

MARTIN V. DELGRA, JR., PETITIONER, VS. HON. ALFREDO I. GONZALES, PRESIDING JUDGE, BRANCH II, COURT OF FIRST INSTANCE OF DAVAO, AND THE CHIEF OF POLICE, DAVAO CITY, RESPONDENTS.

G.R. No. L-24981. January 30, 1970

Ponente: SANCHEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d9890d661546/>

SANCHEZ, J.:

The question the herein petition for certiorari presents is whether or not, upon the facts hereinafter recited, respondent judge committed a grave, abuse of discretion in issuing his order of September 13, 1965 declaring petitioner (an assistant provincial fiscal of Davao) in contempt of court and committing him to prison "for 24 hours until such further order or notice from this Court ordering his release."

The setting is the courtroom of Branch II of the Court of First Instance of Davao. The date is September 13, 1965. Being tried is Criminal Case 8666, entitled "People of the Philippines, Plaintiff, versus Florencio Suarez, et al., Accused", for attempted robbery with physical injuries. On the witness chair is one Pascuala Kudera, an offended party in the case. She is being cross-examined by defense counsel Amado Ceniza. The transcript records the incident that day as follows:

"CROSS EXAMINATION BY ATTY. CENIZA:

May it please the Court.

Q You stated that Angeline Patigue and Florencio Suarez frequented your house, is that correct?

A Yes, sir.

Q And that is the reason why you know them very well?

A Yes, sir.

Q So that as alleged by you that during that incident in question they were wearing masks and you would be able to recognize them with or without masks?

A Yes, sir.

Q And in fact during that evening when they were there and they greeted you and that they wanted to buy cigarettes from you they even told you their names when they were still outside your house, is that correct ?

A They were not the ones who voluntarily gave their names but I called their names and they said 'NANG'.

FISCAL DELGRA:

The interpretation your Honor is not exactly correct, what the witness said is that - they were not the ones who voluntarily gave their names but I called 'ANGEL' and they answered 'NANG'.

ATTY. CENIZA:

Q Do you mean to say that you called the names of the two (2) accused?

FISCAL DELGRA:

There is a need for the correction of the interpretation because while the Interpreter said as a supposed translation that - 'I called their names' but she only said - 'ANGEL?' she called the name 'ANGEL?' (discussion and arguments)

COURT:

Witness may answer the question.

FISCAL DELGRA:

The witness may answer the question but may we say something, your Honor.

COURT:

There is already a ruling of the Court.... (further discussion and arguments)

FISCAL;

Yes, your Honor, but can we (further manifestations)

COURT:

Get ready, Bailiff, I have to do something.... there is already a decision objection overruled, witness may answer.

FISCAL DELGRA:

Yes, but I have the right to . . .

COURT:

Witness may answer, there is already a ruling

FISCAL DELGRA:

It is not on the ruling but on the clarification of the interpretation.

COURT:

But you have the right to respect the ruling of the Court so that we can proceed with the trial.

FISCAL DELGRA:

That is why in accordance with the rules (still talking)

COURT:

Enough the witness may answer the question.

FISCAL:

May we ask for a reconsideration of the ruling of the Court, your Honor, on the....

COURT:

Not granted.

FISCAL:

We have not yet stated what our grounds are for asking a reconsideration

COURT:

Bailiff -

Make of record that Fiscal Delgra is defying the authority of the Court, - that the Court made already a ruling and Fiscal Delgra is still defying.

FISCAL:

May we state that there is no defiance, that we are just asking for a reconsideration, that we are stating our grounds.

COURT:

You bring him out, to jail. (At this stage the Bailiff brings out Fiscal Delgra from the courtroom)."

Fiscal Delgra, however, was not brought directly to jail by the bailiff as ordered by the court. Upon the request of the Fiscal, they first went to the Fiscal's office. There, the bailiff was prevailed upon by Fiscal Delgra and other fiscals not to execute the order of the judge pending a request which they would make to the judge to reconsider his stand.

On the same day, September 13, 1965, when the judge learned of the bailiff's failure to carry out his instructions, he immediately wrote out an order finding Fiscal Delgra guilty of direct contempt, directing "the Chief of Police of Davao City or any of his policemen to arrest the said Fiscal Martin Delgra and to commit him to the Municipal Jail for 24 hours until such further order or notice from this Court ordering his release",^[1] and commanding the "bailiff assigned to the Sala II to serve a copy of this order to the Chief of Police immediately upon receipt of the same."

