

MAYOR SOTERO C. CANTELA, COMPLAINANT, VS. JUDGE RAFAEL S. ALMORADIE, RESPONDENT.*A.M. No. MTJ-93-749. February 07, 1994*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/fb965c7e0993/>**PER CURIAM:**

Before this Court is a sworn complaint, dated 3 November 1992, filed by Sotero C. Cantela, charging respondent Judge Rafael S. Almoradie of the Third Municipal Circuit Trial Court of San Fernando-Batuan, 5th Judicial Region, San Fernando, Masbate, with “Malpractice and Grave Abuse of Authority Amounting to Ignorance of the Law.” The charge is based on the alleged practice of the respondent of archiving criminal cases after their preliminary investigation.

Complainant cited Criminal Case No. 3084, for violation of R.A. 6425, as amended; Criminal Case No. 3080, for Frustrated Murder; Criminal Case No. 3076, for Attempted Rape; Criminal Case No. 3082, for Murder; Criminal Case No. 3061, for Violation of Section 69 of P.D. 705, as amended by P.D. 1559; Criminal Case No. 3063, for Violation of P.D. 533; Criminal Case No. 3003, for Theft of Large Cattle; Criminal Case No. 3025, for Frustrated Homicide; and Criminal Case No. 3014, for Homicide, as among the cases where allegedly, after conducting preliminary investigations therein, respondent Judge Almoradie, instead of forwarding the records of said cases to the Provincial Prosecutor for review, archived the cases on the flimsy and suspicious ground that the accused therein could not be arrested, which is a flagrant violation of Rule 112, Sections 1 and 5, Revised Rules on Criminal Procedure, Rules of Court.[1]

In compliance with the Court’s resolution of 4 February 1993, respondent submitted his Comment on 7 April 1993 wherein he vehemently denies the charge, claiming that the complaint is principally politically motivated. According to respondent, the complainant who is the Mayor of the Municipality of Monreal, Masbate, is his former political rival. He claims that he (respondent) was once a member of the Sangguniang Bayan of Monreal and was close to former President Marcos before he was appointed to the Judiciary as MCTC Judge of San Fernando-Batuan, Masbate. To prove that complainant harbored malice towards him, respondent attached a copy of Resolution No. 69 of the Sangguniang Bayan of Monreal objecting to his perceived application for the position of MCTC Judge of San Jacinto-Monreal, Masbate. Respondent vigorously maintains that the said resolution is replete with falsehoods and was instigated by complainant, whose wish is to prevent respondent’s appointment to the position of MCTC Judge of San Jacinto-Monreal, Masbate.

Relative to the archiving of criminal cases after their preliminary investigation, respondent admits that he placed the records of the subject criminal cases, except Criminal Case No. 3084, in the files after the failure of the arresting officer to apprehend the accused. He justified this practice by maintaining his honest and sincere belief that it would be easier an alias warrant of arrest if these cases were kept within his jurisdiction. He avers that in his questioned orders he always states that the archiving of the cases is without prejudice to the subsequent prosecution of the accused as soon as they are arrested.

In a resolution dated 11 May 1993, the Court referred this case to the Office of the Court Administrator for evaluation, report and recommendation. On 29 July 1993, the Office of the Court Administrator submitted its

report, finding respondent judge guilty of gross ignorance of Sections 5 and 6, Rule 112 of the Revised Rules on Criminal Procedure.

According to the Office of the Court Administrator:

“As admitted by respondent Judge himself, even after the preliminary investigation, he keeps the records on archives (sic) because it would be easier for him to issue an alias warrant of arrest if the cases are still within his jurisdiction. Such explanation of the respondent Judge exhibits not only his ignorance of the new procedure under preliminary investigation but also shows his gross incompetence as a Judge. Respondent Judge ought to know that under Rule 112, Section 5, of the Revised Rules on Criminal Procedure, it is the duty of the investigating judge within ten (10) days from conclusion of the preliminary investigation to transmit, together with his resolution, the records of the case to the Provincial Prosecutor’s office for appropriate action. In all the resolutions respondent Judge issued on the subject criminal cases, x x x the records of the cases remained in archive at his sala for six (6) months or more.”

We find no merit in respondent Judge’s contention that it would be easier for him to issue alias warrants of arrest if the cases are kept within his jurisdiction and that, in any case, he states in his orders that the archiving is without prejudice to the subsequent prosecution of the accused as soon as he is arrested. Section 5, Rule 112 of the Rules on Criminal Procedure explicitly states that within ten (10) days after the conclusion of the preliminary investigation, an investigating judge shall transmit to the provincial or city Prosecutor for appropriate action his resolution of the case together with the records thereof. Respondent Judge cannot brush aside his duty to transmit to the Provincial Prosecutor within said ten (10) day period his resolution as well as the entire records of the case upon the handy excuse that it would be easier for him to issue an alias warrant of arrest if the case were kept within his jurisdiction, because the law does not allow him such discretion or leeway. The purpose of the particular provision is to enhance the speedy administration of justice.

