taken to the house of Judge Abarquez so she could post bail immediately. Her father (herein complainant), did not post bail for his daughter for reasons unknown to the Court. Eleazabille was thus taken to the municipal jail where she

was detained until Ramil Malate posted bail for her.

It is apparent that respondent judge failed to recount completely the sequence of events starting from Eleazabille's arrest until her release on bail. The reason for said failure can only be surmised but, to be sure, respondent judge did not fully and completely comment on the allegations in the complaint as expected by the Court.

It should here be stressed that a resolution of the Court requiring comment on an administrative complaint against officials and employees of the judiciary should not be construed as a mere request from the Court. Nor should it be complied with partially, inadequately or selectively. Respondents in administrative complaints should comment on all accusations or allegations against them in the administrative complaints because it is their duty to preserve the integrity of the judiciary.

It is not seldom that comments on administrative complaints appear to be hastily prepared, merely for the sake of compliance. The Court should not and will not tolerate future indifference of respondents to administrative complaints and to resolutions requiring comment on such administrative complaints.

In sum, the Court finds that the basis for the administrative charge against respondent Judge Jovito C. Abarquez for ignorance of the law has been adequately established. He is thus ORDERED to pay a fine of FIVE THOUSAND PESOS (P5,000.00) within fifteen (15) days from notice hereof and WARNED that future offenses will be dealt with more severely.

Respondent Judge Jovito C. Abarquez is further ORDERED to pay an additional fine of ONE THOUSAND (P1,000.00) PESOS for his failure to completely comment on the administrative complaint against him.

SO ORDERED.

Bellosillo, Vitug, Kapunan, and Hermosisima, Jr., 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.