

SECOND DIVISION

[**A.M. No. P-04-1882 (Formerly OCA IPI No. 03-1539-P), September 30, 2004**]

**ANTONIO N. PASCUAL, COMPLAINANT, VS. BANAAG ALVAREZ,
CLERK OF COURT, METC, BRANCH 80, MUNTINLUPA CITY,
RESPONDENT.**

RESOLUTION

AUSTRIA-MARTINEZ, J.:

The present administrative case against respondent Banaag Alvarez, Clerk of Court, Metropolitan Trial Court (MeTC), Branch 80 of Muntinlupa City, arose from a letter-complaint of Antonio Pascual filed on January 13, 2003, which reads:

1. April, 1999, nagsampa po ako ng kaso sa Prosecutor Office ng Muntinlupa.
2. Makaraan ang dalawang buwan ako po ay bumalik at nagbayad ng Filing Fee, at LRF.
3. Ng ako'y nakauwi makatapos magbayad, tumawag si MRS. EVANGELINE TORREGOZA sa akin, sinabi niya na tinawagan siya ng Clerk of Court at siya ay sinampahan ko ng kaso. Malakas daw siya sa korte at see you in Court sabi niya sa akin.
4. After one week pinuntahan ko po si MR. BANAAG ALVAREZ at tinanong ko kung may piyansa na si MRS. TORREGOZA at IMELDA SERENO. Sabi ko kukuha ako ng warrant of arrest kung hindi siya piyansado. Sabi ni MR. ALVAREZ hindi raw niya ako bibgyan ng Warrant of Arrest dahil karapatan daw ng akusado magpiyansa, ang sabi ko po kay Mr. ALVAREZ hindi niya ginagampanan ang responsibilidad niya bilang akusado paano naman ang karapatan ko bilang biktima. Bumalik na lang daw ako sa hapon.
5. Nang ako'y bumalik ng hapon. Inabot sa akin ng Clerk of Court na si MR. BANAAG ALVAREZ ang Warrant of Arrest kasabay ang recall of Warrant of Arrest. Na sa aking sariling panuri magkaiba ang pirma.
6. Bakit po ang laki ng disparity sa amount ng bail bond ni MRS. TORREGOZA at MISS SERENO. Original (copy of the court P61,000.00) vs. duplicate (copy of the bonding company P15,000.00) see attachment.
7. Bakit po sinangayonan ni Judge at ng Notary Public ang ganito?^[1]

Required to comment, respondent Alvarez prayed for the dismissal of the complaint for lack of merit.^[2]

When the matter was referred to the Office of the Court Administrator (OCA), it recommended that the case be referred to the Executive Judge of the Regional Trial

Court of Muntinlupa City for investigation, report and recommendation.^[3] Hence, in a Resolution dated July 9, 2003, the Court referred the complaint to the Executive Judge of the Regional Trial Court of Muntinlupa City.^[4]

Accordingly, Executive Judge Juanita T. Guerrero conducted hearings on the case. In her Fiscal Report, she summarized the testimonies of the parties as follows:

ANTONIO PASCUAL Y NAVARRO is the private complainant in Criminal Cases Nos. 34819 to 34821 against Evangeline Torregoza and Baby Sereno which are pending before the Metropolitan Trial Court of Muntinlupa City (MTC), Branch 80. Two (2) months after he filed the case against Torregoza and Sereno with the Office of the City Prosecutor of Muntinlupa, or sometime on June 24, 1999, he was made to file the Information and was required to pay the filing fee and the Legal Research Fund (LRF) with the MTC. When he reached home, he received a call from Torregoza telling him: that the Clerk of Court called her up regarding the case that he filed against her; that she was influential in said court; and that she will just see him in court. Two (2) weeks after receiving said call, he inquired from Mr. Alvarez whether Torregoza has already posted a bond and that if she had not done so, he would like to get a copy of the Warrant of Arrest. Mr. Alvarez told him that he could not give him a copy of said Warrant because it is the right of the accused to post a bail bond and asked him to just return in the afternoon. He insisted, because he believed that he was also entitled to a copy of a warrant of arrest if the accused had failed to post a bond, so he would know the progress of the case he filed against them. When he returned in the afternoon, Mr. Alvarez furnished him a copy of the warrant of arrest as well as the recall of said warrant.

