

**NATIONAL INTELLIGENCE AND SECURITY AUTHORITY (NISA),  
COMPLAINANT, VS. JUDGE LUIS MARTINEZ, RESPONDENT.***Adm. Mat. No. 723-MJ. February 25, 1975*

Ponente: ANTONIO, J.

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Respondent Luis D. Martinez, Municipal Judge of Hagonoy, Davao del Sur, is charged with absenteeism in having gone to his court in Hagonoy only once or twice a week. This charge is contained in a confidential report dated May 13, 1974 submitted by Rogelio Luis, Head Executive Assistant of the National Intelligence and Security Authority (Quezon City) to the Chief Justice of this Court. Supplementing and complementing the aforecited confidential report is the memorandum report of Atty. Roberto L. Makalintal also of this Court to the Judicial Consultant. Respondent was consequently required to submit his comment or answer to the aforementioned charges within ten (10) days from receipt thereof. On June 25, 1974, the respondent filed his comment thereto and on September 18, 1974, We referred this case to the Executive Judge of the Court of First Instance of Davao del Sur for investigation, report and recommendation. On December 5, 1974, the Executive Judge of the Court of First Instance of Davao del Sur submitted his report recommending exoneration of respondent. He found that the evidence on the basis of which the charge of absenteeism was predicated is hearsay and, therefore, of no probative value, except some testimony submitted in support of the report of Atty. Makalintal which the Investigating Judge found insufficient to support the charges:

"The only declaration which need to be discussed at length is that of William Surposa, municipal secretary of Hagonoy, Davao del Sur. This witness declared that it is true he met in the morning of May 15, 1974 in the groundfloor of the municipal building of Hagonoy, Davao del Sur, somebody who did not disclose his identity to him but whom he suspected to have come from the Supreme Court with a companion with whom he never became acquainted with and that this somebody told him he wanted to post a bailbond and likewise asked him where he could see the municipal judge of that town (the respondent herein) and he (William Surposa) told him that he (respondent) was not around; that he also declared that he actually told this somebody that the respondent is in Davao City and does not go to Hagonoy when there is no hearing; that he also admitted that he told this somebody that the respondent goes to Hagonoy only on Tuesdays and Fridays but that if there is no hearing on said days, the respondent does not go anymore to Hagonoy. However, this witness declared that he was not telling the truth when he gave these answers to this somebody because of his grudge against the respondent for the unjustified dismissal of his cousin, Pablo Surposa, as clerk of the municipal court of Hagonoy, where the respondent is the Judge thereof. This witness admitted that the respondent goes to his office regularly and observes office hours from 8:00 to 12:00 in the morning and from 1:00 to 5:00 in the afternoon, from Monday through Fridays although he admitted that this is his general impression about the attendance of the respondent Judge because he is not sure that on a particular date, the respondent is present or is absent. This witness finally admitted that at the time he made the declaration before that somebody, who turns out to be an employee of the Supreme Court, he was as bitter against the respondent but after having verified that the dismissal of his cousin, Pablo Surposa, was not due to the fault of the respondent herein, he declared under the sanctity of his oath that what he told that somebody was false and what he declared during the investigation was the truth. This witness also declared that he came by virtue of a subpoena issued to him

by the investigator and that he had no occasion to talk with the respondent about his testimony. Finally, he stated that it was Mayor Bartolome Hernandez who ultimately cleared his doubts that the respondent had nothing to do with the ouster of his cousin, Pablo Surposa.

"Francisco Ala-an, clerk of the municipal court of Hagonoy, declared that it is not true that the respondent goes to Hagonoy only on Tuesdays and Fridays because he goes to office regularly and if there are no hearings scheduled on a certain day, the respondent would make decisions, orders, issue notices and subpoenas and sometimes the mayor invites him to visit some of the barrios in Hagonoy, that it is not true that he (witness) approves bonds if the respondent is not around. This witness however, admitted that between 8:30 and 9:30 in the morning of May 15, 1974, the respondent left Hagonoy and went to the Provincial Capitol at Mati, Digos, Davao del Sur, to follow up his claim for transportation allowance. This witness also declared that he knows William Surposa not to have been in good terms with the respondent.

"As regards the other witnesses namely, Mayor Bartolome Hernandez, Vice Mayor Antonio Viran Sr., Councilors Filomeno Surposa and Rufino Raut, they all were unanimous in their declarations that they appeared in connection with the investigation being conducted in obedience to a subpoena issued by the investigator to them and that they never talked with the respondent before they declared. They were also unanimous in their statements that they usually see Judge Martinez in Hagonoy. The declaration of Filomeno Surposa, brother of Pablo Surposa, former clerk of court of the Municipal Court of Hagonoy presided over by the respondent, who had no scruples in disclosing his disappointment against the respondent, whom he suspected as having illegally dismissed his brother, Pablo Surposa from his employment and which disappointment was also shared by his cousin William Surposa, incumbent municipal secretary of Hagonoy, Davao del Sur, is very significant. Indeed, Filomeno Surposa even declared that because of such disappointment, he even opposed measures intended to give aid or help to the respondent. This shows the gravity of his enmity and that of William Surposa, against the respondent which goaded them to downgrade the latter. But Councilor Filomeno Surposa like his cousin, William Surposa, having realized that the respondent had nothing to do with the dismissal of his brother Pablo Surposa, he declared unhesitatingly that the performance of the respondent as Municipal Judge of Hagonoy is satisfactory and he was stating the truth.

