

EN BANC

[A.M. No. MTJ-07-1682, June 19, 2008]

ESTER F. BARBERO, COMPLAINANT, VS. JUDGE CESAR M. Dumlao, MUNICIPAL TRIAL COURT, SAN MATEO, ISABELA, RESPONDENT.

DECISION

PER CURIAM:

This is a complaint for gross ignorance of the law filed by Ester F. Barbero (Barbero) against Judge Cesar M. Dumlao (Judge Dumlao), Presiding Judge of the Municipal Trial Court, San Mateo, Isabela.

Barbero filed a criminal case^[1] for estafa against a certain Herman A. Medina (Medina). The case was raffled to Judge Anastacio D. Anghad (Judge Anghad), Presiding Judge of the Regional Trial Court (RTC), Judicial Region II, Branch 36, Santiago City, Isabela. On 19 February 2003, Judge Anghad issued a warrant of arrest^[2] commanding the proper officer to arrest Medina.

Medina was arrested by virtue of the warrant of arrest. However, Judge Dumlao approved Medina's bail and, on 9 May 2003, issued an order^[3] commanding the Bureau of Jail Management and Penology and the Philippine National Police to release Medina. Barbero alleged that Judge Dumlao's approval of Medina's bail and his order to release Medina were unlawful.

On 15 July 2003, the Office of the Court Administrator (OCA) received an affidavit-complaint^[4] from Barbero charging Judge Dumlao with gross ignorance of the law. In its 1st Indorsement^[5] dated 7 August 2003, the OCA directed Judge Dumlao to comment on the affidavit-complaint. Judge Dumlao ignored the 1st Indorsement. In its 1st Tracer^[6] dated 11 November 2003, the OCA directed Judge Dumlao to comment on the affidavit-complaint. Judge Dumlao ignored the 1st Tracer. In its 2nd Tracer^[7] dated 10 March 2004, the OCA directed Judge Dumlao to comment on the affidavit-complaint. Judge Dumlao ignored the 2nd Tracer. In a Resolution^[8] dated 6 April 2005, the Court directed Judge Dumlao to comment on the affidavit-complaint and to show cause why he should not be administratively dealt with for ignoring the OCA's directives. Judge Dumlao ignored the 6 April 2005 Resolution.

In a Resolution^[9] dated 17 August 2005, the Court reiterated its 6 April 2005 Resolution. Judge Dumlao ignored the 17 August 2005 Resolution. In a Resolution dated 6 February 2006, the Court fined Judge Dumlao P500 for ignoring its directives and directed Judge Dumlao to comply with the 17 August 2005 Resolution. Judge Dumlao ignored the 6 February 2006 Resolution. In Resolutions dated 18 September 2006 and 19 February 2007, the Court considered Judge

Dumlao to have waived his right to comment on the affidavit-complaint and resolved to proceed with the administrative case based on the pleadings already filed.

The Court finds Judge Dumlao liable for gross ignorance of the law and for violation of Court directives.

Section 17(a), Rule 114 of the Rules of Court provides:

SEC. 17. *Bail, where filed.* — (a) Bail in the amount fixed may be filed with the court where the case is pending, or in the absence or unavailability of the judge thereof, with any regional trial judge, metropolitan trial judge, municipal trial judge, or municipal circuit trial judge in the province, city, or municipality. If the accused is arrested in a province, city, or municipality other than where the case is pending, bail may also be filed with any regional trial court of said place, or if no judge thereof is available, with any metropolitan trial judge, municipal trial judge, or municipal circuit trial judge therein.

In *Cruz v. Judge Yaneza*,^[10] the Court held that:

There are prerequisites to be complied with. First, the application for bail must be filed in the **court where the case is pending**. In the absence or unavailability of the judge thereof, the application for bail must be filed with **another branch of the same court within the province or city**. Second, if the accused is arrested in a province, city or municipality other than where the case is pending, bail may be filed with any **regional trial court** of the place. (Emphasis ours)

The criminal case Barbero filed against Medina was pending before the RTC of *Santiago City*. Judge Anghad of the RTC issued the warrant of arrest, and Medina was arrested by virtue of that warrant.

Section 3, Rule 114 of the Rules of Court provides that no person under detention by legal process shall be released except when he is admitted to bail. Section 19 provides that the accused must be discharged upon approval of the bail by the judge with whom it was filed in accordance with Section 17. Section 17 provides that the bail may be filed with the *court where the case is pending*, unless (1) the judge in that court is absent or unavailable, or (2) the accused is arrested in a province, city, or municipality other than where the case is pending. If the judge is absent or unavailable, the bail should be filed with *another branch of the same court*. If the accused is arrested in a province, city, or municipality other than where the case is pending, the bail should be filed with *any RTC of the place*.

In the present case, there was no showing that Judge Anghad was absent or unavailable or that Medina was arrested outside Santiago City. Thus, Medina's bail should have been filed with Judge Anghad. Even if Judge Anghad were absent or unavailable or even if Medina were arrested in San Mateo, Judge Dumlao would still be liable because the bail should have been filed with another branch of the RTC in Santiago City or with the RTC of San Mateo, respectively.^[11]

Since the criminal case was pending before the RTC of Santiago City and there was no showing that Judge Anghad of the RTC was absent or unavailable, Judge Dumlao lacked authority to approve the bail and order Medina's release.