Petitioner seasonably came to this Court on certiorari with preliminary injunction. We issued a cease-and-desist order on September 20, 1965 upon a P1,000-bond.

1. It is unfortunate that the transcript does not fully reflect all the utterances made by both fiscal and judge during the incident. Our task is not made any easier by the battle of affidavits presenting hopelessly conflicting versions.

We thus prefer to view this case in the light of the transcript of stenographic notes. It may be incomplete. But its integrity is not assailed by the parties.

The root of the controversy between fiscal and judge sprang from an alleged misinterpretation into English from the Cebuano dialect of the witness' statement. The official translation was "I called their names". Fiscal Delgra's objection to the translation and his having called the attention of the court to the fact that the witness said "I called Angel^[2] and they answered 'NANG'", should have deserved the court's attention. The unfortunate incident could have been obviated had respondent judge listened with care to the fiscal's observation following defense counsel's next question premised on the allegedly wrong translation of the witness' answer, thus: "Do you mean to say that you called the names of the two (2) accused?" Which drew from the fiscal the statement that "[t]here is a need for the correction of the interpretation because while the Interpreter said as a supposed translation that - called their names' but she only said -'ANGEL?' she called the :name 'ANGEL?' (discussion and arguments)."

The remarks of the prosecuting attorney should not have escaped notice of the judge. That was the second time

that this alleged mistake in translation was drawn to his attention. The judge could have ruled on the objection to that translation instead of directing the witness to answer the succeeding question propounded by the defense counsel. It bears repeating to say that had the judge ruled on that objection immediately, had he not been too quick in cutting the fiscal short, the incident now in question would not have transpired.

We are informed that the judge comes from Zambales. Assertion is made and it is not disputed that the judge then did not have a working knowledge of the Cebuano dialect, in which the witness was testifying. Prudence suggested that he first inquire from his own interpreter about the correctness of the translation. If he was still not satisfied, he could have sought the aid of other people present who spoke the Cebuano dialect. As it was, the judge thought that allowing the witness to answer the succeeding question would clarify the matter. But what escaped him was that, with the question so suggestively framed: "Do you mean to say that you called the names of the two (2) accused?", the witness could alter her answer.

Be that as it may, the fiscal pressed his bid for the correction. The fiscal while bowing to the court's authority to rule on the problem of whether the particular question should be answered, sought permission to speak in this wise: "may we say something, your Honor". This drew the court's warning that: "There is already a ruling of the Court." The picture that we have from here on is quite hazy. The words spoken by both fiscal and judge have not been completely transcribed. What is indubitably clear, however, is that the judge refused to allow the fiscal to speak fully. And as the fiscal tried to explain starting with "Yes, your Honor, but can we" the judge exhibited undisguised impatience with the ominous statement: "Get ready, Bailiff, I have to do something there is already a decision objection overruled, witness may answer." At one point, the fiscal merely sought clarification of the interpretation, followed by a desire to reason out, but the judge stopped him with "Enough, the witness may answer the question." Then the fiscal moved for reconsideration. But the judge summarily disallowed him to state his grounds therefor. There is thus reason for belief that the fiscal could have felt that his right to state his position was being throttled by the judge's seemingly arbitrary attitude.

As to whether the fiscal defied the court in a threatening attitude, credible evidence - the language in the transcript of the proceedings - points to the contrary. What is truly significant is that the situation would not have reached grave proportions if the judge only listened carefully to the pleas of the fiscal and patiently allowed the fiscal to make his manifestation - to set the record aright - which, unfortunately, the judge did not.

2. The controlling provision here is Section 1, Rule 71 of the Rules of Court, which punishes direct contempt, thus: "A person guilty of misbehavior in the presence of or so near a court or judge as to obstruct or interrupt the proceedings before the same, including disrespect toward the court or judge, x x x may be summarily adjudged in contempt by such court or judge and punished by fine not exceeding two hundred pesos or imprisonment not exceeding ten (10) days, or both, if it be a superior court, or a judge thereof, or by fine not exceeding ten pesos or imprisonment not exceeding one (1) day, or both, if it be an inferior court."

