

EN BANC

[A.M. No. P-06-2182, August 12, 2008]

ALFREDO L. CAMUS, JR., COMPLAINANT, VS. REYNALDO L. ALEGRE, CLERK OF COURT, MUNICIPAL TRIAL COURT, PANIQUI, TARLAC, RESPONDENT.

DECISION

PER CURIAM:

On July 7, 2005, the Office of the Court Administrator (OCA) received a letter^[1] from Alfredo L. Camus, Jr. requesting an investigation of Direct Bribery filed against Reynaldo L. Alegre, Clerk of Court, Municipal Trial Court, Paniqui, Tarlac. Camus attached to said letter the following documents:

- 1) Information dated 20 May 2005 filed by Atty. Aladin C. Bermudez, Jr., Acting Provincial Prosecutor;
- 2) Affidavit of Laureano Mamaba y. Salvador and Darmie Castillo-Mamaba of Barangay Mabilang, Paniqui, Tarlac;
- 3) Affidavit of arrest executed by SPO3 Bobby A. Madamba, PNP; SPO1 James D. Lacamento, PNP; PO3 Romeo S. Parchamento, PNP and PO2 Jeffrey Ibanes, PNP, all members of the Paniqui Police Station, Paniqui, Tarlac; and
- 4) Release Order of accused Reynaldo L. Alegre dated 20 May 2005 issued by Judge Cesar M. Sotero of the RTC, Branch 67, Paniqui, Tarlac.

The OCA requested from Judge Cesar M. Sotero of the Regional Trial Court of Paniqui, Tarlac, Branch 67, certified true copies of said documents, and found that:

1. The son of Sps. Laureano Mamaba and Darmie Mamaba has a pending criminal case for Reckless Imprudence Resulting to Serious Physical Injury and Damage to Property at the Municipal Trial Court of Paniqui, Tarlac. A warrant of arrest was issued by the court and the son was subsequently arrested and detained by the PNP, Paniqui, Tarlac.
2. Sps. Mamaba coordinated with respondent Clerk of Court Reynaldo L. Alegre for the release of their son.
3. On 19 May 2005, at 8:30 in the morning, Sps. Mamaba met with respondent who demanded P3,000.00 in exchange for the release order. However, the spouses had with them only P1,000.00 which respondent accepted with the condition that the spouses should

raise the remaining P2,000.00.

4. Sps. Mamaba coordinated right away with the PNP of Paniqui, Tarlac and an entrapment operation was undertaken the afternoon of the same day.
5. Respondent was arrested by the PNP right after he received from the Sps. Mamaba the envelope containing marked money in the amount of P1,000.00. Later, the marked money was recovered from the drawer of respondent, in the presence of Judge Gregorio Rosete and Mayor Elpidio Ibarra.
6. On 20 May 2005, a Release Order was issued by Judge Cesar M. Sotero of RTC, Branch 67, Paniqui, Tarlac, the respondent having posted a cash bond in the amount of P20,000.00 on the same date.

On June 21, 2006, respondent was directed to file comment. He was likewise placed under preventive suspension "pending the final outcome of the criminal case against him."^[2]

In his Comment,^[3] respondent alleged that the Sps. Mamaba executed an Affidavit of Desistance hence the Information for Direct Bribery filed against him was ordered dismissed; that he did not demand money from the Sps. Mamaba but that out of gratitude for the release of their son, the Sps. Mamaba gave him an envelope containing some amount for the "snacks" of the court personnel; that he refused to accept the envelope but Darmie Mamaba placed the same inside one of his open drawers; that there was no truth to the narration of the arresting police officers on how he was apprehended; that he immediately informed the police officers about the contents of the envelope which showed his innocence of the charge filed against him.

On October 12, 2006, respondent filed a Motion to Dismiss the instant case in view of the dismissal of the charge for direct bribery.^[4]

On January 15, 2007, this Court referred the matter to Narciso T. Atienza, a Consultant of the OCA for evaluation, report and recommendation.^[5] The case was set for hearing three times but Camus failed to appear hence, respondent moved for its dismissal.

Instead of dismissing the case, the Consultant recommended that the investigation be referred to the Executive Judge of the Regional Trial Court of Tarlac, based on the Evaluation^[6] that:

Prosecutor Bermudez erred in issuing a resolution dismissing the complaint filed against accused Reynaldo Alegre based on the alleged affidavit of desistance executed by private complainants Laureano and Darmie Mamaba. The Office of the Provincial Prosecutor of Tarlac had already lost jurisdiction of the case after the information was filed in court. Since the court had directed Prosecutor Bermudez to conduct the requisite preliminary investigation pursuant to Section 7, Rule 112 of the Rules of Court, it is his duty to submit to the court a report on the result

of the preliminary investigation. He may file a motion to withdraw or dismiss information if evidence adduced during the preliminary investigation so warrants. Only the court can order the dismissal of the information since it has already acquired jurisdiction over the case and the person of the accused after the latter had posted a bond for his provisional liberty.

