

GUILLERMA DE LOS SANTOS--REYES, COMPLAINANT, VS. JUDGE CAMILO O. MONTESA, JR., PAIRING JUDGE, BRANCH 18, REGIONAL TRIAL COURT, MALOLOS, BULACAN, RESPONDENT.*A.M. No. RTJ-93-983. August 07, 1995*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d6f6916fa95b/>**PER CURIAM:**

In her complaint filed on 23 March 1993, Guillerma de los Santos-Reyes charges the respondent judge with gross ignorance of law and evident dishonesty in the performance of his work in that he granted bail to the accused in Criminal Cases Nos. 487-M-91, 488-M-91, and 488-M-91 without the required petition for bail and without conducting any hearing to accord the prosecution an opportunity to establish that the evidence of guilt of the accused was strong.

In compliance with the resolution of 24 May 1993, the respondent judge filed his comment wherein he disclosed that the issue raised was the subject of G.R. Nos. 108478-79[1] pending before the Second Division of this Court.

On 22 September 1993, this Court, upon the recommendation of the Office of the Court Administrator (OCA), dismissed this case, "the issues raised ... being sub-judice but without prejudice to its revival should the court in G.R. Nos. 108478-79 find the orders to have been issued with grave abuse of discretion."

In the decision promulgated on 21 February 1994,[2] this Court dismissed G.R. Nos. 108478-79. The complainant then filed on 23 November 1994 a motion to revive this complaint.

On 23 February 1995, the respondent judge filed an Additional Comment and Observation to stress that what he did was to quash the warrant of arrest, determine probable cause on the basis of the record and documents available, order the arrest of the accused, and grant bail to those against whom the evidence of guilt was weak.

Issues having been joined and the revival of this complaint being in order, this Court required the parties to manifest whether they agree to submit this case for decision on the basis of the pleadings they have submitted. In their separate manifestations, the parties responded in the affirmative.

The antecedent facts which gave rise to the instant complaint (as well as to G.R. Nos. 108478-79) are summarized in the decision in G.R. Nos. 108478-79 as follows:

On November 4, 1990, Patrolman Celso Reyes, Bgy. Captain Pedro Panganiban and Armando Vitug were ambushed along Ipo-road, Kay-pian, San Juan del Monte, Bulacan, resulting in the untimely death of Reyes and Panganiban. The National Bureau of Investigation conducted an inquisition of the incident and after which charged petitioners Estelita Hipolito and Alfredo Bolsico, together with Romeo Adviento, Romeo Permejo, Rolando Gozum and four (4) John Does with the crimes of murder and frustrated murder before the Municipal Trial Court of San Jose del Monte, then presided over by Judge Virginia Pagarogon.

Judge Pagarogon conducted a preliminary investigation of the witnesses and on November 14, 1990 issued an order admitting the complaint and ordering the detention of all the accused after finding that the crimes charged

have been committed and there is reasonable ground to believe that the accused are probably guilty thereof. No bail was recommended.

Judge Pagarogon then forwarded the records of the cases to the Provincial Prosecutor's Office of Bulacan for appropriate action. The Investigating Prosecutor, without conducting a thorough investigation of the cases, concluded that there was no probable cause and ordered *motu proprio* the release of the accused from custody. So, the widow of Patrolman Reyes petitioned the Department of Justice to disqualify the Provincial Prosecutor's Office from conducting the preliminary investigation and prosecution of the cases.

In due course, the DOJ acted favorably on the petition and designated State Prosecutor Santiago Turingan to take over and handle the cases. The State Prosecutor found probable cause for murder and frustrated murder against all the accused and consequently, they were formally charged with said crimes on March 13, 1991, before the Regional Trial Court of Malolos, Bulacan, docketed as Criminal Cases No. 487-M-91, 488-M-91 and 489-M-91. No bail was recommended and the corresponding warrants of arrest were issued.

The accused were quick to learn of the filing of the informations. On the same day (March 13, 1991), they filed a "Manifestation and Motion to Defer the Issuance of Warrants of Arrest," praying for the suspension of court proceedings on the ground that they are filing a petition for review of the resolution of the State Prosecutor.

On March 21, 1991, the accused, who were not yet arrested or placed under the jurisdiction of the trial court (after their precipitate release earlier), filed a "Petition to Grant Bail" in C.C. Nos. 487-M-91 and 488-M-91 and a "Petition to Reduce Bail in C.C. No. 489-M-91.

On March 25, 1991, the trial court issued an order denying the petitions since the accused had not yet surrendered and/or apprehended and, therefore, the court has not acquired jurisdiction over their persons.

On the same day (March 25, 1991), the accused filed another petition entitled "Reinstatement of the Petition to Grant Bail in the above entitled cases and Motion to Reduce Bail Bond and Motion to Set Petition for Hearing with Manifestation to Surrender the Accused on the Hearing of this Petition."

