

PETE M. PICO, COMPLAINANT, VS. JUDGE ALFONSO V. COMBONG, JR., REGIONAL TRIAL COURT, BRANCH 63, LA CARLOTA CITY, NEGROS OCCIDENTAL, RESPONDENT.

A.M. No. RTJ-91-764. November 06, 1992

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PER CURIAM:

Complainant Pete M. Pico is the brother of Father Narciso M. Pico, a minister of the Iglesia Filipina Independiente, who was brutally shot to death on 10 January 1991 in his Parish, Diocese of Negros Occidental at Pontevedra, Negros Occidental. According to a report of an investigation conducted by the Commission on Human Rights, rebel "returnees" or "surrenderedees" identified with the "Brotherhood of Organized Returnees" in Negros Occidental were responsible for the slaying.

The Office of the Provincial Fiscal of Negros Occidental filed, on 3 July 1991, an information charging one Eddie Villegas with the murder of Father Narciso M. Pico. The Provincial Fiscal recommended that no bail be granted. The case was docketed as Criminal Case No. 667 in the Regional Trial Court of La Carlota City, presided over by respondent Judge.

On 17 July 1991, respondent Judge issued a warrant for the arrest of the accused Eddie Villegas; in this warrant, the words "no bail recommended" were typed in on the appropriate space. The warrant of arrest was forwarded to the Superintendent of the Philippine National Police ("PNP"), Negros Occidental, for service. A return of the warrant was submitted by the 332nd PNP District Command, located in Hinigaran, Negros Occidental, on 5 September 1991, about three (3) towns away from La Carlota City.

On 6 August 1991, complainant Pico went to the Regional Trial Court of La Carlota and discovered, to his surprise, that accused Villegas had been granted bail on 2 August 1991 and, upon posting a P50,000.00 bond, had been released.

In the present administrative case filed on 24 August 1991, complainant charges respondent Judge with serious misconduct and grave abuse of discretion for having granted bail to the accused, who had been charged with an offense punishable by reclusion perpetua, without notice and hearing and even before the accused had been arrested or detained. Complainant alleges that respondent Judge granted the motion for bail on the same day that that motion was filed, i.e., on 2 August 1991, without setting the motion for bail for hearing and without giving the prosecution an opportunity to challenge the application for provisional liberty. A copy of the motion for bail, according to the complaint, was received by the prosecution only on 7 August 1991, and the prosecution moved for a hearing on the application for bail on 9 August 1991. Complainant also directs the attention of this Court to an order of respondent Judge dated 14 August 1991, rescheduling the arraignment of accused Villegas due to lack of proof of the arrest or detention of the accused.

Respondent Judge, in his comment dated 3 August 1992 on the complaint, denied that he had granted the application for bail even prior to the arrest or detention of the accused. He, however, admits having failed to hold a hearing on the application for bail. Respondent Judge contends that on the day the motion for bail was filed, he

as Judge had jurisdiction over the same, even if the accused had not personally surrendered to the court and even if the return of the warrant of arrest had not as yet been filed in court. He claims that his failure to require defense counsel to show proof that the accused had been taken into custody by the police authorities, was due to oversight on his part, and that he had not been motivated by any illegal or immoral consideration when he granted bail and ordered the release of accused Villegas. He had deliberately omitted holding a hearing because he had been fully convinced that the possibility of the accused jumping bail "was practically nil." [1]

We cannot countenance respondent Judge's actions.

A person applying for admission to bail must be in the custody of the law or otherwise deprived of his liberty. [2] A person who has not submitted himself to the jurisdiction of the court has no right to invoke the processes of that court. Respondent Judge should have diligently ascertained the whereabouts of the applicant and that he indeed had jurisdiction over the body of the accused before considering the application for bail.

It is well-settled that an application for bail from a person charged with a capital offense (now an offense punishable by reclusion perpetua) must be set for hearing at which both the prosecution and the defense must be given a reasonable opportunity to prove (in the case of the prosecution) that evidence of guilt of the applicant is strong, or (in the case of the defense) that such evidence of guilt was not strong. [3] In the instant case, where the offense charged is murder and punishable by reclusion perpetua or death, respondent Judge's deliberate failure to set the application for bail for hearing effectively deprived the People of its right to due process. Granting the application for bail and fixing the amount thereof, absent any taking of evidence as to whether or not the guilt of the accused was strong, constitutes arbitrary, capricious and whimsical action. [4] Such inexcusable conduct reflects either gross ignorance of the law or a cavalier disregard of its requirements. Respondent Judge's alleged impression that the probability of flight on the part of the accused was "practically nil," was obviously not based on evidence of record; he had no right to act on the basis of such merely personal impression. He himself had issued the warrant of arrest stating that no bail was recommended and then, inexplicably, without any evidence being presented to support the application for bail, released the accused on bail of P50,000.00.

The above circumstances make clear that respondent Judge's acts were inconsistent with the Code of Judicial Conduct. That Code requires judges to act with competence, integrity and independence and so to behave at all times as to promote public confidence in the integrity and impartiality of the judiciary. [5]

Respondent Judge manifested to this Court that accused Villegas whom he had released on bail, was shot dead on 22 February 1992 at Barangay Cambaong, Hinigaran, Negros Occidental. If true, this circumstance renders review and setting aside of respondent Judge's order fixing bail academic and unnecessary; otherwise, recall of the order of release of accused Eddie Villegas and (if necessary) his arrest, and the setting for immediate hearing of the application for provisional liberty would be necessary.

WHEREFORE, respondent Judge Alfonso V. Combong is hereby found guilty of serious misconduct in office and is hereby FINED Twenty Thousand Pesos (P20,000.00). In addition, the Court Resolved to CENSURE and WARN the respondent Judge to exercise much greater care and diligence in the performance of his duties as a judge and that the same or similar offense in the future will be dealt with more severely. Respondent Judge is also hereby REQUIRED to furnish the Court a certified true copy of the Death Certificate of the accused Eddie Villegas, plus reasonable proof that the deceased Eddie Villegas is the Eddie Villegas who was charged with murder in Criminal Case No. 667, Regional Trial Court of La Carlota City.

A copy of this Resolution shall be spread on the personal record of respondent Judge in the Office of the Court Administrator.

Gutierrez, Jr., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Melo, and Campos, Jr., JJ., concur.

Narvasa, C.J., and Medialdea, J., on leave.

Bellosillo, J., no part.

[1] Comment of Respondent Judge, p. 4; Rollo, p. 24.

[2] Feliciano v. Pasicolan, 2 SCRA 888 (1961).

[3] Sections 5 and 15, Rule 114, 1985 Rules on Criminal Procedure; Carpio v. Maglalang, 196 SCRA 41 (1991); People v. Calo, 186 SCRA 620 (1990); People v. Sola, 103 SCRA 394 (1981); People v. San Diego, 26 SCRA 522 (1968).

[4] Libarios v. Dabalos, 199 SCRA 48 (1991); Piedra v. Judge Imbing, A.M. No. RTJ-89-336, 4 October 1990 (Minute Resolution); Santos v. Lumang, 177 SCRA 435 (1989); Daplas v. Arquiza, 99 SCRA 141 (1980).

[5] See Canon I, Rule 1.01 and Canon II, Rule 2.01, Code of Judicial Conduct.

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