

OFFICE OF THE COURT ADMINISTRATOR, Complainant, VS. HON. FERNANDO F. FLOR, JR., PRESIDING JUDGE, BRANCH 28, REGIONAL TRIAL COURT, BAYOMBONG, NUEVA VIZCAYA, Respondent.

A.M. No. RTJ-17-2503. July 28, 2020

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PER CURIAM:

If ordinary people are presumed to know the law, judges are duty-bound to actually know and understand it.[1] Here, the judge's patent disregard of elementary rules in the grant of bail applications constitutes gross ignorance of the law which merits administrative sanction.

Atty. Jona Gay Pua-Mendoza, Clerk of Court of the Regional Trial Court Branch 28 of Bayombong, Nueva Vizcaya, wrote a letter[2] to the Office of Deputy Court Administrator stating that Judge Fernando Flor, Jr. granted bail in criminal cases involving illegal sale of dangerous drugs, which is a non-bailable offense. As evidence, Atty. Pua-Mendoza submitted the corresponding orders/resolutions and transcript of stenographic notes. Specifically, in Criminal Case Nos. 6964,[3] 7060,[4] 7348-49[5] and 7409,[6] the orders/resolutions granting bail did not contain a summary of the prosecution evidence. In Criminal Case No. 6998,[7] there was no hearing on the motion to reduce bail. In Criminal Case No. 7091,[8] there was no summary of the prosecution evidence and a hearing on the motion to reduce bail. Lastly, in Criminal Case No. 7826,[9] the accused's motion for reconsideration to allow bail was granted without a hearing.

Judge Flor, Jr. admitted that he issued the orders/resolutions without a summary of the prosecution evidence. Moreover, Judge Flor, Jr. explained that he granted bail in Criminal Case No. 7826 without a hearing because "the accused, though 17 years old, has a mental capacity of a 10-year-old (Grade 5) boy"[10] Lastly, Judge Flor, Jr. pleaded compassion in view of his application for early retirement."[11]

On May 8, 2017, the Office of the Court Administrator found Judge Flor, Jr. guilty of gross ignorance of the law and recommended a fine of P50,000.00.[12] The OCA also noted that Judge Flor, Jr. had been previously fined with P20,000.00 when he issued a warrant of arrest knowing that the private complainant is his wife.[13] The OCA's factual findings are as follow:

I. Criminal Case No. 6998, *People vs. Khris [sic] Directo*, for Violation of Article II, Section 5, R.A. 9165

On May 15, 2013, accused filed an Urgent Motion for Bail. Pre-trial conference was set on May 23, 2013, on motion of the public prosecutor and the defense counsel. On June 28, 2013, the pre-trial conference was terminated and a Pre-Trial Order was issued on the same date. On September 18, 2013, the prosecution presented the testimonies of SPO2 Diosdado Pascual and PSI James Bad-e. x x x The court issued a Resolution on December 23, 2013, allowing the accused to post bail in the amount of Two Hundred Thousand (P200,000.00). The accused, on the same day, filed a Motion for Reduction of Bail which was granted and the bail was reduced to P100,000.00.

II. *People vs. Freddie Aquino y Bayaua*, Criminal Case No. 7091, for Violation of Article II, Section 5, R.A. 9165

After the termination of the pre-trial conference, accused on February 18, 2014, filed a Petition for Bail, x x x [After presentation of some of the prosecution witnesses], the court granted the motion to post bail in Criminal Case No. 7091 on December 12, 2014. x x x [The accused' motion to reduce bail] was granted on January 28, 2015. On January 29, 2015, accused filed a Supplemental Motion for Reduction of Bail praying that the total reduced bail be further reduced to P170,000.00. The public prosecutor wrote a marginal note submitting the motion to the sound discretion of the court. Thus, on February 3, 2015, the court granted the motion and the bail was accordingly reduced to P 170,000.00.

