

SECOND DIVISION

[A.M. No. MTJ-01-1371 (Formerly OCA I.P.I. No. 96-136-MTJ), September 20, 2001]

ATTY. NESBITO C. HILARIO, COMPLAINANT, VS. JUDGE ROMEO A. QUILANTANG, PRESIDING JUDGE, MUNICIPAL TRIAL COURT, OBANDO, BULACAN, RESPONDENT.

DECISION

QUISUMBING, J.:

This is an administrative complaint for gross neglect and dereliction of duty filed by Atty. Nescito C. Hilario, chairman of the People's Law Enforcement Board (PLEB) of Obando, Bulacan, against Judge Romeo A. Quilantang, presiding judge of the Municipal Trial Court, Obando, Bulacan. The complaint stemmed from respondent judge's alleged deliberate refusal to conduct a preliminary investigation of the charges of grave threats and illegal possession of firearms lodged against a certain Reynaldo S. Marquez.

In an affidavit filed before the PLEB-Obando on October 19, 1995,^[1] Jonathan dela Cruz narrated that he was inside the Obando market at around 8:00 P.M. of June 22, 1995, when he was accosted by Reynaldo S. Marquez, who appeared to be drunk. Marquez pulled out a gun, cocked it and pointed it at dela Cruz's chest. A certain Ricky Contreras arrived and restrained Marquez. Dela Cruz then ran to the house of John Castillo and asked for help. Dela Cruz and Castillo went back separately to the market. Castillo called for help on his radio and Marquez was thereafter arrested by the police. A gun was found in his possession.^[2]

Complaints for grave threats and illegal possession of firearms and ammunition were filed against Marquez before the Municipal Trial Court of Obando, Bulacan. These were docketed as Criminal Cases No. 4322 and 4323, respectively. Respondent judge set the submission of affidavits and examination of witnesses for July 3, 1995.

Complainant alleges, referring to Dela Cruz's affidavit, that on July 3, 1995, Dela Cruz was brought to the police station by someone who he thought was a policeman and was given P2,000.00 and was told that if he did not accept the money, Marquez might retaliate against him. Dela Cruz was then brought to the office of respondent judge, where the latter urged him to drop the case against Marquez. Dela Cruz was given P1,000.00 more and was asked to sign a document, written in English, that turned out to be an affidavit of desistance.

Dela Cruz claimed that he was unaware of the contents of the document since they were not explained to him. Complainant points out that Dela Cruz does not understand English.

By virtue of the affidavit of desistance, respondent judge dismissed the case for

grave threats in an order dated July 3, 1995.^[3] As to Criminal Case No. 4323, respondent judge issued on the same day, July 3, 1995 an order stating therein that the evidence against the accused Marquez was weak. Consequently, he ordered the release of Marquez from police custody.

It appears that the three policemen who arrested the accused executed an affidavit^[4] also on July 3, 1995, subscribed and sworn to before respondent judge, stating that the gun was found not on the person of the accused but inside the tricycle on which he was leaning at the time. Nevertheless, respondent judge ordered that the gun be sent to the PNP Firearms and Explosives Division to ascertain whether it was licensed in the name of the accused.

However, complainant claims that records at the PNP-FED showed that the gun was never sent or brought there for examination. He also asserts that had respondent judge asked searching questions as required by law, he could have easily determined the existence of probable cause to indict Marquez for violation of P.D. 1866, considering that a COMELEC gun ban was in effect at that time.

On October 19, 1995, Dela Cruz and John Castillo filed an administrative complaint before the PLEB-Obando against the Obando Chief of Police as well as three of his men, in connection with the dropping of the charges against Marquez.^[5] The policemen countered that no irregularity can be attributed against them since the criminal cases had already been dismissed by respondent judge.

Complainant asserts that in previous cases, respondent judge would order the production of the police blotter when there was a conflict between the sworn complaint of police officials and the supporting affidavits. Complainant wonders why such usual practice was not followed in the cases against Marquez. Instead, respondent judge took an active part in causing the dismissal of the complaints. He avers that respondent judge intentionally and maliciously refrained from conducting the requisite preliminary investigation of the cases lodged against Marquez, in violation of Article 208 of the Revised Penal Code.^[6]

Complainant prays that respondent judge be dismissed from the service.

For his part, respondent judge contends that it was never his policy to initiate, interfere with, or encourage extrajudicial settlement of criminal cases lodged in his sala because this is against law and public policy. He asserts that he met Dela Cruz only on July 3, 1995, the date when the latter subscribed his affidavit of desistance before respondent judge. Respondent judge argues that he asked Dela Cruz if he was intimidated, harassed, or paid to sign the affidavit and Dela Cruz replied that he was not.

Respondent judge contends that the crime of grave threats falls under the Rule of Summary Procedure, and the dismissal of the charge was consistent with Section 10 of said rule.^[7]

As regards complainant's charge that there are discrepancies between the police blotter and the affidavit later on executed by the policemen who apprehended Marquez, respondent judge argues that entries in a police blotter are not given probative value for being usually inaccurate.

In his reply, complainant alleges that there were irregularities in the filing and investigation of the criminal complaints: (1) the two cases were filed on different dates and the complaints were not properly accomplished;^[8] (2) the statement of Dela Cruz, written in Tagalog, was not sworn to but the English affidavit of desistance was; (3) the affidavit of desistance was written in English but Dela Cruz could not understand this language. Complainant alleges that it was respondent judge who actually prepared the affidavit of desistance, judging from the language used; (4) respondent judge's copy of the policemen's affidavit concerning the location of the seized gun bore a different date from the copy obtained by complainant from the Office of the Provincial Prosecutor of Bulacan, which according to complainant is a sign of forgery.

Complainant also asserts that Marquez' possession of a gun during an election gun ban is a violation of elections laws, and respondent judge did not have jurisdiction to conduct a preliminary investigation of such violation. He also points out that respondent judge refused to inhibit himself from hearing a separate perjury case filed against one of the policemen who executed an affidavit stating a different version of the discovery of the gun.

In his rejoinder, respondent judge denies all the allegations of complainant. He maintains that it is the police that prepares and files criminal complaints. He adds that the date of filing and the date of subscribing to the complaint would be different since subscribing to the complaint is done during the preliminary investigation, which is after the filing of the complaint. He also asserts that the complaints filed by the police did not contain any allegation that the accused had been charged with violation of election laws, and he had no jurisdiction to amend or supplement the complaints. He could only act on them and forward his resolution to the office of the public prosecutor.

As for the perjury case, respondent judge asserts that complainant did not have the prior authority of the public prosecutor to appear in the case. Moreover, he points out that complainant did not present his client Dela Cruz in court, nor did he show proof of the damage suffered by the latter.

Replying to respondent judge's rejoinder, complainant contends that respondent should have dismissed the complaint for illegal possession of firearm outright since at the time it was committed, there was an election gun ban in force. It is the COMELEC that has jurisdiction over the case. Complainant also denies that he did not have the authority of the public prosecutor to appear in the perjury case, and wonders why respondent judge wanted his client to appear during a hearing on a motion to inhibit.

In a resolution dated July 17, 2000, the Court referred this matter to Executive Judge Danilo A. Manalastas of the Regional Trial Court of Malolos, Bulacan,^[9] for investigation, report, and recommendation.

In his report to the OCA dated January 4, 2001, Judge Manalastas recommended that respondent judge be reprimanded for his failure to perform his duties relative to the conduct of preliminary investigation, and admonished to be more conscientious in the discharge of his responsibilities.