

**ANGEL IBABAO, JR., COMPLAINANT, VS. HON. DAVID E. VILLA,
MUNICIPAL JUDGE OF TANTANGAN, SOUTH COTABATO,
RESPONDENT.**

Adm. Mat. No. 1527-MJ. May 13, 1981

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

In a letter-complaint under oath dated January 18, 1977 addressed to the Secretary of Justice,[1] Angel Ibabao, Jr. charged Judge David E. Villa of the Municipal Court of Tantanagan, South Cotabato with incompetence, negligence, dishonesty, conduct prejudicial to the best interest of the service, violation of prohibition of issuance of warrant of arrest after office hours, and violation of human rights, allegedly committed under the following circumstances:

On December 26, 1976 the complainant's youngest brother, Meinardo Ibabao accidentally sideswept Lorna Figuracion of Tantanagan, South Cotabato; that Meinardo Ibabao voluntarily surrendered to the police authorities; that Macario Ibabao, another younger brother of the complainant, brought the victim to the hospital for medical attention; that Macario Ibabao was informed by the hospital authorities that the accident caused only minor physical injuries and the victim might be able to leave in a few days; that a case of frustrated homicide through reckless imprudence was filed by the Station Commander of Tantanagan, South Cotabato on December 27, 1976 against Meinardo Ibabao and was accepted by the Municipal Judge on January 3, 1977 and docketed as Case No. 491; that Judge David E. Villa set an excessive bail of P10,000.00 cash; that upon presentation of complainant's uncle, Heliodoro Sustento, of the receipt of the bail deposit issued by the Treasurer's Office on the same date, the respondent judge asked for payment of notarial services and science fee of P130.00; that no receipt for the amount was issued; that on the same day the respondent judge issued a warrant of arrest after office hours on the case filed by the Station Commander for driving without license docketed as Case No. 493 dated January 3, 1977; that in spite of the fact that the complaint was not signed by the Station Commander but signed for the Station Commander by Corporal Juan Barroga, the Judge accepted the case; that the complaint was not accompanied by the necessary affidavits to support the case; that this fact was manifested by the legal counsel for the defense when the case was heard on January 17, 1977; that the respondent judge maliciously accepted the case in spite of the fact that the case belongs to the Land Transportation Commission; that the case has no merit at all because complainant's brother is a professional driver with License No. 2795925 series of 1976; that the respondent judge violated the prohibition regarding the non-issuance of warrants after office hours; that the respondent judge violated the civil rights and liberties of an individual for having caused the illegal detention in jail of complainant's younger brother on the night of January 3, 1977; and that the respondent judge set an excessive bail of P500.00 cash in the case for driving without a license.

The administrative complaint was referred to the Supreme Court in a 1st Indorsement by the Department of Justice dated February 7, 1977.[2]

Upon being required to comment,[3] the respondent judge denied the charges against him and averred that the complaint was filed in bad faith purposely to malign and pressure him to submit to complainant's wishes; that the victim, Lorna Figuracion, was sideswiped by Meinardo Ibabao due to negligence; that the police authorities did not tell him that Meinardo Ibabao had voluntarily surrendered after the said incident; that the medical certificates issued by the attending physicians show that the injuries sustained by the victim Lorna Figuracion would take from sixty (60) to one hundred twenty (120) days to heal and incapacitate the victim for the same period; that the complaint for frustrated homicide through reckless imprudence was filed on December 27, 1976 and thereafter the respondent judge conducted the preliminary examination of the witnesses; that the case filed in the respondent's court on January 3, 1977 against Meinardo Ibabao was for driving without a license, docketed as Criminal Case No. 493; that even if the case filed is within the jurisdiction of the Court of First Instance, the municipal judge of Tantangan had the original jurisdiction to conduct the preliminary investigation; that the P10,000.00 bail bond fixed in Criminal Case No. 491 for frustrated homicide through reckless imprudence is not excessive; that the respondent judge admitted receiving a certain amount for having prepared the bail bond and notarized it in his capacity as Ex-Officio Notary Public; and that the respondent judge did not count the money but assuming that it was P30.00, such amount is reasonable as notarial fee and the cost of documentary stamps.[4]

It is a fact that the respondent judge fixed a cash bail bond of P10,000.00 for the provisional liberty of Meinardo Ibabao in the case for frustrated homicide through reckless imprudence.

Article 365, of the Revised Penal Code provides: "Any person who, by reckless imprudence, shall commit any act which, had it been intentional, would constitute a grave felony, shall suffer the penalty of arresto mayor in its maximum period to prision correctional in its medium period; if it would have constituted a less grave felony, the penalty of arresto mayor in its minimum and medium periods shall be imposed" Frustrated homicide is a grave felony inasmuch as the penalty therefor is prision mayor.[5] The penalty for frustrated homicide through reckless imprudence would be arresto mayor in its maximum period to prision correctional in its medium period. The medium penalty would be only imprisonment of from one (1) year, seven (7) months and eleven (11) days to two (2) years, ten (10) months and twenty (20) days. Hence the bond of P10,000.00 cash fixed by the respondent judge is excessive.

The penalty for driving without a license was only a fine of P300.00. The bail bond of P500.00 fixed by the respondent judge is also excessive.

The respondent judge acted improperly in receiving the amount of P130.00 as payment for his services in preparing and notarizing the bail bond. It is obvious that the accused Meinardo Ibabao asked the respondent judge to prepare the bond in anticipation of favorable and prompt action on the bond.

Under the circumstances, the respondent judge should be imposed a fine equivalent to one (1) month salary.

WHEREFORE, the respondent Judge David E. Villa of Tantangan, South Cotabato is found guilty of imposing excessive bail of P10,000.00 in the case of frustrated homicide through reckless imprudence and in fixing bail at P500.00 in the case for driving without a license and of improperly receiving payment for notarial services and is hereby imposed a fine equivalent to three (3) months salary with the warning that a repetition of the same or similar offense shall be dealt with more severely.

Let this decision be made a part of the personal record of the respondent judge.

SO ORDERED.

Teehankee (Chairman), Makasiar, Guerrero and Melencio-Herrera, JJ., concur.

[1] Rollo, pp. 2-4.

[2] Rollo, p. 1.

[3] Rollo, p. 5.

[4] Rollo, pp. 7-19.

[5] Article 9 in relation to Article 25, Revised Penal Code.

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