On the other hand, the presiding [judge] RTC, Branch 67, Paniqui, Tarlac also erred when he ordered the dismissal of the information for Direct Bribery (Criminal Case No. 2371-05) against accused Reynaldo Alegre on the basis of the motion filed by counsel for the accused without the conformity/approval of the Prosecutor. All criminal prosecutions, either commenced by a complaint or information, shall be prosecuted under the direction and control of the public prosecutor. Prosecution of offenses is a matter of public interest and it is the duty of the government to prosecute cases until its termination. Direct bribery is a crime against the state or a public offense which cannot be dismissed based on the affidavit of desistance executed by the private complainants.

x x x x

The dismissal of the criminal information filed against herein respondent in RTC, Branch 67, Paniqui, Tarlac, did not render the instant administrative case moot and academic. The Court retains jurisdiction over the case either to pronounce respondent innocent of the charge or declare him guilty thereof. Administrative investigation is different from criminal prosecution and the dismissal of the latter is not a bar to the former.

x x x x [7]

Thus, on June 13, 2007, the Court resolved to direct the Executive Judge of the Regional Trial Court of Paniqui, Tarlac, to conduct a formal investigation of the case, [8] to wit:

Upon recommendation of Hon. Atienza, the Court resolves to *DIRECT* the Executive Judge of the RTC, Paniqui, Tarlac, to conduct a formal investigation of the case and submit his report and **recommendation** thereon within ninety (90) days from receipt of the records. (Emphasis supplied)

The Resolution was followed by a letter dated July 9, 2007, of then Deputy Court Administrator Jose P. Perez directing Judge Liberty O. Castañeda, thus:

The investigation should be private and confidential and should be completed within the period stated in the Resolution computed from the receipt hereof. A report containing the findings of facts, the conclusions of law and your **recommendation**, in at least five (5) legible copies, together with the complete records of the case, the evidence adduced by the parties, and the transcript of the stenographic notes taken, must be submitted to the **Court** immediately for **final action**. (Emphasis supplied)

However, in an Order^[9] dated August 14, 2007, Judge Liberty O. Castañeda ruled, thus:

ORDER

In today's hearing, only the respondent Reynaldo L. Alegre appeared. The complainant, Mr. Alfredo Camus, Jr. for the third time, did not appear despite due notice for the last three (3) hearings.

As prayed for by the respondent, for the apparent lack of interest of Alfredo Camus, Jr., this case is hereby DISMISSED.

x x x x

In its Memorandum of April 14, 2008, the OCA noted that Investigating Judge Castañeda erred in ordering the dismissal of the complaint due to the alleged lack of interest on the part of complainant Camus. The OCA observed that Camus filed the instant administrative complaint as a taxpayer and concerned citizen; and that he was not privy to the alleged misconduct of respondent Alegre. Thus, according to the OCA, the Investigating Judge should have summoned not only Camus, but also the Sps. Mamaba, in order to ferret out the truth.

The OCA also observed that despite the failure of Camus to appear during the hearing, respondent Alegre is not entirely without liability. The OCA opined that Alegre could be held liable for Conduct Prejudicial to the Best Interest of the Service because although it was not established that he demanded money from the Sps. Mamaba, the envelope containing P1,000.00 intended for the snacks of the court personnel was found inside his drawer.

The OCA^[10] recommended, thus:

- (1) That Reynaldo L. Alegre, Clerk of Court, MTC, Paniqui, Tarlac, be found GUILTY of Conduct Prejudicial to the Best Interest of the Service.
- (2) That the period of one-and-a-half years (1 ½) Clerk of Court Alegre has served while under preventive suspension be CONSIDERED AS SUFFICIENT SERVICE OF THE PENALTY for the offense;
- (3) That the preventive suspension of Clerk of Court Alegre be immediately LIFTED; and
- (4) That Clerk of Court Alegre be STERNLY WARNED that a repetition of the same act or a similar infraction in the future shall be dealt with more severely by the Court.

At the outset, we do not agree with the order of Investigating Judge Castañeda dismissing the instant case based on the alleged lack of interest on the part of complainant Camus. It will be recalled that in the Court's Resolution of June 13, 2007, the Investigating Judge was given recommendatory powers only, to wit: