

EN BANC

[A.M. NO. RTJ-99-1460, March 31, 2006]

OFFICE OF THE COURT ADMINISTRATOR, PETITIONER, VS. JUDGE FLORENTINO V. FLORO, JR., RESPONDENT

D E C I S I O N

CHICO-NAZARIO, J.:

"Equity does not demand that its suitors shall have led blameless lives."

Justice Brandeis, *Loughran v. Loughran*^[1]

THE CASES

The First Case: A.M. No. RTJ-99-1460 (*Office of the Court Administrator v. Judge Florentino V. Floro, Jr.*).

It was in 1995 that Atty. Florentino V. Floro, Jr. first applied for judgeship. A pre-requisite psychological evaluation on him then by the Supreme Court Clinic Services (SC Clinic) revealed "(e)vidence of ego disintegration' and "developing psychotic process." Judge Floro later voluntarily withdrew his application. In June 1998, when he applied anew, the required psychological evaluation exposed problems with self-esteem, mood swings, confusion, social/interpersonal deficits, paranoid ideations, suspiciousness, and perceptual distortions. Both 1995 and 1998 reports concluded that Atty. Floro was unfit to be a judge.

Because of his impressive academic background, however, the Judicial and Bar Council (JBC) allowed Atty. Floro to seek a second opinion from private practitioners. The second opinion appeared favorable thus paving the way to Atty. Floro's appointment as Regional Trial Court (RTC) Judge of Branch 73, Malabon City, on 4 November 1998.

Upon Judge Floro's personal request, an audit on his sala was conducted by the Office of the Court Administrator (OCA) from 2 to 3 March 1999.^[2]

After conducting the audit, the audit team, led by Atty. Mary Jane Dacarra-Buenaventura, reported its findings to erstwhile Court Administrator, Alfredo L. Benipayo, who submitted his own report/memorandum^[3] to then Chief Justice Hilario G. Davide, Jr. dated 13 July 1999 recommending, among other things, that his report be considered as an administrative complaint against Judge Floro and that Judge Floro be subjected to an appropriate psychological or mental examination. Court Administrator Benipayo recommended as well that Judge Floro be placed under preventive suspension for the duration of the investigation against him.

In a Resolution^[4] dated 20 July 1999, the Court en banc adopted the recommendations of the OCA, docketing the complaint as A.M. No. RTJ-99-1460, in view of the commission of the following acts or omissions as reported by the audit team:

(a) The act of circulating calling cards containing self-laudatory statements regarding qualifications and for announcing in open court during court session his qualification in violation of Canon 2, Rule 2.02, Canons of Judicial Conduct;

(b) For allowing the use of his chambers as sleeping quarters;

(c) For rendering resolutions without written orders in violation of Rule 36, Section 1, 1997 Rules of Procedures;

(d) For his alleged partiality in criminal cases where he declares that he is pro-accused which is contrary to Canon 2, Rule 2.01, Canons of Judicial Conduct;

(e) For appearing and signing pleadings in Civil Case No. 46-M-98 pending before Regional Trial Court, Branch 83, Malolos, Bulacan in violation of Canon 5, Rule 5.07, Canons of Judicial Conduct which prohibits a judge from engaging in the private practice of law;

(f) For appearing in personal cases without prior authority from the Supreme Court and without filing the corresponding applications for leaves of absence on the scheduled dates of hearing;

(g) For proceeding with the hearing on the Motion for Release on Recognizance filed by the accused without the presence of the trial prosecutor and propounding questions in the form of examination of the custodian of the accused;

(h) For using/taking advantage of his moral ascendancy to settle and eventually dismiss Criminal Case No. 20385-MN (for frustrated homicide) in the guise of settling the civil aspect of the case, by persuading the private complainant and the accused to sign the settlement even without the presence of the trial prosecutor;

(i) For *motu proprio* and over the strong objection of the trial prosecutor, ordering the mental and physical examination of the accused based on the ground that the accused is "mahina ang pick-up";

(j) For issuing an Order on 8 March 1999 which varies from that which he issued in open court in Criminal Case No. 20385-MN, for frustrated homicide;

(k) For violation of Canon 1, Rule 1.01 Code of Judicial Conduct when he openly criticized the Rules of Court and the Philippine justice system;

(l) For the use of highly improper and intemperate language during court proceedings;

(m) For violation of Circular No. 13[5] dated 1 July 1987.