On April 4, 1991, the trial court, apparently with a change of heart, issued an order consolidating the petitions for bail, set them for hearing on April 6, 1991, and directed the DOJ and/or the Office of the Provincial Prosecutor to forward to it the records of the preliminary investigation of the cases within ten (10) days from notice.

On April 15, 1991, petitioners filed an urgent motion to quash the warrants of arrest alleging want of probable cause.

On April 22, 1991, the accused withdrew their motion for reinstatement of their petition for bail bond and opted to pursue their motion to quash the warrants of arrest.

On May 2, 1991, the trial court quashed the warrants of arrest and set the hearing on May 15, 1991 for the purpose of determining the existence of probable cause.

On May 17, 1991, after examining the records of the cases as forwarded to him by the prosecution, the trial court found the existence of probable cause but instead of issuing the corresponding warrants of arrest, for the purpose of acquiring jurisdiction over the persons of the accused upon their apprehension or voluntary surrender, it *ex mero motu* granted bail to them despite the absence of (because it was previously withdrawn) a petition for bail and, worse, the lack of a hearing wherein the prosecution could have been accorded the right to present evidence showing that the evidence of guilt is strong.

On August 23, 1991, the prosecution filed an omnibus motion praying for the cancellation of the bail bonds as well as the issuance of warrants of arrest on the fundamental ground that the trial court could not legally grant bail

in a capital offense without the prosecution being accorded the right to show that the evidence of guilt is strong.

On October 28, 1991, the trial court denied the prosecution's motion on the principal ground that its questioned orders had become final and executory. On December 2, 1991, the motion for reconsideration was likewise denied.

On March 3, 1992, the prosecution filed a petition for certiorari, prohibition and preliminary injunction with prayer for a temporary restraining order before respondent Court of Appeals, CA-G.R. S.P. No. 27430, assailing the following orders of the trial court: the May 17, 1991 order which granted bail to the accused; the October 28, 1991 order which denied the prosecution's omnibus motion praying for the issuance of warrants of arrests as well as the cancellation of what it perceived to be irregularly posted bail bonds; and the December 2, 1991 order which denied the prosecution's motion for reconsideration. Upon the filing of said petition, respondent court issued the temporary restraining order.

On the other hand, petitioners filed a petition for certiorari, mandamus and prohibition before the same court, CA-G.R. S.P. No. 27472, seeking: (a) to annul the orders of the trial court resetting the hearings on different dates for being dilatory and violative of their constitutional right to a speedy trial; (b) to command the trial court to dismiss with prejudice all the criminal cases; and (c) to perpetually prohibit the prosecution of the criminal cases.

On July 31, 1992, respondent [Court of Appeals] ruled in favor of the prosecution. The dispositive portion of its consolidated decision reads:

"WHEREFORE, the instant petition (SP No. 27430) is hereby granted and the questioned orders of respondent Court dated May 17, 1991, October 28, 1991, and December 2, 1991 are annulled and set aside. Accordingly, the accused herein (private respondents) are ordered arrested/committed pending the trial of their cases, without prejudice on their part to file in the proper court a petition for bail after the arrest, detention or deprivation of their liberty, wherein the prosecution is accorded the right to present evidence to prove that evidence of guilt is strong. SP No. 27472, on the other hand, is hereby DISMISSED for lack of merit, considering that the delays incurred herein were due to unavoidable circumstances and were therefore reasonable in nature.

No costs in both instances.

SO ORDERED."

Their motion for reconsideration having been denied, petitioners Hipolito, et al. filed with this Court a petition for review, docketed as G.R. Nos. 108478-79, which, as earlier stated, was dismissed on 21 February 1994.

Respondent judge asserts that he is not administratively liable for what he did because he was merely guided by the doctrine in *Lim vs. Felix*,^[3] to the effect that the determination of probable cause for the issuance of a warrant of arrest should be personally determined by the judge. Since in these cases the issuance of the warrants of arrest was based solely on the certification of the state prosecutor, he granted the motion to quash the warrants of arrest and, considering that on the date of the hearing to determine probable cause the witnesses for the prosecution did not appear and the private prosecutor submitted the issue on the basis of the proceedings had at the preliminary investigation and the affidavits of witnesses, he formally resolved it on such basis. He further alleges that since he found the evidence purely circumstantial, except as against Romeo Permejo who was positively identified as the gunman, he believed that the evidence of guilt as against the others was not strong and, accordingly, admitted them to bail in the amount of P80,000.00 each.

The explanation of the respondent judge is wholly unacceptable for, contrary to his belief that he has shown perfect knowledge of the rules on the issuance of warrants of arrest and grant of bail, he has demonstrated either

gross ignorance of the constitutional and statutory principles and settled jurisprudence thereon or gross incompetence which no claim of good faith can exculpate or even mitigate.