III. People vs. Edgar Allan Cadaio and Johfen [sic] Garingan y Sandoval, Criminal Case No. 7826, for Violation of Section 5 of R.A. No. 9165

The case involves a child in conflict with the law (CICL). Accused Johnfel [sic] Garingan was 17 years old and 6 months old when he was arrested, x x x The case was originally raffled to Branch 29, a Family Court, but the presiding judge inhibited, x x x Records reveal that there is a pending Motion for Reconsideration filed by counsel to allow him to post bail which the court granted on February 6, 2015.

x x x x

Going now to the crux of the controversy, we find Judge Flor liable for gross ignorance of the law for his failure to conduct hearings on the Motion to Reduce Bail in Criminal Case Nos. 6998 and 7091 and on the Motion for Reconsideration of the Order denying bail in Criminal Case No. 7826.

x x x x

In both cases [Criminal Case Nos. 6998 and 7091] Judge Flor complied with the requirement of hearing under Section 7, Rule 114 of the Rules of Court. However, when both accused moved for the reduction of the bail, he granted the motions filed by the accused without conducting a hearing or requiring the public prosecutor to comment on the motion in Criminal Case No. 6998.

x x x x

Judge Flor in haste granted the motion for reduction of bail in Criminal Case No. 6998 without giving the prosecution the chance to be heard. In Criminal Case No. 7091, although the public prosecutor had a marginal note on the motion submitting the motion to the sound discretion of the court, Judge Flor should have conducted a hearing to ascertain if the public prosecutor was not contesting the reduced amount of bail x x x.

It is also noted that a cursory reading of the resolutions issued in Criminal Case Nos. 6964, 7060, 7348[-49], 7409 and 7091 shows that Judge Flor failed to make a brief summary of evidence adduced by the prosecution, which is necessary to determine whether he has adequate basis for granting bail. This was admitted by Judge Flor in his Comment.

x x x x

Also, the procedural necessity of a hearing relative to the grant of bail cannot be dispensed with especially in this case where the accused is charged with a capital offense. Utmost diligence is required of trial judges in granting bail especially in cases where bail is not a matter of right. Certain procedure must be followed in order that the accused would be present during trial. As a responsible judge, Judge Flor must not be swayed by the mere representations of the parties; instead he should look into the real and hard facts of the case.

x x x x

x x x It is respectfully recommended for the consideration of the Honorable Court that:

x x x x

(3) respondent Judge Flor be found GUILTY of GROSS IGNORANCE OF THE LAW and, accordingly, be FINED in the amount of Fifty Thousand Pesos (P50,000.00) to be paid to the Court within thirty (30) days from notice.[14] (Emphases supplied; citations omitted.)

RULING

The Court adopts the OCA's findings with modification as to the penalty.

Judges should maintain competence and diligence which are prerequisites to the due performance of judicial office.[15] Their role in the administration of justice requires a continuous study of the law and jurisprudence.[16] A contrary rule will not only lessen the faith of the people in the courts but will also defeat the fundamental role of the judiciary to render justice and promote the rule of law.[17] Thus, unfamiliarity with the laws and procedures is a sign of incompetence which betrays the confidence of the public in the courts.[18] Indeed, judges ought to simply apply basic, simple and well-known rules and jurisprudence. Anything less is ignorance of the law.[19] In that light, we find that Judge Flor, Jr.'s disregard of the settled procedures in granting bail reflects gross ignorance of the law.

Foremost, it is basic that bail cannot be allowed without a prior hearing to a person charged with an offense punishable with reclusion perpetua or life imprisonment.[20] As such, bail is a matter of discretion and its grant or denial hinges on the issue of whether the evidence of guilt against the accused is strong. Yet, the determination of the requisite evidence can only be reached after due hearing. Thus, a judge must first evaluate the prosecution's evidence.[21] A hearing is likewise required for the trial court to consider the factors in fixing the amount of bail.[22] Notably, this Court outlined the duties of a judge in resolving bail applications,[23] to wit:

1.

In all cases, whether bail is a matter of right or of discretion, notify the prosecutor of the hearing of the application for bail or require him to submit his recommendation;[24]

2.

Where bail is a matter of discretion, conduct a hearing of the application for bail regardless of whether or not the prosecution refuses to present evidence to show that the guilt of the accused is strong for the purpose of enabling the court to exercise its sound discretion;[25]

3.

Decide whether the guilt of the accused is strong based on the summary of evidence of the prosecution;

4.