Per the same resolution of the Court, the matter was referred to Retired Court of Appeals Justice Pedro Ramirez (consultant, OCA) for investigation, report and recommendation within 60 days from receipt. Judge Floro was directed to comment within ten days from receipt of the resolution and to subject himself to an appropriate psychological or mental examination to be conducted "by the proper office of the Supreme Court or any duly authorized medical and/or mental institution." In the same breath, the Court resolved to place Judge Floro under preventive suspension "for the duration of the investigation of the administrative charges against him." He was barely eight months into his position.

On 20 August 1999, Judge Floro submitted a Verified Comment where he set forth both affirmative and negative defenses^[6] while he filed his "Answer/Compliance" on 26 August 1999.

On 3 March 2000, Judge Floro moved for the provisional/final dismissal of his case for failure to prosecute.^[7] However, on 21 March 2000, he presented himself as his first witness in the hearing conducted by Justice Ramirez.^[8] Subsequently, on 7 July 2000, Judge Floro filed a "Petition for Inhibition/Disqualification" against Justice Ramirez as investigator^[9] which was denied by Justice Ramirez in an Order dated 11 July 2000.^[10] Judge Floro's motion for reconsideration^[11] suffered the same fate.^[12] On 27 July 2000, Judge Floro submitted the question of Justice Ramirez's inhibition/disqualification to this Court.^[13] On 8 August 2000, the Court ruled against the inhibition of Justice Ramirez.^[14]

On 11 September 2000, the OCA, after having been ordered by the Court to comment on Judge Floro's motion to dismiss,^[15] recommended that the same should be denied.

Judge Floro presented his last witness on 6 March 2001.^[16] The day after, Justice Ramirez came out with a "Partial Report" recommending the dismissal of Judge Floro from office "by reason of insanity which renders him incapable and unfit to perform the duties and functions of Judge of the Regional Trial Court, National Capital Judicial Region, Malabon, Metro Manila, Branch 73."^[17]

In the meantime, throughout the investigation of the 13 charges against him and even after Justice Ramirez came out with his report and recommendation on 7 March 2001, Judge Floro had been indiscriminately filing cases against those he perceived to have connived to boot him out of office.

A list of the cases Judge Floro filed in the wake of his 20 July 1999 preventive suspension follows:

1. OCA IPI No. 00-07-OCA — against Atty. Mary Jane Dacarra-Buenaventura, Team Leader, Judicial Audit Team, Office of the Court

Administrator^[18]

2. OCA IPI No. 00-933-RTJ — against Judge Benjamin Aquino, Jr., Regional Trial Court, Branch 72, Malabon City^[19]
3. AC No. 5286 — against Court Administrator Alfredo L. Benipayo and Judge Benjamin Aquino, Jr.^[20]
4. AC No. CBD-00-740 — against Thelma C. Bahia, Court Management Office, Atty. Mary Jane Dacarra-Buenaventura, Atty. II, Court Management Office, both of the Office of the Court Administrator and Atty. Esmeralda G. Dizon, Branch Clerk of Court, Branch 73, Malabon^[21]
5. AC No. 6282 (CPL No. C-02-0278) — against former Court Administrator Justice Alfredo L. Benipayo and (Ret.) Justice Pedro A. Ramirez, Consultant, Office of the Court Administrator^[22]
6. A.M. No. 03-8-03-0 — against (Ret.) Justice Pedro A. Ramirez^[23]
7. A.C. No. 6050 — against (Ret.) Justice Pedro A. Ramirez^[24]

On 1 February 2006, Judge Floro moved that the cases he filed, now totaling seven, be dismissed.^[25] On 14 February 2006, the Court granted the motion to dismiss.^[26]

The Second Case: A.M. No. RTJ-06-1988 (*Luz Arriego v. Judge Florentino V. Floro, Jr.*).