From the above recitals of the factual and procedural antecedents of the criminal cases before the trial court, it is obvious that the accused filed their petitions to grant bail and to reduce bail, motion to reinstate petition to grant bail and urgent motion to quash warrants of arrests before the court acquired jurisdiction over their persons either through the effective service and enforcement of the warrants of arrest or their voluntary surrender, i.e., before they were placed in the custody of the law or otherwise deprived of their liberty. Such being so, the trial court, initially, denied correctly the petition for grant of bail but subsequently disregarded law and jurisprudence when it favorably acted on the motion to reinstate the petition for grant of bail and set the motion for hearing on 6 April 1991, directing, for that purpose the Department of Justice and the Office of the Provincial Prosecutor to forward to it the records of the preliminary investigation.

In this jurisdiction it is settled that a person applying for bail should be in the custody of the law or otherwise deprived of his liberty.[4] While it may be true that the disregard of this precept was not consummated, it was not because the respondent judge corrected himself, but because the accused withdrew their petition for the grant of bail and opted to pursue their urgent motion to quash the warrants of arrest grounded on want of probable cause. Instead of retracing his steps back to the proper judicial path, the respondent judge, still forgetting that the accused remained scot-free, not only quashed the warrants of arrest, but, thereafter *motu proprio* converted, in effect, the "hearing" for the determination of probable cause for the issuance of the warrant of arrest, which he set on 15 May 1991, to a hearing on the matter of admission to bail, as his order of 17 May 1991 indisputably shows. In so doing, the respondent judge had either utterly confused the proceeding to determine probable cause for the issuance of a warrant of arrest from the proceeding on a petition for admission to bail, or deliberately ignored the basic requisites for the grant of bail.

The determination of probable cause in the issuance of a warrant of arrest is mandated by Section 2, Article III of the Constitution.[5] Probable cause for the issuance of a warrant of arrest means such facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed by the person sought to be arrested.[6] A hearing is not necessary therefor. In satisfying himself of the existence of probable cause for the issuance of a warrant of arrest, the judge, following the established doctrine and procedure, shall either (a) personally evaluate the report and the supporting documents submitted by the prosecutor regarding the existence of probable cause and, on the basis thereof, issue a warrant of arrest, or (b) if on the face of the information he finds no probable cause, he may disregard the prosecutor's certification and require the submission of the supporting affidavits of witnesses to aid him in arriving at a conclusion as to the existence of probable cause.[7]

This procedure is dictated by sound public policy; otherwise judges would be unduly laden with the preliminary examination and investigation of criminal complaints instead of concentrating on hearing and deciding cases filed before their courts.[8] At this stage of a criminal proceeding, the judge is not tasked to review in detail the evidence submitted during the preliminary investigation; it is sufficient that he personally evaluates the report and supporting documents submitted by the prosecution in determining probable cause.[9]

This judicial function does not carry with it a *motu proprio* review of the recommendation of the prosecutor in a capital offense that no bail shall be granted. Such a recommendation is the exclusive prerogative of the prosecutor in the exercise of his quasi-judicial function during the preliminary investigation, which is executive in nature.[10] In such cases, once the court determines that probable cause exists for the issuance of a warrant of arrest, the warrant of arrest shall forthwith be issued and it is only after the accused is taken into the custody of the law and deprived of his liberty that, upon proper application for bail, the court on the basis of the evidence

adduced by the prosecution at the hearing called for the purpose may, upon determination that such evidence is not strong, admit the accused to bail.[11]

Since the accused unilaterally withdrew their petition for bail, there was then nothing to be heard or acted upon in respect thereof. Even if they did not withdraw their petition, they have no right to invoke the processes of the court since they have not been placed in the custody of the law or otherwise deprived of their liberty by reason or as a consequence of the filing of the information. For the same reason, the court had no authority to act on the petition.[12]

Even if it be conceded for the sake of argument that the application for bail was regularly filed, the respondent judge wantonly ignored the due process requirement of hearing to afford the prosecution reasonable opportunity to prove that evidence of guilt of the applicants is strong.[13] To grant an application for bail and fix the amount thereof without such hearing duly called for the purpose of determining whether the evidence of guilt is strong constitutes ignorance or incompetence whose grossness cannot be excused by a claim of good faith or excusable negligence[14] or constitutes inexcusable conduct which reflects either gross ignorance of the law or cavalier disregard of its requirements.[15]

At the very least, the respondent judge exhibited gross incompetence. Gross ignorance of law and incompetence are characteristics and quirks impermissible in a judge. A judge is called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules; it is imperative that he be conversant with basic legal principles.[16] He should be studious of the principles of the law,[17] and he must be faithful to the law and must maintain professional competence.[18]

The respondent judge does not have an enviable record as a living personification of justice and the rule of law.[19]

In Administrative Matter No. RTJ-91-753,[20] for abuse of discretion, this Court censured the respondent judge for issuing an order granting bail to an accused without affording the prosecution the opportunity to present evidence to show that the evidence of guilt was strong.