If the guilt of the accused is not strong, discharge the accused upon the approval of the bail bond x x x;[26] otherwise petition should be denied.[27]

Admittedly, Judge Flor, Jr. granted bail in Criminal Case No. 7826 without a hearing because the accused is a minor and a mental retardate. However, the 2009 Revised Rules on Children in Conflict with the Law is explicit that a child charged with a capital offense shall not be entitled to bail when evidence of guilt is strong.[28] As discussed, the determination of the requisite evidence is a matter of judicial discretion.[29] Consequently, absent a prior hearing, the order granting bail can hardly be a product of Judge Flor, Jr.'s sound discretion.[30] Also, Judge Flor, Jr. exhibited cavalier indifference to the rules when he allowed in Criminal Case No. 7091 the motion to reduce bail without a hearing. This is contrary to the clear mandate of the Guidelines for Decongesting Holding Jails by Enforcing the Rights of Accused Persons to Bail and to Speedy Trial that a motion to reduce bail shall enjoy priority in the hearing of cases.[31]

Lastly, Judge Flor, Jr. conceded that the orders/resolutions granting bail in Criminal Case Nos. 6964, 7060,

7348-49 and 7409 did not contain a summary of the prosecution evidence. In numerous cases,[32] we held that the order granting or refusing bail must contain a summary of the evidence which is an aspect of judicial due process for both the prosecution and the defense. As *Aleria, Jr. v. Hon. Velez*[33] aptly discussed:

x x x [T]he court's order granting or refusing bail must contain a summary of the evidence for the prosecution followed by its conclusion whether or not the evidence of guilt is strong. The summary of evidence for the prosecution which contains the judge's evaluation of the evidence may be considered as an aspect of judicial due process for both the prosecution and the defense.[34]

Taken together, Judge Flor, Jr. committed gross ignorance of the law and procedure in granting bail applications without a prior hearing and in not stating the factual and legal reasons in his Orders or Resolutions. This administrative offense is classified as a serious charge[35] and is punishable by any of the following penalties: (1) fine of more than P20,000.00 but not exceeding P40,000.00; (2) suspension from office for more than three but not exceeding six months, without salary and other benefits; (3) or dismissal from service, with forfeiture of all benefits except accrued leave credits.[36]

The multiple counts of gross ignorance of the law in this case and the previous misconduct in A.M No. RTJ-06-1995 raised a serious question on Judge Flor, Jr.'s competence and integrity in the performance of his functions as a magistrate.[37] Indeed, the several occasions that Judge Flor, Jr. disregarded the rules in granting bail applications could have been the subject of different administrative complaints which deserve separate penalties for each violation.[38] As such, the Court could no longer afford to be lenient this time, lest it would give the public the impression that incompetence and repeated offenders are being countenanced in the judiciary. Considering Judge Flor, Jr.'s repeated infractions and refusal to correct his ways despite previous warning, the Court is constrained to impose the supreme penalty of dismissal.

All told, we remind that when a judge himself becomes the transgressor of any law which he is sworn to apply, he places his office in disrepute, encourages disrespect for the law and impairs public confidence in the integrity and impartiality of the judiciary itself,[39] thus:

To be able to render substantial justice and maintain public confidence in the legal system, judges should be embodiments of competence, integrity and independence. Hence, they are expected to exhibit more than just a cursory acquaintance with statutes and procedural rules and to apply them properly in all good faith. They are likewise expected to demonstrate mastery of the principles of law, keep abreast of prevailing jurisprudence, and discharge their duties in accordance therewith.

Further, judges should administer their office with due regard to the integrity of the system of law itself, remembering that they are not depositories of arbitrary power, but are judges under the sanction of law. It must be emphasized that this Court has formulated and promulgated rules of procedure to ensure the speedy and efficient administration of justice. Wanton failure to abide by these rules undermines the wisdom behind them and diminishes respect for the rule of law.[40] (Emphases supplied).

FOR THESE REASONS, the Court finds Judge Fernando F. Flor, Jr. GUILTY of Gross Ignorance of the Law and ORDERS his DISMISSAL from the service with FORFEITURE of retirement benefits, except leave credits, and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned and controlled corporations.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Leonen[*], Caguioa, Gesmundo, Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Lopez, Delos Santos, Gaerlan and Baltazar-Padilla, JJ., concur.

[*]On leave.

[1]Ogka Benito v. Judge Balindong, 599 Phil. 196, 204 (2009).

[2]Rollo, pp. 8-9.

[3]Id. at 11.

[4]Id. at 17.

[5]Id. at 655-712.

[6]Id. at 30.

[7]Id. at 16.

[8]Id. at 18-19.

[9]Id. at 31-32.

[10]Id. at 857.

[11]Id. at 835-857.

[12]Id. at 944.