This charge is likewise the subject matter of charge "h" in A.M. No. RTJ-99-1460: "(f)or using/taking advantage of his moral ascendancy to settle and eventually dismiss Criminal Case No. 20385-MN (for frustrated homicide) in the guise of settling the civil aspect of the case, by persuading the private complainant and the accused to sign the settlement even without the presence of the trial prosecutor." The complainant Luz Arriego is the mother of the private complainant in Criminal Case No. 20385-MN.

On 28 June 2001, Arriego testified, while court stenographer Jocelyn Japitenga testified on 16 July 2001. On 31 July 2001, Arriego filed her Formal Offer of Evidence which was opposed by Judge Floro on 21 August 2001. On 5 September 2001, Judge Floro testified on his behalf while Atty. Galang testified against him on 4 October 2001. On 16 October 2001, Judge Floro filed a Memorandum in this case.^[27]

The Third Case: A.M. No. 99-7-273-RTC (*Re: Resolution Dated 11 May 1999 of Judge Florentino V. Floro, Jr.*).

As can be gathered from the title, this case concerns a resolution issued by Judge Floro on 11 May 1999 in Special Proceeding Case No. 315-MN "In Re: Petition To Be Admitted A Citizen Of The Philippines, Mary Ng Nei, Petitioner." The resolution disposed of the motions for voluntary inhibition of Judge Floro and the

reconsideration of the order denying the petition for naturalization filed by petitioner in that case, Mary Ng Nei.

This resolution found its way to the OCA through a letter written by Atty. David S. Narvasa, the petitioner's counsel.^[28] The OCA, through Court Administrator Benipayo, made the following evaluation:

In the subject resolution, Judge Floro, Jr. denied the motion for inhibition and declared it as null and void. However, he ordered the raffling of the case anew (not re-raffle due to inhibition) so that the petitioner, Mary Ng Nei, will have a chance to have the case be assigned to other judges through an impartial raffle.

When Judge Floro, Jr. denied the motion for inhibition, he should have continued hearing and taking cognizance of the case. It is improper for him to order the raffle of the case "anew" as this violates Administrative Circular No. 1 (Implementation of Sec. 12, Art. XVIII of the 1987 Constitution) dated January 28, 1988 which provides to wit:

"8. Raffle of Cases:

x x x x

8.3 Special raffles should not be permitted *except on verified application of the interested party who seeks issuance of a provisional remedy and only upon a finding by the Executive Judge that unless the special raffle is conducted, irreparable damage shall be suffered by the applicant.* The special raffle shall be conducted by at least two judges in a multiple-sala station.

x x x x"

Based on the foregoing, a judge may not motu proprio order the special raffle of a case since such is only allowed upon a verified application of the interested party seeking a provisional remedy and only upon the Executive Judge's finding that if a special raffle is not conducted, the applicant will suffer irreparable damage. Therefore, Judge Floro, Jr.'s order is contrary to the above-mentioned Administrative Circular.

Moreover, it is highly inappropriate for Judge Floro, Jr. to even mention in his resolution that Justice Regino C. Hermosisima, Jr. is his benefactor in his nomination for judgeship. It is not unusual to hear a judge who speaks highly of a "padrino" (who helped him get his position). Such remark even if made as an expression of deep gratitude makes the judge guilty of creating a dubious impression about his integrity and independence. Such flaunting and expression of feelings must be suppressed by the judges concerned. A judge shall not allow family, social, or other relationships to