As regards the duplicate copy of the bond for Php 15,000.00 which did not jibe with the original copy of the bond on file with the Court for Php 61,000.00, he was able to secure a duplicate of said bond from the bonding company, the Phoenix Insurance Company in Intramuros, Manila. He observed that the duplicate copy appeared to be an original copy because the typewriter used was different from the original copy on file with the Court.

It is his observation that after comparing the signatures of Judge Jose Bautista, Jr. in the Warrant of Arrest and Recall of Warrant of Arrest, the strokes differed. Although Judge Bautista certified as to the authenticity of his signatures in said documents, he still doubts the same unless an expert would examine them like the NBI. Hence, he is requesting that the NBI be asked to evaluate them.

He is not accusing anybody about any irregularity but he just wanted the Court to conduct an investigation on why the duplicate copy of the bond was different from the original copy on file with the Court and that if as a result of the investigation, it would appear that somebody was responsible for the irregularity, then he should be held liable for the same.

BANAAG C. ALVAREZ is the present Clerk of Court of the Metropolitan

Trial Court (MTC) of Muntinlupa City. The record of Criminal Cases Nos. 34819 to 34821 reveals that Mr. Pascual paid the docket fees, the JDF and the LRF on June 24, 1999. The following day, June 25, 1999 they prepared the Warrant of Arrest. The warrants of arrest were no longer endorsed to the warrant officers because on the same date, Torregoza and Sereno posted the corresponding bail bonds. He didn't know how the said accused became aware of the existence of the warrant of arrest on the same date that it was issued for which they were able to post their bonds. He denied having called up the accused regarding the existence of said warrants because he didn't know them personally. He could not recall the time that Mr. Pascual went to his office to ask for a copy of the warrant of arrest because of the lapse of time. He, however relied on the recollection of Mr. Pascual that the latter was given a copy of the Warrant of Arrest and the Recall of said Warrant in the afternoon of the same date that they were requested. He denied giving Mr. Pascual a run-around when he was following up the status of the cases he filed against Torregoza and Sereno.

As procedure in their Court, whenever a litigant would ask for a copy of a Warrant of Arrest, he would advise the requesting party that a warrant is addressed to the police officer and they do not give a copy to a private person. However, if the private person would insist, he would remind him that he could get a copy for record purposes only but not for service thereof.^[5]

On December 1, 2003, Judge Guerrero submitted her Final Report, recommending that respondent Alvarez be suspended for one month and one day without pay for Simple Neglect of Duty, and that he be reprimanded for his Simple Discourtesy, with warning that any other administrative offense to be committed by him shall be dealt with more severely.^[6]

In its Memorandum dated July 14, 2004, the OCA concurred with the findings of the Investigating Judge and adopted her recommendation that respondent be suspended for one month and one day without pay.^[7] The OCA gave weight on the Investigating Judge's assessment of the witnesses' credibility as well as her factual findings as these were supported by the evidence on record.

The issues in this case were identified as follows:

1. Whether or not there was irregularity in the performance of official duty of Mr. Banaag Alvarez, Clerk of Court of Branch 80, Metropolitan Trial Court of Muntinlupa City as to the bail bonds filed by the accused Torregoza and Sereno in Criminal Case Nos. 38491^[8] to 38421^[9] and as to the signatures of the Hon. Judge Bautista in the Warrant of Arrest and Recall of Warrant of Arrest?
2. Whether or not Mr. Alvarez may be held administratively liable for his conduct in dealing with the litigant like Mr. Pascual in attending to the latter's inquiry on the status of his case or his request for a copy of a warrant of arrest?^[10]