

SECOND DIVISION

[G.R. No. 149685, April 28, 2004]

**JUDGE PROCESO SIDRO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES AND SANDIGANBAYAN, 5TH DIVISION,
RESPONDENTS.**

D E C I S I O N

CALLEJO, SR., J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court of the Decision^[1] of the Sandiganbayan in Criminal Case No. 17567 entitled *People vs. Judge Proceso Sidro* convicting the accused therein of violating Section 3(e) of Republic Act No. 3019,^[2] as amended.

The Indictment

Petitioner Judge Proceso Sidro was charged in the Sandiganbayan with violation of Section 3(e) of Rep. Act No. 3019, as amended. The accusatory portion of the Information reads:

That on or about the 4th day of June 1990, and for some time subsequent thereto, in the Municipality of Mondragon, Province of Northern Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then the Presiding Judge of the 5th Municipal Circuit Trial Court of Mondragon, Northern Samar, while in the performance of his official functions and committing the offense in relation to his office, did then and there willfully, unlawfully, criminally and through evident bad faith cause undue injury to one ROQUE VICARIO, FE CARDENAS and AGUSTIN CARDENAS in the following manner: accused, after having received the amount of ONE THOUSAND PESOS (P1,000.00), Philippine Currency, from Fe Cardenas and Agustin Cardenas as the cash bond for the liberty of Roque Vicario in Criminal Case No. 5671, failed to deposit the same with the Clerk of Court and retained possession of it even after the aforesaid criminal case was provisionally dismissed on September 14, 1990, and thereafter, unjustifiably refused to return it to Roque Vicario or Fe Cardenas or Agustin Cardenas, thus causing pecuniary damage and prejudice to the latter who were deprived of the ownership and use of their money in the aforestated sum.

CONTRARY TO LAW.^[3]

The petitioner was duly arraigned, assisted by counsel, and entered a plea of not guilty.^[4]

The Evidence of the Prosecution

Roque Vicario, a driver employed in the Integrated Provincial Health Office in Mondragon, Northern Samar, was charged with resisting arrest as defined in Article 151 of the Revised Penal Code. The Information was filed in the sala of the petitioner, the Municipal Circuit Trial Court of Mondragon-San Roque, Northern Samar, and was docketed as Criminal Case No. 5671. The petitioner issued a warrant for the arrest of Vicario with a bail of P20,000.00 for his provisional liberty.

[5] However, the petitioner reduced the amount to P10,000.00.[6]

On June 4, 1990, Vicario was arrested while on his way to the Municipal Treasurer's office on the basis of the warrant issued by the petitioner. Vicario asked a tricycle driver to deliver a note to his friend, Fe Cardenas-Castillo. The driver agreed and delivered the note to Castillo.[7] In the said note, Vicario asked Castillo to borrow P1,000.00 from his officemate, Baby Alamil, for his bail bond.[8] Castillo was able to borrow only P500.00 from Alamil, and brought the money to Vicario in the municipal jail.[9] Vicario instructed Castillo to deliver the money to Luz, an employee of the Municipal Trial Court (MTC). Castillo did as she was told. However, Luz gave the money to Mila Mendez, another employee of the MTC.[10]

At around 3:00 p.m., Mila accompanied Castillo to the petitioner's residence near the municipal building where Mila gave the money to the petitioner.[11] Upon the petitioner's instructions, Castillo signed a bail bond, where the cash bail was fixed at P1,000.00. The petitioner told her that the amount was short by P500.00; hence, Vicario could not be released from jail. Castillo promised to deliver the balance of P500.00.

In the meantime, Vicario remained in jail. He managed to produce P500.00 and asked his close friend Agustin Cardenas, Fe Castillo's father, and a store owner, to deliver the amount to the petitioner so as to complete his cash bond of P1,000.00.[12]

On June 5, 1990, Cardenas and his daughter, Fe Castillo, arrived at the MTC to see the petitioner, but the latter was not in court. Cardenas informed Mila Mendez that he wanted to talk to the petitioner, and Mendez accompanied him to the petitioner's residence. When apprised that Cardenas already had P500.00 to complete Vicario's P1,000.00 cash bond, the petitioner ordered him to give him the P500.00.[13] Cardenas reminded the petitioner that the money should be remitted to the municipal treasurer, and the latter replied, "*It can be paid with me. Anyway, when the case is dismissed, it will be easy for you to get the money.*"[14] Cardenas politely requested the petitioner to issue a receipt for the amount of P1,000.00, including the P500.00 given by Castillo to the petitioner the day before. The petitioner obliged and prepared, in his own handwriting, a signed receipt in the presence of Mendez, who affixed her signature thereon as a witness.[15] The Receipt reads:

June 4/90

Provisional Receipt

Received the amount of One Thousand Pesos from Agustin Cardenas

For Roque Vicario in Crim. Case No. 5671
For deposit with the treasurer's office.

