

FERNANDO CAYAO, COMPLAINANT, VS. JUDGE JUSTINIANO A. DEL MUNDO, RESPONDENT.*A.M. No. MTJ-93-813. September 15, 1993*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ce2699ca41cb/>**PER CURIAM:**

This is an administrative complaint filed by Fernando R. Cayao with the Office of the Court Administrator charging respondent Judge Justiniano A. Del Mundo, MTC, Indang Cavite with abuse of authority.

Acting on said complaint, the Office of the Court Administrator directed Judge Enrique M. Almario, Regional Trial Court Branch XV, Naic, Cavite, to conduct an investigation and to submit his report and recommendation thereon.

Based on the records as well as the report submitted by the investigating Judge, it appears that on or about October 22, 1992 at 9:25 a.m., while traversing the stretch of Mataas na Lupa, Alulod, Indang, Cavite, complainant, as driver of Donny's Transit Bus with Plate No. DWB 315, overtook a Sto. Niño Liner with Body No. 5282 driven by one Arnel Ranes Muloy. As a consequence thereof, the bus driven by complainant almost collided head-on with an oncoming owner-type jeepney with Plate No. PJT 752. It turned out later that the jeepney was registered in the name of respondent Judge Del Mundo who, at the time of the incident, was one of the passengers therein along with his sons Rommel and June and one Edward Rommen. Respondent's son Rommel was behind the wheel.

At 3:30 p.m. of the same day, even before complainant could properly park his bus, he was picked up by policemen of the Philippine National Police Station of Indang, Cavite at the Indang Public Plaza and was immediately brought before the sala of respondent judge. There, complainant was confronted by respondent judge and accused by the latter of nearly causing an accident that morning. Without giving complainant any opportunity to explain, respondent judge insisted that complainant be punished for the incident. Whereupon, complainant was compelled by respondent judge to choose from three (3) alternative punishments none of which is pleasant, to wit: (a) to face a charge of multiple attempted homicide; (b) revocation of his driver's license; or (c) to be put in jail for three (3) days. Of the three choices, complainant chose the third, i.e., confinement for three (3) days, as a consequence of which he was forced to sign a "waiver of detention" by respondent judge. Thereafter, complainant was immediately escorted by policemen to the municipal jail. Though not actually incarcerated, complainant remained in the premises of the municipal jail for three (3) days, from October 22 up to October 25, 1992, by way of serving his "sentence". On the third day, complainant was released by SPO1 Manolo Dilig to the custody of Geronimo Cayao, complainant's co-driver and cousin.

The fact of detention of complainant in the premises of the municipal jail for three (3) days was confirmed and corroborated by the testimony of the jail warden of Indang, Cavite, SPO4 Adelaida Nova. The fact of complainant's release therefrom after three (3) days detention was testified to by SPO1 Manolo Dilig who prepared the corresponding document of release. For his defense, respondent judge merely made general denials.

The actuations of respondent judge herein complained of, constitute abuse of authority. To begin with,

respondent's verbal order for the arrest of complainant at the Indang Public Plaza without the requisite complaint having been filed and the corresponding warrant of arrest having been issued in order that complainant may be brought to his sala is characteristic of personal vengeance and the abusive attitude of respondent. Being a judge, respondent above all, should be the first to abide by the law and weave an example for others to follow (*Ompoc vs. Torres*, 178 SCRA 14 [1989]). Instead, respondent judge opted to avail of his judicial authority in excess of what is allowed by law to gratify his vindictive purposes.

If respondent honestly believes that complainant committed violations of traffic rules and regulations which nearly caused the accident involving their respective vehicles, respondent judge should have caused the filing of the appropriate criminal charges against complainant and left it at that. On the contrary, respondent is not one to let the law run its own course. This is a classic case where respondent took it upon himself to be the accuser, prosecutor, judge and executioner at the same time to condemn complainant for his alleged wrongdoing without the benefit of due process. Without even an opportunity to air his side, complainant was unceremoniously made to choose his own penalty. Left with no other choice but to face his predicament and overpowered by the imposing authority of respondent, complainant picked the lesser evil of the three alternatives given to him. Complainant can hardly be blamed for so doing. A perusal of the two (2) other choices presented to him will illustrate why.

The first choice given to complainant was to face a charge of multiple attempted homicide. To threaten complainant with a criminal case for multiple attempted homicide is indicative of respondent's gross ignorance of the law. As a judge, he should know very well that such a charge will not hold water in any court of law considering that no accident per se ever occurred and hence, no life threatening injury was even sustained. To a mere bus driver who is not at all familiar with the intricacies of the law, such a threat spelled not only the possibility of long-term imprisonment and all the hardship it entails but also the onus and shame that will forever attach to his name. Surely, to his mind, a threat of prosecution coming from a municipal trial court judge is alarming enough.

The second alternative punishment offered to complainant to choose from involves his very means of livelihood --- revocation of his driver's license. This is tantamount to economic death penalty and just as repulsive as the first alternative.

Faced with these grim prospects complainant voluntarily submitted himself to the jail warden of the Indang Municipal Jail for detention. After executing his "waiver of detention," complainant felt that he had no other choice but to serve out the "penalty" forcibly and arbitrarily imposed upon him by respondent.