Considering that the subject criminal cases involve murder, rape and violation of the Dangerous Drugs Act, respondent Judge should have been prompted by the gravity of the offenses to forward the records of the cases within the required 10-day period to the Provincial Prosecutor for appropriate action.

Moreover, respondent’s pretext that he did not intend to keep the cases indefinitely within his jurisdiction because he states in his orders that the archiving of the cases is without prejudice to the subsequent prosecution of the accused, only proves grave abuse of authority on his part which is tantamount to ignorance of the law as he himself admits in his orders that the court over which he presides has no jurisdiction over the cases.

In several resolutions of Assistant Provincial Prosecutor Danilo V. Ontog, the attention of respondent Judge had been called to the irregular practice of the latter of archiving criminal cases. Even RTC Executive Judge Ricardo Butalid in an article in the local newspaper “Panahon” (issue of 19 August 1990) denounced the irregular practice of respondent Judge of archiving criminal cases after preliminary investigation. Despite all these efforts of Judge Butalid and the Assistant Provincial Prosecutor to point out the wrong procedure being followed by respondent Judge, the latter remained unperturbed and continued with his irregular practice. This, in effect, facilitated the escape of several accused in the complaints, who have been seen moving freely. Respondent Judge has not therefore been of help in ridding the community of undesirable elements. He has contributed, through his ignorance of the law, to their mockery of the law.

Even as the pleadings in this case clearly project the issues involved, since no hearing had been held, this Court in a resolution dated 16 September 1993 required the parties to manifest if they were willing to submit this case for decision on the basis of the pleadings. In a manifestation, dated 3 November 1993, respondent stated that he is submitting his case based on the pleadings. The complainant likewise in a manifestation dated 23 November 1993 manifested that he is submitting the case for decision on the basis of the pleadings filed by the parties.

Accordingly, we are deciding the case on the basis of the pleadings.

A judge should be the embodiment of competence, integrity, and independence (Rule 1.01, Code of Judicial Conduct) and should administer justice impartially and without delay (Rule 1.02, *ibid.*). He should be faithful to the law and maintain professional competence; dispose of the court's business promptly and decide cases within the required periods (Rule 3.01 and Rule 3.05, *ibid.*). It has been unmistakably shown that respondent Judge is grossly ignorant of the correct criminal procedure, and he has been stubborn in his ignorance because he has not heeded the advice of an RTC executive judge and the assistant provincial prosecutor. This tenacious adherence to a wrong procedure makes him unfit to discharge his judicial office. As we held in a recent administrative case,

“x x x more than mere ignorance of applicable laws and jurisprudence, his intransigence and persistence in error will make people lose their faith in him as an administrator of justice. Having lost his right to be addressed by the respectful appellation of ‘Honorable Judge,’ he has likewise lost his right to continue in the judicial service.” (Zuno vs. Dizon, A.M. No. RTJ-91-752, 23 June 1993).

ACCORDINGLY, the Court hereby DISMISSES respondent Judge from the service with prejudice to appointment to any government position or public office, including government-owned or controlled corporations, and with forfeiture of all retirement benefits.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, and Vitug, JJ., concur.

Nocon, J., on leave.

Kapunan, J., no part.

[1] Rule 112, Section 1 provides:

Definition. – Preliminary investigation is an inquiry or proceeding for the purpose of determining whether there is sufficient ground to engender a well founded belief that a crime cognizable by the Regional Trial Court has been committed and that the respondent is probably guilty thereof, and should be held for trial. (1a)

x x x x x

Section 5 provides:

Duty of investigating judge. - Within ten (10) days after the conclusion of the preliminary investigation, the investigating judge shall transmit to the provincial or city fiscal, for appropriate action, the resolution of the case, stating briefly the findings of facts and the law supporting his action, together with the entire records of the case, which shall include: (a) the warrant, if the arrest is by virtue of a warrant; (b) the affidavits and other supporting evidence of the parties; (c) the undertaking or bail of the accused; (d) the order of release of the accused and cancellation of his bail bond, if the resolution is for the dismissal of the complaint.

Should the provincial or city fiscal disagree with the findings of the investigating judge on the existence of probable cause, the fiscal's ruling shall prevail, but he must explain his action in writing furnishing the parties with copies of his resolution, not later than thirty (30) days from receipt of the records from the judge. If the accused is detained, the fiscal shall order his release. (12a).

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