(Sgd.) Proceso C. Sidro

Witness:

Mila C. Mendez^[16]

The petitioner explained to Cardenas and Castillo that he dated the receipt June 4, 1990 because it was on that day that Castillo had given him the first P500.00. However, the petitioner required Vicario to sign a bail bond with Castillo as the surety therein.^[17]

At 2:30 p.m. that day, the petitioner proceeded to the municipal jail and ordered the jail warden to release the petitioner. The warden complied with the petitioner's verbal order and released Vicario from detention. Vicario signed the bail bond and subscribed and swore to the truth thereof before the petitioner. The release of Vicario from jail on orders of the petitioner was placed in the police blotter.^[18]

Meanwhile, Cardenas gave the receipt signed by the petitioner to Vicario. The petitioner did not deposit the P1,000.00 cash bond with the Office of the Municipal Treasurer of Mondragon, nor with the nearest internal revenue collector or provincial treasurer.

On September 14, 1990, the petitioner issued an Order dismissing Criminal Case No. 5671, provisionally, on motion of the public prosecutor.^[19]

Vicario wanted to withdraw his P1,000.00 cash bond. He inquired from the Office of the Municipal Treasurer whether the amount had been deposited by the petitioner, and was told that there was no such deposit.^[20]

During the first week of October 1990, Vicario, Agustin and Castillo went to the house of the petitioner to get back the P1,000.00 cash bond, earlier remitted to the petitioner in two installments on June 4 and 5, 1990. However, the petitioner told Vicario, *"Roque, you wait until November when I get my bonus because I will be able to pay you then. I was able to use your money."*^[21] Vicario agreed to return in November. But when Vicario and Agustin saw the petitioner anew on November 30, 1990, the petitioner got peeved and told Vicario, *"Roque, what do you really want? Do you want your case to be revived against you?"* Vicario pleaded to the petitioner not to revive the case against him.^[22] The petitioner told Vicario to file a motion with the court for the refund of his P1,000.00.

Vicario decided to charge the petitioner for violation of the Anti-Graft Law with the Office of the Ombudsman (Visayas). Vicario then executed his Affidavit-Complaint against the petitioner on December 11, 1990. ^[23] He also filed a copy of his Affidavit-Complaint with the Supreme Court, which was docketed as Administrative Matter No. MTJ-91-508.

The Evidence of the Petitioner

The petitioner had been the presiding judge of the Municipal Circuit Trial Court of Mondragon-San Roque, Northern Samar, since October 10, 1984.^[24] The MCTC was located in a private house rented by the government, about 50 meters away from the municipal building. In the past, cash bonds deposited in the Office of the Municipal Treasurer were withdrawn without the corresponding order from the court. Since then, Joel Escareal, the Municipal Treasurer of Mondragon, Northern Samar, refused to accept cash bond deposits for the accused in the MCTC of San Roque-Mondragon.^[25] The petitioner was aware of this policy.^[26] Some accused resorted to depositing their cash bonds in the Office of the Municipal Treasurer of San Roque.

Roque Vicario was charged in the Municipal Court of San Roque, Mondragon, with violation of Article 151 of the Revised Penal Code, docketed as Criminal Case No. 5671. The petitioner issued a warrant for Vicario's arrest and fixed bail in the amount of P20,000.00 for the latter's provisional liberty. The petitioner later reduced the amount to P10,000.00.^[27] Vicario was arrested on June 4, 1990.