While it is true that complainant was not put behind bars as respondent had intended, however, complainant was not allowed to leave the premises of the jail house. The idea of confinement is not synonymous only with incarceration inside a jail cell. It is enough to qualify as confinement that a man be restrained, either morally or physically, of his personal liberty (*Black's Law Dictionary*, 270 [1979]). Under the circumstances, respondent judge was in fact guilty of arbitrary detention when he, as a public officer, ordered the arrest and detention of complainant without legal grounds (Article 124, Revised Penal Code; *U.S. vs. Battallones* 23 Phil. 46 [1912]). In overtaking another vehicle, complainant-driver was not committing or had not actually committed a crime in the presence of respondent judge (Section 6, Rule 113, Rules of Court). Such being the case, the warrantless arrest and subsequent detention of complainant were illegal. In the case at bar, no less than the testimony of the jail warden herself confirmed that complainant was indeed deprived of his liberty for three (3) days:

x x x

"COURT:

"Q Alright, did you or did you not in fact detain Fernando Cayao on that premises? On the ground of that

premises?

"WITNESS (jail warden):

"A I did not put him inside the jail; your Honor, but he was inside the police station.

x x x

"COURT:

"Q Alright, as a police officer, I ask you again, did you or did you not detain Fernando Cayao based on the premises that you said under oath before this Court?

"A Yes, your Honor, inside the police station.

"Q Does it mean that he could not have gone freely of his own volition outside the police station without your authority or permission?

"A He can move freely.

"COURT:

"Q When you said that, you meant he could have gone home, he could have gone eating in a restaurant, he could have gone to a theatre or in any public place. Is that what you mean?

"WITNESS:

"A No, your Honor. Only inside the police station.

"Q Why only in the police station? Inside? What is your order? What did you tell him?

"A Because he voluntarily went to the police station to be detained.

"Q Alright, so, had he told you that he would have gone to other places, you will have no objection? You will have no interpolation or you would not feel that you have a right to have him under your custody. Is that correct?

x x x

"WITNESS:

"A I will still prevent him."

(TSN, November 19, 1992, pp. 9-10)

Of equal importance is the perception of complainant himself as to whether his liberty was actually restricted or not:

x x x

"Q So, summarily speaking, you feel that you were detained in the municipal jail of the station of Indang, Cavite?

"A Yes, your Honor, because I was not able to get out from the police station from the time that I was detained."

(TSN, November 19, 1992, p. 16)

It would be well to emphasize at this point that the gravity of the misconduct of respondent is not alone centered

on his order for the detention of complainant. Rather, it is ingrained in the fact that complainant was so detained without affording him his constitutional rights.

As previously mentioned, complainant was condemned by his own accuser without the benefit of due process. Complainant was not even accorded any of the basic rights to which an accused is entitled. When respondent insisted on punishing him without a chance to air his side, complainant was deprived of the presumption of innocence, the right to be heard by himself and counsel, the right to be informed of the nature and cause of the accusation against him as well as the right to an impartial and public trial. Moreover, complainant was made to execute a waiver of detention without the assistance of counsel. Worse, the aforesaid waiver was even subscribed by complainant before the very same judge who was his accuser. Certainly, such intentional and blatant violations of one's constitutional rights committed by respondent cannot be tolerated by this Court.

As public servants, judges are appointed to the judiciary to serve as the visible representation of the law, and more importantly, of justice. From them, the people draw their will and awareness to obey the law (*De la Paz vs. Inutan*, 64 SCRA 540 [1975]). If judges, who swore to obey and uphold the constitution, would conduct themselves in the way that respondent did in wanton disregard and violation of the rights of complainant, then the people, especially those with whom they come in direct contact, would lose all their respect and high regard for the institution of the judiciary itself, not to mention, cause the breakdown of the moral fiber on which the judiciary is founded.

Undoubtedly, the actuations of respondent judge represent the kind of gross and flaunting misconduct on the part of those who are charged with the responsibility of administering the law and rendering justice that so quickly and severely corrodes the respect for law and the courts without which the government cannot continue and that tears apart the very bonds of our polity (*Ompoc vs. Judge Torres*, 178 SCRA 14 [1989]).

Furthermore, the reprehensible conduct exhibited by respondent judge in the case at bar exposed his total disregard of, or indifference to, or even ignorance of, the procedure prescribed by law. His act of intentionally violating the law and disregarding well-known legal procedures can be characterized as gross misconduct, nay a criminal misconduct on his part (*Babatio vs. Tan*, 157 SCRA 277 [1988]). He used and abused his position of authority in intimidating the complainant as well as the members of the Indang police force into submitting to his excesses. Likewise, he closed his eyes to the mandates of the Code of Judicial Conduct to always conduct himself as to be beyond reproach and suspicion not only in the performance of his duties but also outside his sala and as a private individual (*Castillo vs. Calanog, Jr.* 199 SCRA 75 [1991]).

Clearly, there is not an iota of doubt that respondent, through his oppressive and vindictive actuations, has committed a disservice to the cause of justice. He has unequivocally demonstrated his unfitness to continue as a member of the judiciary and should accordingly be removed from the service.

WHEREFORE, respondent judge Justiniano A. Del Mundo of the Municipal Trial Court of Indang, Cavite is hereby DISMISSED from the service with forfeiture of all benefits except accrued leave credits with prejudice to reinstatement or reappointment to any public office including government-owned or controlled corporations.

SO ORDERED.

Narvasa, C.J., Cruz, Padilla, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, Puno, and Vitug, JJ., concur.

Feliciano and Griño-Aquino, JJ., on leave.

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