

EN BANC

[A.M. No. RTJ-17-2486 [Formerly A.M. No. 17-02-45-RTC, September 03, 2019]

**RE: INVESTIGATION REPORT ON THE ALLEGED EXTORTION
ACTIVITIES OF PRESIDING JUDGE GODOFREDO B. ABUL, JR.,
BRANCH 4, REGIONAL TRIAL COURT, BUTUAN CITY, AGUSAN
DEL NORTE**

DECISION

PER CURIAM:

Death of the respondent judge during the pendency of his administrative case shall not terminate the proceedings against him, much less absolve him, or cause the dismissal of the complaint if the investigation was completed prior to his demise. If death intervenes before he has been dismissed from service, the appropriate penalty is forfeiture of all retirement and other benefits, except accrued leaves.

Such is the situation in this administrative matter initiated against Judge Godofredo B. Abul, Presiding Judge of Branch 4, Regional Trial Court (RTC) in Butuan City, Agusan del Norte, in which the complaint charged him with extortion committed against prison inmates detained for violation of Republic Act No. 9165 (*Comprehensive Dangerous Drugs Act of 2002*).

Antecedents

On April 7, 2015, the Office of the Court Administrator (OCA) received the letter sent by Rev. Father Antoni A. Sanial, Director of the Prison Ministry of the Diocese of Butuan,^[1] denouncing the extortionate activities committed by Judge Abul against the detainees of the Provincial Jail of Agusan.^[2] Allegedly, Judge Abul had demanded money ranging from P200,000.00 to P300,000.00 in exchange for the detainees' release from jail or the dismissal of the criminal cases.^[3] Father Sanial submitted with his letter the affidavits of Hazel D. Reyes (Reyes)^[4] and Anna Marie B. Montilla (Montilla) that attested to the extortion activities of Judge Abul.

In her affidavit, Reyes claimed that she was an "asset" of the Philippine Drug Enforcement Agency (PDEA); that Judge Abul had extorted money from detainees accused of and undergoing trial for drug-related charges in exchange for their liberty; that a certain Naomi Saranggani, the wife of a detainee, had approached and asked her if she wanted her criminal case to be dismissed; that Saranggani had told her that Judge Abul summoned her to look for detainees facing drug-related charges who wanted their cases to be favorably resolved; that Saranggani had told her and Montilla that they should start raising money totalling P200,000.00 to pay Judge Abul; and that Montilla had related that when she attended her December 5, 2014 hearing, Judge Abul asked for her cellphone number so that they could directly communicate with each another.

On her part, Montilla averred that she had met Saranggani on November 4, 2014 when the latter went to the Agusan del Norte Provincial Jail to await the release of her husband, Walid Saranggani; that Saranggani had asked if she (Montilla) had wanted to be released from prison herself because Judge Abul could arrange her release in exchange for the sum of P200,000.00; that Saranggani had then used her phone to call someone whom she kept addressing as "judge;" that Saranggani had then handed the phone to her to talk to the person, who introduced himself as Judge Abul, and asked if she could pay P100,000.00 in exchange for her release; that she had later on personally met Judge Abul during her scheduled hearing on December 5, 2014, and he had told her that they should help one another because she could be convicted based on the document that she had signed; that Judge Abul had asked her phone number in case he would want to see her after her release; that Saranggani had intimated to her that they paid P250,000.00 to Judge Abul to secure the release of her husband; and that she had learned through Saranggani that Judge Abul had also been instrumental in the release of other prisoners after they had paid him.

Investigation and Report of the Judicial Audit Team

The OCA conducted a fact-finding investigation of the complaint filed by Father Saniel through a team led by Atty. Rullynn S. Garcia.^[5]

The team interviewed Reyes and Montilla who confirmed their affidavits. Reyes and Montilla also separately confirmed that in February 2015, Judge Abul arrived at the provincial jail and talked to them; that Judge Abul asked Reyes to execute a disclaimer that he would prepare and that he would ensure her release from detention; that as to Montilla, Judge Abul appeared to be annoyed by her affidavit, and said to her that he would just inhibit but would see to it that she would be convicted.^[6]

