

DANILO STA. MARIA, COMPLAINANT, VS. HONORABLE ANASTACIO T. ZAMUCO, MUNICIPAL JUDGE OF BUGALLON, PANGASINAN, RESPONDENT.*Adm. Matter No. 1567-MJ. December 28, 1981*

Ponente: FERNANDO, C.J.

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This administrative complaint against Municipal Judge Anastacio T. Zamuco of Bugallon, Pangasinan arose from the alleged tampering of certain state-ments offered during a preliminary examination. Complainant Danilo M. Sta. Maria of the Philippine Constabulary asserted that the testimony of a certain policeman of Bugallon, Alegrio Taoiñgan by name, was taken before one Sergeant Romeo Colet of the Philippine Constabulary. Thereafter, it was submitted to respondent Judge on February 1, 1977. A preliminary examination was then conducted by him, with Patrolman Taoiñgan being subjected to searching questions but with his adopting as his own the questions propounded by Sergeant Colet. There were certain answers though of Patrolman Taoiñgan he considered hearsay and unresponsive. Those he dis-regarded substituting different answers, despite the objection of the witness. Patrolman Taoiñgan then reported the matter to his immediate superior, who in turn referred it to Lieutenant Santa Maria. The result was the filing of this complaint.

In the answer of respondent Judge, he admitted that he did cross out answers of the policeman-witness for their being unresponsive and hearsay. He alleged though that what he did was with the consent of the witness, who then gave the proper answers. It was his submission that he acted without malice or evil intention in not accepting portions of the statement deemed by him hearsay and unrespon-sive. There was the assertion likewise that the patrolman entertained a grudge against him because he was the one who subscribed the statement of the complainant in a case filed against the patrolman.

The matter was then referred to Executive Judge Willelmo C. Fortun. The findings in his report was that respondent Judge "was acting with the best of intentions and without any malice, whatsoever." [1] He, therefore, recommended that the complaint against respondent Judge be dismissed citing *Zabala v. Judge Pamaran* [2] and *Bondoc v. Judge de Guzman*. [3]

The records of the Office of the Court Administrator show that respondent Judge reached the compulsory age of retirement on April 27, 1981. Ordinarily, therefore, especially so in the light of the above recommendation, this case should be considered moot and academic. Nonethe-less, under certain circumstances, this Court has deemed it proper and desirable to act on the matter by way of setting guidelines for the conduct of the occupants of the bench. While then, the report of Judge Fortun is accepted, it is still necessary to impress on respondent Judge that he could have exercised greater prudence in the exercise of his undoubted prerogative to ask clarificatory questions. It is especially impor-tant that to preclude any semblance of plausibility to the charge of his failing to maintain an accu-rate and truthful account of proceedings in his court, he should just retain in the record whatever answer is given to any question asked. The original answers must not be altered, leaving him free to propound

questions that would remove any doubt or uncertainty as to the nature of the answer given or in the alternative make it responsive.

WHEREFORE, the case against respondent Judge is dismissed, his compulsory retirement making it moot and academic. Let an admonition, however, be spread on his record.

Aquino, Abad Santos, De Castro, Ericta, and Escolin, JJ., concur.

Concepcion, Jr., J., on leave.

Barredo, J., no part.

[1] Report, 6.

[2] Adm. Case No. 200-J, June 10, 1971, 39 SCRA 430.

[3] Adm. Case No. 279-J, May 30, 1974, 57 SCRA 135.

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