

**LORENA O. COLLADO, COMPLAINANT, VS. TERESITA G. BRAVO,
CLERK OF COURT, MUNICIPAL TRIAL COURT OF NAGUILIAN, LA
UNION, RESPONDENT.**

A.M. No. P-99-1307 (Formerly OCA IPI No. 97-323-P). April 10, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

In a complaint-affidavit dated July 14, 1997, complainant Lorena O. Collado charged respondent Teresita G. Bravo, Clerk of Court of the Municipal Trial Court (MTC) of Naguilian, La Union, with Grave Misconduct and/or Conduct Prejudicial to the Best Interest of the Service.

In her affidavit, complainant alleged that on July 11, 1997, she received through priority mail, a subpoena from the MTC of Naguilian, La Union, directing her to appear before the said court at 2:00 P.M., July 14, 1997.[1] The subpoena was duly signed by respondent in her capacity as Clerk of Court. Before proceeding to said court, complainant sought assistance from the Office of the Governor of La Union and Mr. Arthur T. Madayag, Legal Assistant II of the Provincial Legal Office, who was detailed to accompany her to court.

Upon arriving at the MTC of Naguilian, complainant talked to respondent. When complainant asked for copies of the complaint and other details of the case, respondent replied that no complaint had been filed and her intention in issuing the subpoena was to allow a certain Perla Baterina, the labor recruiter of complainant's son, Emmanuel Collado, to talk to complainant.[2] Complainant claimed that she felt humiliated, harassed, and experienced extreme nervousness as a result of respondent's issuance of the subpoena.

In her answer dated October 6, 1997, respondent admitted issuing the subpoena. She claimed, however, that it was done with good intentions since she only acceded to the urgent request of the spouses Rogelio and Perla Baterina who came to her office on July 7, 1997, airing their grievances against complainant. Respondent averred that her only purpose in issuing the subpoena was to enable complainant and Baterinas to settle their differences.[3] In its Memorandum of February 8, 1999, the Office of the Court Administrator (OCA) recommended that the complaint be docketed as an administrative matter and respondent be fined Five Thousand Pesos (P5,000.00) for Grave Misconduct with a Warning that the commission of a similar act would merit a more serious penalty.

The Court required the parties to manifest whether they were willing to submit this case for decision on the basis of the pleadings already filed. Respondent agreed. Though complainant had not yet responded, and her compliance is now deemed waived, we shall now resolve her complaint.

Respondent's act of issuing the subpoena to complainant was evidently not directly or remotely connected with respondent's judicial or administrative duties. It appears that she merely wanted to act as a mediator or conciliator in the dispute between complainant and the Baterinas, upon the request of the latter.

Respondent as Clerk of Court is primarily tasked with making out and issuing all writs and processes issuing from the court. She should have known or ought to know what a subpoena is. "A subpoena is a process directed to a

person requiring him to attend and to testify at the hearing or the trial of an action, or at any investigation conducted by competent authority, or for the taking of his deposition." [4] She should have known that a process is "the means whereby a court compels the appearance of the defendant before it, or a compliance with its demands." [5] Hence, absent any proceedings, suit, or action commenced or pending before a court, a subpoena may not issue. In this case, respondent knew there was no case filed against complainant. Neither had complainant commenced any proceeding against the Baterinas for whose benefit the subpoena was issued. Respondent, then, had absolutely neither the power nor the authority nor the duty to issue a subpoena to the complainant. [6] Perusal of the subpoena she issued to complainant shows that the form used was the one used in criminal cases, giving complainant the impression that her failure to appear would subject her to "the penalty of law," and that the subpoena was issued with the trial court's sanction. We find, therefore, that respondent was using without authority some element of state coercion against complainant who was understandably compelled to heed the contents of the subpoena resulting in her humiliation. Such naked abuse of authority by complainant could not be allowed to pass without appropriate sanction. Accordingly, this Court has no recourse but to agree with the recommendation of the OCA that respondent be disciplined and fined.

WHEREFORE, respondent Teresita G. Bravo is hereby found GUILTY of Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service for which she is fined Five Thousand Pesos (P5,000.00) with a WARNING that a repetition of the same or similar act would be treated more severely.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Annex "A," Rollo, p. 2.

[2] Rollo, p. 1.

[3] Id. at 8.

[4] Rule 21, Sec. 1, 1997 Rules of Civil Procedure.

[5] F.B. Moreno, Phil. Law Dictionary (3rd. Ed. 1988) 748.

[6] *Caamic v. Galapon, Jr.*, 237 SCRA 390, 395 (1994).

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