The team reviewed the records of Criminal Case No. 15630 charging Walid Saranggani, Shaira Salic, Mike Saranggani and Ryan Umpa for violating Section 5 of Republic Act No. 9165 and raffled to the RTC Branch presided by respondent. The team concluded that Criminal Case No. 15630 had been decided in haste and without regard to procedural rules that cast doubt on the regularity of the acquittal of all accused.^[7]

On February 28, 2017, the Court *En Banc* issued a resolution placing Judge Abul under preventive suspension, and required him to comment on the complaint and the investigation report.^[8]

Comment/Answer of Judge Abul

In his comment/answer,^[9] Judge Abul denied all the accusations, and insisted that the same were false, baseless and concocted by an evil and malicious mind for the sole purpose of besmirching his unblemished record of service in the Judiciary. He maintained that Fr. Saniel had no personal knowledge of the alleged extortion activities; that the declarations of Reyes and Montilla were not based on their personal knowledge and were thus inadmissible against him; that he did not go to

the provincial jail to confront Reyes and Montilla, but only to talk to the jail warden to inquire if the prisoners were being allowed to leave jail; that the affidavits of Reyes and Montilla had been notarized before notary public Atty. Nelbert T. Poculan, but the representative of the latter had stated that said affidavits were not notarized by Atty. Poculan; and that it was improbable for him to demand money from Reyes and Montilla considering that they had appeared to have no visible income to support themselves.

Pending review of this administrative case, the Court received the letter from the respondent's wife dated September 13, 2017 informing about Judge Abul's demise. [10] Subsequently, the counsel for the late judge filed a Notice of Death and Motion to Dismiss, [11] praying for the dismissal of the complaint in view of the respondent's death and the punitive nature of the administrative liabilities. [12]

OCA Report and Recommendation

On February 20, 2018, the OCA submitted its report, [13] and recommended therein as follows:

PREMISES CONSIDERED, we respectfully recommend for the consideration of the Honorable Court that:

1. The motion to dismiss filed by respondent Judge's counsel, Atty. Teristram B. Zoleta, be **DENIED** for lack of merit; and
2. Judge Godofredo B. Abul, Jr., Branch 4, Regional Trial Court, Butuan City, Agusan del Norte, be **ADJUDGED GUILTY** of grave misconduct constituting violations of the New Code of Judicial Conduct for the Philippine Judiciary and **FINED** in the amount of Five Hundred Thousand Pesos (Php500,000.00), to be deducted from his retirement gratuity.

RESPECTFULLY SUBMITTED. [14]

The OCA disagreed with the urging of the respondent's counsel to dismiss the complaint in view of his intervening demise, observing:

It has been settled that the death of a respondent does not preclude a finding of administrative liability. However, it may necessitate the dismissal of the case upon a consideration of the following factors: *first*, if the respondent's right to due process was not observed; *second*, the presence of exceptional circumstances in the case on the grounds equitable and humanitarian reasons; and *third*, the kind of penalty imposed.

In this case, none of the foregoing factors exists. *First*, respondent Judge's right to due process was not violated. As borne by the records, he was duly informed of the accusations against him, having been furnished with a copy of the letter-complaint of Fr. Sanial and its attached

affidavits, as well as a copy of the investigation report of Atty. Garcia. In fact, he filed his comment thereon, which the Court received on 19 April. 2017. *Second*, his death alone is insufficient to justify the dismissal of the case on the ground of equitable or humanitarian consideration. A case was ordered dismissed by the Court by reason of the respondent's death for equitable and humanitarian considerations as the liability was incurred by reason of respondent's poor health. In this case, there was no circumstance other than respondent Judge's death that may warrant the invocation of equitable or humanitarian ground in his favor. *Third*, the penalty of fine may still be imposed notwithstanding his death. In fact, in one case, the respondent who died before the investigating judge was able to finish and submit his report but was duly notified of the proceedings against him and was directed to file his answer, although he opted not to comply therewith, was still meted the penalty of forfeiture of his retirement benefits, except his accrued leave credits, after having been found guilty of grave misconduct.^[15]

The OCA found that the allegations against Judge Abul had been confirmed and validated by Judge Abul himself and by the court records; that the affidavits of Reyes and Montilla had appeared to be credible in light of Judge Abul's inability to impute any ill-motive, malice or bad faith to the accusers; and that based on the results of the investigation Judge Abul had violated Canon 2, Canon 3 and Canon 4 of the *New Code of Judicial Conduct for the Philippine Judiciary* in a manner that amounted to grave misconduct.^[16]

Issue

Did Judge Abul's actuations amount to gross misconduct constituting violations of the *New Code of Judicial Conduct for the Philippine Judiciary*?