In the afternoon of the same day, Cardenas and his daughter, Fe Castillo, arrived in the petitioner's office to deposit the cash bail of Vicario. Luz Malabago helped them prepare the bail bond to be signed by Vicario with his picture pasted on the dorsal portion thereof. The amount of P500.00 as cash bond was handwritten on the spaces provided therefor. Castillo affixed her signature on the bond as surety. However, the petitioner agreed to reduce the bail for the provisional liberty of Vicario from P10,000.00 to P1,000.00. Castillo gave the P1,000.00 to the petitioner^[28] who ordered Court Stenographer Remedios Bantilo to deposit the amount in the Office of the Municipal Treasurer of Mondragon. By then, it was already 4:30 p.m. Although she already knew that the Municipal Treasurer's Office would not accept the cash bond, Bantilo still proceeded to the said office only to be told by Municipal Treasurer Joel Escareal that he would not accept the deposit.^[29] Bantilo returned to the court and returned the amount to the petitioner.^[30] She informed the petitioner that the Office of the Municipal Treasurer of Mondragon had refused to accept the P1,000.00. The petitioner signed a handwritten receipt for the amount of P1,000.00 returned by Bantilo "for deposit with the treasurer's office."^[31] The petitioner then issued an order for Vicario's release from the municipal jail. The order was served on the jail warden through the court personnel. The jail warden released Vicario at 2:20 p.m.^[32]

Sometime in July or August, Municipal Treasurer Escareal died.^[33] On September 14, 1990, the petitioner issued an Order provisionally dismissing Criminal Case No. 5671.^[34]

One afternoon in the second week of October 1990, Cardenas and his daughter, Fe Castillo arrived in the office of the petitioner asking for the return of Vicario's P1,000 cash bond. The petitioner suggested that Castillo file a motion for the withdrawal of the said amount. However, no such motion was filed. On October 30, 1990, the petitioner issued an Order directing the return of the P1,000.00 to Castillo, care of Vicario, upon proper motion to withdraw and the execution of a receipt thereof.^[35] Although Vicario received a copy of the said order, he did not file any motion. The petitioner turned over, on the said date, the P1,000.00 to Clerk of Court Pompeyo Jimena. The petitioner also instructed Jimena to deposit the amount in the Office of

the Municipal Treasurer of Mondragon as soon as a new municipal treasurer was appointed.^[36] In the meantime, Jimena kept the money.

On January 18, 1991, the petitioner issued an Order directing the Clerk of Court to deposit the P1,000.00 with the municipal treasurer pending the filing of a motion for the withdrawal of the amount. However, the petitioner took the original of the order and failed to return the same.^[37]

In the meantime, a new municipal treasurer of Mondragon was appointed. On February 4, 1991, Jimena deposited the P1,000.00 with the Municipal Treasurer's Office of Mondragon which accepted the said deposit and issued Official Receipt No. 0800898 dated February 4, 1991.^[38]

Unknown to the petitioner, Vicario had executed an Affidavit-Complaint against him on December 11, 1990 for violation of Rep. Act No. 3019, as amended, and filed the same with the Office of the Ombudsman (Visayas), docketed as OMC-2-90-2871. Vicario also filed his Affidavit-Complaint in the Supreme Court. The petitioner learned about the said charges on February 21, 1991. On July 30, 1991, Graft Investigation Officer II Avito P. Cahig issued a Resolution recommending the dismissal of Vicario's complaint.^[39] The Supreme Court, on October 15, 1991, likewise, dismissed the complaint of Vicario.^[40] However, upon review by Special Prosecution Officer III Teresita V. Diaz-Baldos, the Ombudsman rejected the initial recommendation and approved the filing of the Information against the petitioner.

After trial, the Sandiganbayan rendered judgment convicting the petitioner of the crime charged. The decretal portion of the decision reads:

WHEREFORE, PREMISES CONSIDERED, the Court finds the accused, JUDGE PROCESO SIDRO Y CESISTA, "GUILTY" beyond reasonable doubt of the crime of Violation of Section 3(e) of R.A. 3019, as amended and is hereby sentenced to suffer the penalty of SIX (6) years and ONE (1) month, as minimum, to SEVEN (7) years, as maximum, and also perpetual disqualification from public office.

He is further ordered to pay private complainants the amount of P1,000.00, and to pay the costs of suit.

The Clerk of Court is hereby directed to furnish the Office of the Court Administrator, Supreme Court of the Philippines, Manila, a copy of this decision.^[41]

The petitioner seeks the reversal of the decision of the Sandiganbayan, contending as follows:

The 5th Division of the Honorable Sandiganbayan erred in finding that the petitioner committed evident bad faith in accepting the money posted as cash bond in favor of Roque Vicario in Criminal Case No. 5671; in failing to deposit the said amount with the Clerk of Court, and; in retaining possession of the money even after the provisional dismissal of Criminal Case No. 5671 on September 14, 1990;