[13]Tenenan v. Judge Flor, Jr., 560 Phil. 296 (2007).

[14]Rollo, pp. 937-944.

[15]New Code of Judicial Conduct for the Philippine Judiciary, Canon 6. A.M. No. 03-05-01-SC, promulgated on April 27, 2004 and effective on June 1, 2004.

[16]Taborite v. Judge Sollesta, 456 Phil. 51. 57-58 (2003).

[17]Ogka Benito v. Judge Balindong, *supra* note 1.

[18]Department of Justice v. Judge Mislant, 791 Phil. 219, 228 (2016).

[19]Philippine Investment Two (SPV-AMC), Inc. v. Mendoza, A.M. No. RTJ-18-2538, November 21, 2018, 886 SCRA 197, 209.

[20]CONSTITUTION (1987), Art. III, Sec. 13. See also RULES OF COURT (1997), Rule I 14, Section 7.

[21]Ginemo v. Judge Arcueno, Sr., 320 Phil. 463, 468 (1995).

[22]RULES OF COURT(1997), Rule 114. Section 9.

[23]Atty. Gacal v. Judge Infante, 674 Phil. 324. 339 (201 1) citing Cortes v. Catral, 344 Phil. 415(1997).

[24]RULES OF COURT (1997), Rule 1 14, Section 18.

[25]RULES OF COURT(1997), Rule 114, Sections 7 and 8.

[26]RULES OF COURT (1997), Rule 114, Section 19.

[27]Atty. Gacal v. Judge Infante, *supra* at 339.

[28]Section 28 of A.M. No. 02-1-18-SC (December 1, 2009) states: "When Bail Not a Mailer of Right. - No child

charged with an offense punishable by reclusion perpetua or life imprisonment shall be admitted to bail when evidence of guilt is strong. In this case, the court shall commit the youth to a detention home or youth rehabilitation center, or in the absence thereof, to the care of a provincial, city or municipal jail as provided for in Section 27 of this Rule, which shall be responsible for the appearance of the child in court whenever required. (Emphasis supplied.)

[29]In *Montalbo v. Santamaria*, 54 Phil. 955, 964 (1930), this Court held that the respondent judge is duly bound to exercise judicial discretion conferred upon him by law to determine whether in the case at bar, the proof is evident or the presumption of guilt is strong against the defendant and to grant or deny the petition for provisional liberty.

[30]See *Baylon v. Sison*, 313 Phil. 99 (1995).

[31]Section 3 of A.M. No. 12-11 -2-SC (March 18, 2014) states: "When Amount of Bail may be Reduced. - If the accused does not have the financial ability to post the amount of bail that the court initially fixed, he may move for its reduction, submitting for that purpose such documents or affidavits as may warrant the reduction he seeks. The hearing of this motion shall enjoy priority in the hearing of cases. (Emphasis supplied.)

[32]*Paderanga v. CA*, 317 Phil. 862 (1995); *Santos v. Ofilada*, 315 Phil. 11 (1995); *People v. Casingal*, 312 Phil. 945 (1995); *Guillermo r. Reyes*, 310 Phil. 176 (1995); *People v. Nano*, 282 Phil. 164 (1992); and *People v. San Diego*, 135 Phil. 514 (1968). In *Director Carpio v. Judge Maglalang*, 273 Phil. 240, 251 (1991), this Court invalidated the order of respondent judge granting bail to the accused because "[w]ithout summarizing the factual basis of its order granting bail, the court merely stated the number of prosecution witnesses but not their respective testimonies, and concluded that the evidence presented by the prosecution was not 'sufficiently strong' to deny bail to Escano."

[33]359 Phil. 141 (1998).

[34]Id. at 148.

[35]RULES OF COURT (1997), Rule 140, Section 8, as amended.

[36]RULES OF COURT (1997), Rule 140, Section 11 (A), as amended.

[37]*Peralta v. Judge Omelia*, 720 Phil. 60, 86 (2013).

[38]*Office of the Court Administrator v. Villarosa*, A.M. No. RTJ-20-2578, January 28, 2020.

[39]*Gacad v. Judge Clapis, Jr.*, 691 Phil. 126, 142 (2012), citing *Tan v. Rosete*, 481 Phil. 189 (2004).

[40]*Judge Cabatingan Sr. (Ret.) v. Judge Arcueno*, 436 Phil. 341, 347-348 (2002).

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