In Administrative Matter No. RTJ-91-742,[21] for gross ignorance of law and serious misconduct, the respondent judge was admonished to be more circumspect in the resolution of the case before him and given a last warning that any form of infraction by him in the performance of his duties and in his resolution of cases hereafter would be dealt with severely.

The respondent judge has indisputably failed to comply with the strict and exacting demands of the public-trust character of his office.

WHEREFORE, for gross ignorance of law or incompetence and conduct prejudicial to the best interest of the service, respondent Judge CAMILO O. MONTESA, JR., Presiding Judge of Branch 18 of the Regional Trial Court of Bulacan, is hereby ordered DISMISSED from the service with forfeiture of all benefits and with prejudice to re-employment in any branch or service of the government, including government-owned or controlled corporations. His dismissal shall take effect immediately upon his receipt of a copy of this decision which must be personally served by the Office of the Court Administrator.

Let a copy of this decision be attached to the records of the respondent with this Court.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, and Francisco, JJ., concur.

Hermosisima, Jr., J., took no part in the deliberation.

[1] Entitled, "Estelita Hipolito, et al., vs. Court of Appeals."

[2] Reported in 230 SCRA 191.

[3] 194 SCRA 292 [1991].

[4] Section 1, Rule 114, Rules of Court; *Herras Teehankee vs. Rovira*, 75 Phil. 634 [1945]; *Manigbas vs. Luna*, 98 Phil. 466 [1956]; *Feliciano vs. Pasicolan*, 2 SCRA 888 [1961]; *Pico vs. Combong*, 215 SCRA 421 [1992]; *Medina vs. De Guia*, 219 SCRA 153 [1993]; *Dinapol vs. Baldado*, 225 SCRA 110 [1993].

[5] It provides:

SEC. 2. The right of a person to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

[6] JOAQUIN G. BERNAS, *The Constitution of the Republic of the Philippines, A commentary*, vol. I, 1st ed., [1987], 86-87.

[7] Supreme Court Circular No. 12, dated 30 June 1987; *Soliven vs. Makasiar*, 167 SCRA 393 [1988]; *Cruz vs. People*, 233 SCRA 439 [1994].

[8] *Soliven vs. Makasiar*, supra note 7.

[9] *Cruz vs. People*, supra note 7 at 455.

[10] *Id.* at 453.

[11] Section 13, Article III, Constitution; Sections 3-5, Rule 114, Rules of Court, as amended.

[12] *Pico vs. Combong*, supra note 4.

[13] *People vs. San Diego*, 26 SCRA 522 [1968]; *People vs. Bocar*, 27 SCRA 512 [1969]; *Mendoza vs. CFI of Quezon*, 51 SCRA 369 [1973]; *People vs. Sola*, 103 SCRA 393 [1981]; *People vs. Dacudao*, 170 SCRA 489 [1989]; *People vs. Calo*, 186 SCRA 620 [1990]; *Carpio vs. Maglalang*, 196 SCRA 41 [1991]; *Libarios vs. Dabalos*, 199 SCRA 48 [1991]. See also, *People vs. Nano*, 205 SCRA 155 [1992]; *Pico vs. Combong*, supra note 4; *Aurillo, Jr. vs. Francisco*, 235 SCRA 283 [1994]; *Re: Report on the Judicial Audit and Physical Inventory of Records of Cases in RTC, Branch 43, Roxas, Mindoro Oriental*, 236 SCRA 631 [1994]; *Estoya vs. Abraham-Singson*, 237 SCRA 1 [1994].

[14] *Estoya vs. Abraham-Singson*, supra note 13.

[15] *Pico vs. Combong*, supra note 4.

[16] *Estoya vs. Abraham-Singson*, supra note 13, citing *Garganera vs. Jocson*, 213 SCRA 149 [1992]; *Aducayen*

vs. Flores, 51 SCRA 78 [1973]; Libarios vs. Dabalos, supra note 13; Ajeno vs. Inserto, 71 SCRA 166 [1976]; Ubongen vs. Mayo, 99 SCRA 30 [1980]; Lim vs. Domagas, 227 SCRA 258 [1993].

[17] Canon 4, Canons of Judicial Ethics.

[18] Rule 3.01, Code of Judicial Conduct.

[19] Supreme Court Circular No. 13, dated 1 July 1987; Cuaresma vs. Aguilar, 226 SCRA 73 [1993].

[20] Entitled, "Captain Jose Huevos vs. Judge Camilo Montesa, Jr.," promulgated 3 March 1992.

[21] Entitled, "Antonio C. Ramos vs. Judge Camilo Montesa, Jr.," promulgated 24 March 1994.

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.