Barbero alleged that Judge Dumlao's acts of approving Medina's bail and ordering Medina's release were not in accordance with law:

[N]apag-alaman kox x x na [si Medina] ay basta na lang pinakawalan ni x x x Judge Cesar M. Dumlao ng Municipal Trial Court ng San Mateo, Isabela x x x;

[A]ng ginawa ni Judge Cesar M. Dumlao ay hindi naaayon sa batas sapagkat wala siyang kapangyarihang pakawalan x x x [si Medina];

[N]apag-alaman ko rin na ang pagrerelease na ginawa ni Judge Dumlao ay base sa [bail] na ipinakita sa kanya;

[S]a akin pong pagkakaalam, lahat po ng [bail] sa criminal cases ay dapat aksyunan at aprubahan ng hukom o judge na siyang may hawak ng asunto;

x x x x

[K]ung maaari po sana, dahil sa kawalang respeto [ni Judge] Cesar M. Dumlao sa ating batas x x x, ipinakikiusap [ko] na sana ay imbestigahan ang nasabing pagmamalabis at kawalan ng respeto[.]

The Court directed Judge Dumlao *several* times to comment on Barbero's allegations. Judge Dumlao opted to ignore all of the Court's directives. By his silence, Judge Dumlao admitted the truth of the allegations. In *Palon, Jr. v. Vallarta*,^[12] the Court held that silence is admission of the truth of the charges:

Respondent judge failed to comment on the complaint or file any responsive pleading or manifestation despite receipt of notice to do so. x x x The natural instinct of man impels him to resist an unfounded claim or imputation and defend himself. It is against human nature to just remain reticent and say nothing in the face of false accusations. Hence, **silence x x x is an admission of the truth of the charges. Respondent judge is deemed to have admitted the charges against him.** (Emphasis ours)

This is the second time Judge Dumlao unlawfully approved the bail and ordered the release of Medina. The instant case has exactly the same set of facts as *Lim v. Dumlao*.^[13] In that case (1) complainant filed two criminal cases for carnapping and theft against Medina; (2) the criminal cases were filed with the RTC, Judicial Region II, Branch 35, Santiago City, Isabela; (3) Judge Fe Albano Madrid of the RTC issued a warrant of arrest against Medina; (4) Medina was arrested by virtue of the warrant of arrest; (5) Judge Dumlao approved the bail of Medina; and (6) Judge Dumlao ordered the release of Medina.

In *Lim*,^[14] the Court held that:

It is not disputed that the criminal cases filed by complainant against Herman Medina were pending before the Regional Trial Court of Santiago City, Isabela, Branch 35. In fact, the warrant of arrest was issued by Judge Fe Albano Madrid, presiding judge of the said court. The order of

release therefore, on account of the posting of the bail, should have been issued by that court, or in the absence or unavailability of Judge Madrid, by another branch of an RTC in Santiago City. In this case, however, there is no proof that Judge Madrid was absent or unavailable at the time of the posting of the bail bond. In fact, complainant Lim avers that on the day [Judge Dumlao] ordered the release of Medina, Judge Madrid and *all* the judges of the RTC of Santiago City, Isabela were at their respective posts.

It is elementary that a municipal trial court judge has no authority to grant bail to an accused arrested outside of his territorial jurisdiction. The requirements of Section 17(a), Rule 114 x x x must be complied with before a judge may grant bail. **The Court recognizes that not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, but only in cases within the parameters of tolerable misjudgment. Where x x x the law is straightforward and the facts so evident, not to know it or to act as if one does not know it constitutes gross ignorance of the law.**

[Judge Dumlao] undeniably erred in approving the bail and issuing the order of release. He is expected to know that certain requirements ought to be complied with before he can approve Medina's bail and issue an order for his release. The law involved is rudimentary that it leaves little room for error. (Emphasis ours)

The acts of approving bail and ordering the release of accused whose cases are pending before other courts constitute gross ignorance of the law.^[15] Gross ignorance of the law is a serious offense^[16] punishable by (1) dismissal from the service, forfeiture of all or part of the benefits, except accrued leave credits, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations; (2) suspension from office without salary and other benefits for more than three but not exceeding six months; or (3) a fine of more than P20,000 but not exceeding P40,000.^[17]

Aside from *Lim*, the Court also found Judge Dumlao grossly ignorant of the law in *Pascual v. Judge Dumlao*.^[18] In that case, Judge Dumlao (1) hastily ordered the issuance of a temporary restraining order (TRO) without notice and hearing; (2) ordered the issuance of the TRO even though there was no showing of any grave or irreparable injury; (3) hastily granted a motion to deposit harvest without notice and hearing; and (4) failed to order the sheriff to render an accounting of the harvest.

Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary provides that competence is a prerequisite to the due performance of judicial office. Judge Dumlao lacks this prerequisite.

Judge Dumlao disrespected the Court by repeatedly refusing to comment on the affidavit-complaint. In its 1st Indorsement dated 7 August 2003, 1st Tracer dated 11 November 2003, and 2nd Tracer dated 10 March 2004, the OCA directed Judge Dumlao to comment on the affidavit-complaint. In its Resolutions dated 6 April