"So also the declaration of Councilor Rufino Raut is very revealing in the sense that he came to know from William Surposa himself that the latter does not like the respondent because he (William Surposa) believed him (respondent) to have terminated the services of his cousin, Pablo Surposa as clerk of the municipal court of Hagonoy, Davao del Sur.

"The respondent declared briefly that it is not true that he goes to office only on Tuesdays and Fridays but on the other hand, he goes there regularly; that it is not true that bail bonds filed in his court are approved by his clerk of court because he himself approves them except in one case where the bail bond was approved by Judge Peralta of the Court of First Instance of Davao del Sur and the other instance was when the Municipal Judge of Digos accepted a cash bond from a certain accused in his Court. Respondent also declared that while he resides in Davao City it was only sometime in May, 1973 when he won in a raffle for one of the GSIS building found in Matina, Davao City, but before that he was residing in Bansalan, Davao del Sur, with his brother. Respondent admitted that there were instances when he was not in Hagonoy but this came about when he was on leave (Exhibits B-18, 18-A to 18-D) or he was made acting Municipal Judge of another court wherein he is required to be in his designated station for at least two times a week (Exhibit B-11) or when he is attending as a witness in a criminal case in the Court of First Instance of Davao del Sur (Exhibits B-19, B-19-A to 19-P) or as a witness for himself in connection with an administrative case filed against him, attending seminars conducted by the Department of Agrarian Reforms, attending conferences in the Municipal Judges League of the Philippines or meetings of Confederation of the Municipal Judges of the three Davao provinces (Davao del Sur, Davao del Norte and Davao Oriental). Besides, the respondent declared that because of the non implementation of their salaries as Municipal Judges, His Excellency, the President of the Republic of the Philippines, allowed municipal judges to engage in private practice (Exhibit H) and in fact the respondent was

authorized by the District Judge of the Court of First Instance of Davao del Sur to engage in private practice (Exhibit I). From the evidence presented in the instant proceedings, it is not disputed that on May 15, 1974, when Atty. Makalintal went to Hagonoy, Davao del Sur, respondent was not in his Court. However, it has not been disputed that respondent herein was in Matti, Davao del Sur, on that day to follow up his claim for transportation allowance and that there were no cases to be tried by him in Hagonoy, Davao del Sur nor were there people waiting for him to put up bail bonds. Neither is it disputed that William Surposa did utter unfavorable remarks against the respondent on that occasion when Atty. Makalintal went to Hagonoy on the aforesaid date. However, the same William Surposa candidly admitted during the investigation that what he told Atty. Makalintal was not true because of his enmity and disappointment against the respondent by reason of the termination of the services of his cousin, Pablo Surposa. There seems to be a semblance of truth in the sincere admission of William Surposa that he had an 'axe to grind" against the respondent which motivated him to make unfavorable comments against the respondent. Thus, it is not disputed that a certain Pablo Surposa, cousin of William Surposa, worked for sometime as a clerk in the municipal court of Hagonoy presided over by the respondent but that he was subsequently eased out during the incumbency of the respondent herein. The relationship between William Surposa and Pablo Surposa is confirmed by no less than Municipal Mayor Bartolome Hernandez and Councilors Filomena Surposa and Rufino Raut. So also the existence of an ill-feeling on the part of William Surposa against the respondent, has been attested to by no less than his cousin, Councilor Filomeno Surposa, brother of Pablo Surposa, and also by Rufino Raut. With these as background facts, this investigator cannot disregard the possibility that really there was an ulterior motive on the part of William Surposa to have declared unjustly against the respondent. But whether it be one way or the other, the resulting situation is that the credibility of William Surposa is open to grave doubts either as regards to what he told Atty. Makalintal or what he declared during the investigation. Perforce this investigator has to lean on the testimonies of other witnesses for purposes of these proceedings. Unfortunately, there is paucity in the evidence to substantiate the charges against the respondent. Consequently, this investigator is compelled to make the recommendation that the charges filed against respondent Judge Martinez have not been sufficiently and conclusively established to warrant the imposition of a disciplinary action upon him."

WHEREFORE, finding the report satisfactory, the respondent is hereby exonerated from the said charges.

Fernando, (Chairman), Barredo, Fernandez, and Aquino, JJ., concur.

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