

THIRD DIVISION

[A.M. No. MTJ-02-1436, April 03, 2003]

JAIME C. TARAN, COMPLAINANT, vs. JUDGE JOSE S. JACINTO, JR., RESPONDENT.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

In a sworn letter complaint^[1] dated May 15, 2000 addressed to the Court Administrator, Jaime C. Taran charged Judge Jose S. Jacinto, Jr., Acting Presiding Judge of the Municipal Circuit Trial Court (MCTC) of Lubang-Looc, Occidental Mindoro, with gross ignorance of the law and violation of human rights.

Complainant alleged that he is the father of Eugene Taran, one of the accused in Criminal Case No. 2641, "*People of the Philippines v. Dennis Villaluz and Eugene Taran*," for direct assault upon a person in authority, pending before the sala of respondent judge. Even without the required Certification to File Action from the Barangay Chairman of Bagong Sikat, Lubang, Occidental Mindoro, respondent judge gave due course to the complaint and conducted the preliminary examination without notice to the accused. On April 4, 2000, respondent issued an alias warrant of arrest against the accused without giving him prior opportunity to file a counter-affidavit. Moreover, respondent refused to accept surety bond and demanded money from litigants. When the accused posted a cash bail for his provisional liberty, no official receipt was issued to him.

Complainant further alleged that respondent judge when outside the court, issues orders and subpoenas by phone which were then reduced in writing by his personnel. Then they would stamp thereon "original signed". In fact, the order directing the release of the accused dated April 14, 2000 bears "original signed" although respondent was not in court that day.

In his comment,^[2] respondent judge explained that the Certification To File Action issued by the Barangay Chairman of Bagong Sikat, Lubang Occidental Mindoro was attached to the complaint in Criminal Case No. 2641. Also, his Clerk of Court issued the corresponding receipt to accused Eugene Taran when he posted the cash bail and attached it to the records of the case.

Respondent claimed that as a judge-designate at the MCTC, Lubang-Looc, Occidental Mindoro, he holds office there only every third week of each month. Thus, he instructed the Clerk of Court and other court personnel to inform him promptly of any pleading or motion requiring immediate action to enable him to act thereon expeditiously by dictating his order over the phone. With such procedure, he was able to administer justice speedily. In fact, the order for the release of accused Taran was by telephone.

According to respondent, he has served the government for fifteen (15) years and has maintained an unblemished reputation, performing his duties efficiently and with utmost dedication.

On April 1, 2002, Court Administrator Presbitero J. Velasco, Jr. filed his Report, recommending that this case be re-docketed as an administrative matter and that respondent judge be held liable for failure to supervise his personnel closely and for issuing orders relayed over the telephone; that a fine of P5,000.00 be imposed upon him with a warning that a repetition of the same or similar offense shall be dealt with more severely. His findings read as follows:

"Documentary evidence show that the complaint filed in court was supported by a barangay certification to file action, and that the accused's payment of the required cash bond was properly receipted. The original copies of the receipts were retained by the court and were attached to the case record. No explanation was offered why the originals of the receipts were not released to the payor.

"In Circular No. 26-97 issued on May 5, 1997, the Court Administrator directed Judges and Clerks of Courts to comply with the provisions of Sections 61 (Kinds of accountable forms) and 113 (Issuance of official receipt), Article VI of the Auditing and Accounting Manual for the purpose of eradicating the practice of some clerks of court of retaining the original copy of the official receipt issued in acknowledgment of payment for file with the record of the case instead of issuing the same to the payor. On the basis of the said Circular, the official receipts should have been released to the payor as demanded by the complainant. It was incumbent upon respondent Jacinto as presiding judge designate of the MCTC of Lubang-Looc, Mindoro Occidental, to supervise properly court personnel to ensure that they comply with the provisions of issuances of the Supreme Court and the Office of the Court Administrator on general administration and court management.

"The complainant's contention that the conduct of the preliminary examination and the issuance of the warrant of arrest were procedurally defective since they were done without the knowledge of the accused and therefore deprived the latter of the right to due process has no leg to stand on. Preliminary examination is not an essential part of due process of law and may be conducted by the municipal judge prior to the issuance of the warrant of arrest, either in the presence or in the absence of the accused (*Luna vs. Plaza*, 26 SCRA 310). Perusal of the records show that prior to the issuance of the warrant of arrest, respondent Jacinto conducted a personal examination of the complainant and his witness under oath and such examination was reduced to writing in the form of searching questions and answers. Moreover, there is no right to preliminary investigation in cases triable by the inferior courts.

"The complainant's allegation that respondent Jacinto did not investigate the background of the case has no merit. As herein discussed, a preliminary examination was conducted by respondent Jacinto.

"Respondent Jacinto had no hand in the service of the arrest warrant Law

enforcement agents effected the same. The complainant's allegations that irregularities attended the service of the warrant and that the same were attributable to the respondent proceed from mere conjecture and have no basis in fact.

"On the matter of bail, Rule 114 (Bail) of the 1985 Rules of Criminal Procedure and the 1996 Bail Bond Guide for the National Prosecution Service issued by the Department of Justice prescribes the guidelines on bail. Whether or not bail imposed is reasonable or excessive would depend on the circumstances obtaining in the particular case, taking into consideration the standards and criteria particularly mentioned in the 1996 Bail Bond Guide. One cannot therefore say outright that the bond fixed by the judge is unreasonable or excessive.

"The averments that the court refuses to accept property and surety bond and that respondent Jacinto demands money from party litigants are both bereft of sufficient proof. The complainant has not submitted any evidence to substantiate his allegations. Indeed, although in administrative proceedings, the quantum of proof necessary for a finding of guilt is only substantial evidence (*Office of the Court Administrator vs. Sumilang*, 271 SCRA 316), there must be convincing proof apart from bare allegations before any member of the judiciary could be faulted. As in all administrative proceedings, the burden of proof that the respondent committed the acts complained of rests on the complainant. Failing in this, this particular accusation must be dismissed (*Areola vs. Judge Peig, Jr.*, RTJ-98-1398, 24 February 1998).

"Finally, we find respondent's practice of issuing orders over the telephone irregular. Undoubtedly, the respondent has good intentions. The MCTC of Lubang-Looc is in a remote island and respondent Jacinto, as Judge-designate thereat, can hold office at the said court only every third week of the month, for he also has to attend to court matters in his regular sala. Nonetheless, respondent's practice still cannot be condoned.

"MCTCs are already courts of record. They are bound to keep a record of their proceedings which must appear in writing. Orders of these courts must be reduced to writing, signed by the judge issuing such orders and then filed with the clerk of court. Even if the order relayed through telephone should be reduced to writing, the same could not be considered as having been officially rendered by the court, for the same has not been signed by the judge. Respondent Jacinto should refrain from such practice.

"All told, respondent Jacinto cannot be held liable for gross ignorance of the law or procedure and violation of human rights. However, he can be declared culpable for lapses in supervision of the court employees, resulting in non-compliance with the provisions of Circular No. 26-97, and for issuing irregularly orders through the telephone.

"Incidentally, respondent Jacinto has been designated by the Court as the Acting Presiding Judge of the Metropolitan Trial Court (Branch 78) at