It has been said that "[c]ontempt of court presupposes a contumacious attitude, a flouting or arrogant belligerence, a defiance of the court."³ From the transcript, we read no statement of the fiscal that rises to the level of contumacy. Nothing he said constitutes an affront to the dignity of the court. Of course, the transcript has not preserved the exact words uttered during the incident, but the judge has not pointed out to us any word or phrase uttered by the fiscal which may amount to contempt. The judge could do no better than say in his order here under review that the fiscal acted with "provoking gesture(s)" and exhibited a "threatening attitude". Before us, the judge submits that the fiscal was defiant with his "offensive expressions" and "aggressive gestures". But these are at best generalities and conclusions of law. True, the proceedings bogged down in the sense that the judge wanted the witness to continue testifying but the witness could not because the fiscal insisted in that a ruling on the translation of the testimony be made. But this was the fiscal's right. Such was not an undue imposition upon

the court. The inaccuracy he tried to point out to the judge appears to be material and substantial. The fiscal underscored the need for immediate correction. He strongly felt that if uncorrected, the next question would be on a false premise; worse, it could be misleading. We perceive it to have been a better attitude had the judge squarely met and decided favorably or adversely the fiscal's objection to the translation.

Defiance by the fiscal of the judge's authority would seem unlikely, if viewed from the fiscal's personal record. Prior to his appointment as assistant fiscal, he had been in active law practice for eight years. He had already served as such fiscal in the sala of Judge Vicente Cusi for seven years. Standing unrebutted on record is the fiscal's claim that during such periods of time, he had never been called down for conduct unbecoming a lawyer.

Holding fast to the principles that contempt proceedings are criminal in nature;^[4] that "the power to punish for contempt should be exercised on the preservative, not vindictive principle";^[5] that "a judge should always bear in mind that the power of the court to punish for contempt should be exercised for purposes that are impersonal, because that power is intended as a safeguard not for the judges as persons but for the functions that they exercise";^[6] and that such "power to punish for contempt, being drastic and extraordinary in its nature, should not be resorted to unless necessary in the interest of justice",^[7] we find that the fiscal did not so misbehave as to obstruct or interrupt court proceedings. He should not have been ordered incarcerated. In so directing, respondent judge abused his discretion such as to call for the exercise of the supervisory powers of this Court. Certiorari lies.

3. This is an appropriate occasion as any to define once again the role of a judge in relation to those who appear before him. Canon 1 of the Canons of Judicial Ethics informs us that "[t]he assumption of the office of judge casts upon the incumbent duties in respect to his personal conduct which concern his relation to", amongst others, "the practitioners of law in his court". Judges should be temperate and patient,^[8] courteous to counsel.^[9] They should avoid interrupting advocates in their arguments, and shy away from a controversial tone in addressing them.^[10] In conversations between judge and counsel, the judge should be studious to avoid controversies.^[11] Well it is to recall that: "Patience and gravity of hearing is an essential part of justice; and an over-speaking judge is no well-tuned cymbal. It is no grace to a judge x x x to show quickness of conceit in cutting off x x x counsel too short."^[12] We have said and we repeat that "[w]e prefer to think that restraint still is a trait desirable in those who dispense justice."^[13]

Upon the view we take of this case, the petition for certiorari is hereby granted, and the order of respondent judge of September 13, 1965 adjudging petitioner in direct contempt is hereby declared null and void; and the preliminary injunction heretofore issued is hereby made permanent.

Costs de oficio.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, and Barredo, JJ., concur.

[1] Emphasis supplied.

[2] Angel, according to respondent judge, was one of the defendants, in the case then being tried.

[3] Matutina vs. Buslon, L-14637, August 24, 1960.

[4] Benedicto vs. Canada (1967), 21 SCRA 1066, 1070, citing cases,

[5] Commissioner of Immigration vs. Cloribel (1967), 20 SCRA 1241, 1247, citing Lualhati vs. Albert, 57 Phil.

86, 90, *Villa-vicencio vs. Lukban*, 39 Phil. 778, 798; *In re Quirino*, 76 Phil. 630, 636; *People vs. Rivera*, 91 Phil. 354, 358. See also: *Austria vs. Masaquel* (1967), 20 SCRA 1247, 1260.

[6] *Austria vs. Masaquel*, *supra*, at p. 1260.

[7] *Id.*, p. 1261, citing *Victorino vs. Espiritu*, L-17735, July 30, 1962.

[8] Canon 4, *Canons of Judicial Ethics*.

[9] Canon 10, *id.*

[10] Canon 14, *id.*

[11] Canon 14, *id.*

[12] *Malcolm, Legal and Judicial Ethics*, 1949 ed., pp. 214-215, citing Bacon in his Essay "Of Judicature",

[13] *Ysasi vs. Fernandez* (1968), 26 SCRA 393, 409, cited in *Luque vs. Kayanan*, L-26826, August 29, 1969.

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.