

## OFFICE OF THE COURT ADMINISTRATOR, PETITIONER, VS. JUDGE JOSE M. ESTACION, JR., RESPONDENT.

*A.M. No. RTJ-87-104. January 11, 1990*

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### PER CURIAM:

In her letter to the President of the Philippines dated February 7, 1987, copy of which was furnished the Court, Mrs. Ruth L. Vda. de Sison protested the appointment of the respondent as judge of the Regional Trial Court of Dumaguete City on January 30, 1987, notwithstanding the fact that he was then facing criminal charges for homicide and attempted homicide which had been filed against him in two separate informations dated June 25, 1986. This objection was reiterated in a sworn complaint filed with the Court on August 21, 1987, also by Mrs. Sison, who suggested that the respondent judge obtained his appointment through misrepresentation as he did not disclose the criminal charges then pending against him either to the President of the Philippines or to the Court.

Acting on this matter, the Court on March 10, 1986, after considering the answer submitted by the respondent, preventively suspended him, with concomitant suspension of his salary, and referred the case to Justice Reynato Puno of the Court of Appeals for investigation, report and recommendation. On March 30, 1986, the Court granted Justice Puno's request to be relieved of the assignment, to avoid suspicion of bias (as he personally knows the respondent judge) and referred the case to Justice Manuel C. Herrera, also of the Court of Appeals.

In his Report dated September 6, 1988, Justice Herrera said:

The issue raised is -

- May the respondent on the basis of the two pending criminal cases be considered as an undesirable appointee and therefore be removed from his office?

It is the theory of complainant that at the time of respondent's application for, and subsequent appointment as RTC Judge, he is an accused in the two criminal cases, and when he 'deliberately failed to inform the appointing authorities of this fact, (he) should be therefore (be) guilty of gross misrepresentation.'

On the other hand, respondent claims that —

(a) he enjoys the presumption of innocence in the two pending criminal cases;

(b) the said cases (homicide and attempted homicide), even if sustained after trial, do not involve "moral turpitude;" and

(c) before an administrative complaint based on a criminal prosecution is given due course, there must be a conviction by final judgment.

Taking into account the arguments and evidence elicited during the hearing of this administrative case, the undersigned holds against the respondent.

What is of paramount consideration is whether respondent intentionally withheld a very material and pivotal information from the appointing authorities preparatory to his appointment in the judiciary.

It has been held that "The conduct and behavior of everyone connected with an office charged with the disposition of justice, x x x should be circumscribed with the heavy burden of responsibility. His conduct, at all times, must be characterized with propriety and above all must be above suspicion." (Jereos, Jr. vs. Reblando, Sr., 71 SCRA 126). Although every office in the government service is a public trust, no position exacts a greater demand on moral righteousness and uprightness of an individual than a seat in the judiciary. (Dia-Añonuevo vs. Bercacio, 68 SCRA 81 cited in Montemayor vs. Collado, 197 (sic) SCRA 258).

It is, therefore, beyond human understanding and reason to expect that respondent would even have been considered, much less extended an appointment, if those who screened, collated and passed upon the nominees were made aware of the fact that he had two pending criminal charges.

His attempt at proving that he did volunteer that information to the NBI agent who checked his background is not supported by evidence; on the contrary, the records in the Supreme Court (Personal Data Sheet for Judges) fail to show even a hint of said pending criminal cases. Apropos to that background inquiry, respondent himself doubted his competence and qualification to be a member of the judiciary, when he declared that -

"I told the NBI agent that I think I cannot be appointed because I have two pending cases filed against me." (t.s.n., pp. 62-63).

The duty of disclosure for an appointee to the judiciary is definitely more imperative than an examinee to the Bar Examinations, and the Supreme Court has held vis-a-vis the latter the following:

x x x Under both rules, every applicant is duty bound to lay before the Court all his involvement in any criminal case, pending or otherwise terminated, to enable the Court to fully ascertain or determine applicant's moral character. Furthermore, as to what crime involves moral turpitude, is for the Supreme Court to determine. Hence, the necessity of laying before or informing the Court of one's personal record — whether he was criminally indicted, acquitted, convicted or the case dismissed or is still pending — becomes more compelling. x x x x. But as already intimated, implicit in his task to show satisfactory evidence or proof of good moral character is his obligation to reveal to the Court all his involvement in any criminal case so that the Court can consider them in the ascertainment and determination of his moral character. And undeniably, the applicant's criminal records before it, the Court will be in a better position to consider the applicant's moral character; for it could not be gainsaid that an applicant's involvement in any criminal case, whether pending or terminated by its dismissal or applicant's acquittal or conviction, has a bearing upon his character or fitness for admission to the Bar. x x x.

In the light of the foregoing, it is deemed unnecessary to dwell on respondent's claim of presumption of innocence, and his tenuous assertion that homicide and frustrated homicide are not crimes involving moral turpitude.

WHEREFORE, the undersigned respectfully recommends the respondent's dismissal from the service as Regional Trial Court Judge, Branch 44, Dumaguete City, as an undesirable appointee having failed to disclose the fact that he was facing criminal prosecution in Criminal Case Nos. 7161 and 7162, for attempted and consummated homicide, respectively.

We agree with this report and find that the respondent judge was indeed guilty of gross misrepresentation in failing to disclose that he was facing two serious criminal charges when he accepted appointment and subsequently qualified as judge of the Regional Trial Court of Dumaguete City.

The argument that he had not yet been convicted and should be presumed innocent is beside the point, and so is the contention that the crimes of homicide and attempted homicide do not involve moral turpitude. The important consideration is that he had a duty to inform the appointing authority and this Court of the pending criminal

charges against him to enable them to determine on the basis of his record his eligibility for the position he was seeking. He did not discharge that duty. His record did not contain the important information in question because he deliberately withheld and thus effectively hid it. His lack of candor is as obvious as his reason for the suppression of such a vital fact, which he knew would have been taken into account against him if it had been disclosed.

As stressed in the report, it behooves every prospective appointee to the judiciary to apprise the appointing authority of every matter bearing on his fitness for judicial office, including such circumstances as may reflect on his integrity and probity. These are qualifications specifically required of appointees to the judiciary by Article VIII, Sec. 7(3) of the Constitution. The fact alone of his concealment of the two criminal cases against him is clear proof of his lack of the said qualifications and renders him unworthy to sit as a judge.

WHEREFORE, Judge Jose M. Estacion, Jr. of the Regional Trial Court of Dumaguete City is hereby DISMISSED, with forfeiture of all salary, benefits and leave credits. It is so ordered.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

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