Ruling of the Court

We adopt the findings of the OCA but modify its recommendation.

Based on the sworn declarations of Reyes and Montilla, as well as the court records of Criminal Case No. 15630, there appeared to be sufficient grounds to hold Judge Abul administratively liable for extortion as charged against him. Consequently, the Court concurs with the following observations of the OCA, *viz.*:

Going into the merits of the case, it may be true that some of the statements made by Reyes and Montilla in their respective affidavits and before Atty. Garcia were not necessarily based on their own personal knowledge since they were just mostly conveyed to them by Naomi. Nonetheless, these statements cannot simply be brushed aside as hearsay and, therefore, inadmissible in evidence against respondent Judge. It bears stressing that some of these statements were confirmed and validated by respondent Judge himself and by the records of Criminal Case No. 15630.

First, Reyes and Montilla claimed that respondent Judge went to the Agusan del Norte Provincial Jail on 4 or 5 February 2015, and this was admitted by respondent Judge, although he denied talking with them

since his supposed purpose in going there was merely to ask its Officer-In-Charge, Mr. Antenorio, whether prisoners are allowed to leave the jail premises without the court's authority in light of the complaint-affidavits of Reyes and Montilla against him that were executed before Atty. Puculan on 13 January 2015. However, the positive assertion by Reyes and Montilla that he personally talked with them inside the Provincial Warden's office is more credible than his bare denial. Notably, Montilla claimed that it was Mr. Antenorio who convinced them to talk with respondent Judge. If, indeed, he did not purposely talk with Reyes and Montilla, he could have easily obtained an affidavit or statement from Mr. Antenorio to refute such allegation, but he conveniently failed to do so.

Second, the allegation of Reyes that Naomi told her and Montilla that the drugs case against her (Naomi's) husband and his co-accused was dismissed by respondent Judge on 24 November 2014, as well as the allegation of Montilla that Naomi went to the Provincial Jail sometime in November 2014 to fetch her husband and relatives after they were acquitted by respondent Judge, are not without factual basis. As borne by the records of Criminal Case No. 15630, the Decision acquitting the accused in said case was promulgated on 24 November 2014 without the presence of all the accused, even if such presence is required under Section 6, Rule 120 of the Rules of Criminal Procedure, thereby making it necessary for Naomi to fetch her husband and his co-accused from the Provincial Jail. The consistency between the statements of Reyes and Montilla and the circumstances of said case, as borne by the records, makes the allegations of Reyes and Montilla credible.

It bears stressing that respondent Judge was furnished with a copy of the Investigation Report dated 10 February 2017 of Atty. Garcia, where said statements and circumstances of the subject criminal case were clearly outlined. It was also stated therein that Reyes claimed that Naomi told her that her husband and his co-accused obtained a favorable decision after paying respondent Judge the amount of Php 250,000.00. Atty. Garcia characterized the proceedings in the same criminal case as a *"patent irregularity"* since respondent Judge *"decided it with undue haste and without due regard to the procedural rules, resulting in the questionable acquittal of all the accused"* However, despite the gravity of the irregularity imputed to him and despite being required to comment thereon, respondent Judge offered not a single word to refute the findings and observations of Atty. Garcia, thereby giving the impression that respondent Judge has admitted such findings and observations.

The foregoing circumstances render the allegations of Reyes and Montilla not only admissible in evidence but also convincing, especially so that respondent Judge failed to offer any plausible imputation of ill motive, malice or bad faith on their part to make any false accusation against him. Montilla claims that she negotiated with respondent Judge over the phone regarding the amount he was asking in exchange for the dismissal of her case in the presence of Reyes and Naomi. Reyes corroborated Montilla's statement, having overheard the conversation between respondent Judge and Montilla as the phone was set on speaker mode. Montilla further claims that during the scheduled hearing of her case on 5