

EN BANC

[A.M. No. MTJ-02-1431, May 09, 2003]

SPO2 JOSE B. YAP, COMPLAINANT, VS. JUDGE AQUILINO A. INOPIQUEZ, JR., RESPONDENT.

DECISION

SANDOVAL-GUTIERREZ, J.:

Before us is the administrative complaint filed by SPO2 Jose B. Yap of Matag-ob, Leyte Police Station against Judge Aquilino A. Inopiquez, Jr. of the Municipal Circuit Trial Court (MCTC) of Kananga-Matag-ob, same province, for grave abuse of authority and acts unbecoming a judge.

In his sworn affidavit-complaint dated July 12, 1999, complainant alleged that on March 6, 1999 (Saturday), pursuant to an alias arrest warrant, he arrested Antonio Laurente, Jr., the accused in Criminal Case No. 8458 for violation of B.P. Blg. 22, pending in the Metropolitan Trial Court in Cities (MTCC) at Ormoc City.

On the same day, March 6, respondent judge issued an Order of Release^[1] on the basis of a cash bond posted on March 8, 1999, as shown by the corresponding Official Receipt No. 9215725.^[2]

Also on March 6, respondent judge issued another Order of Release,^[3] this time based on a property bond. This bond was subscribed and sworn to before him on March 10, 1999 (Wednesday) by bondsman Antonio Laurente, Sr. However, this date was changed to March 6.

Complainant claimed that respondent judge issued the two (2) Orders of Release on March 6, 1999 although there was yet no cash bond or property bond, for actually the cash bond was posted on March 8, while the property bond was filed on March 10. Clearly, respondent judge ordered the release of the accused prematurely. Complainant finally alleged that the accused is the relative of respondent's wife.

On October 27, 1999, respondent judge filed his comment. He denied the charges, asserting that the relationship of his wife to the accused has no bearing to his judicial duties of approving the bail and issuing the Order of Release. On March 6, 1999, when accused Laurente, Jr. was arrested, his brother Silverio Laurente and one Salvador Almoroto went to respondent's residence and presented O.R. No. 9215725 showing that on that date, a cash bond was posted with the office of respondent's Clerk of Court Servando O. Veloso, Jr. The money in the amount of P18,000.00 belonged to Almoroto. Silverio Laurente also handed to respondent judge, for his signature, the Order of Release dated March 7, 1999 prepared by Clerk of Court Veloso. The latter placed the date March 7 instead of March 6 because he thought respondent judge would only be available on that date.

Also on the same day, March 6, minutes after Silverio Laurente and Almoroto left, Antonio Laurente, Sr., accused's father, and Court Interpreter Pedro M. Beltran arrived. Laurente, Sr. presented to respondent judge a property bond and an Order of Release, also dated March 6, 1999, both prepared by Beltran. Respondent judge told them that he had already approved the cash bond and signed the corresponding Order of Release. However, Laurente, Sr. pleaded to him to approve the property bond in order that the money utilized as cash bond could be returned to Almoroto to avoid paying interest thereon. After examining the property bond, respondent judge approved the same and signed another Order of Release.

Respondent judge claimed that O.R. No. 9215725 was actually issued to Almoroto on March 6 after he had posted the cash bond that same day. Respondent judge insisted though that it was Clerk of Court Veloso who altered the date appearing thereon, from March 6 to March 8, 1999, since complainant angrily protested that Veloso should not issue an official receipt dated March 6, 1999 as it was a Saturday, a non-working day.

In our Resolution dated March 21, 2001, we referred the instant case to Executive Judge Fortunito L. Madrona, Regional Trial Court (RTC), Ormoc City, for investigation, report and recommendation.

In his Report and Recommendation dated September 3, 2001, Executive Judge Madrona found that "there is no substantial basis in the claim of complainant about the alleged anomaly in the issuance of two Orders of Release by the respondent judge." Thus, Executive Judge Madrona recommended the dismissal of the charges for lack of merit. Executive Judge Madrona further recommended that respondent judge be reprimanded for his failure to avoid the appearance of impropriety by exercising proper safeguards in the performance of his official duties, considering that accused Laurente, Jr. is his relative by affinity. On this point, Executive Judge Madrona was referring to respondent judge's failure to observe Section 11, Rule 114 of the Revised Rules of Criminal Procedure, as amended, quoted as follows:

"Sec. 11. *Property bond, how posted.* — A property bond is an undertaking constituted as lien on the real property given as security for the amount of the bail. Within ten (10) days after the approval of the bond, the accused shall cause the annotation of the lien on the certificate of title on file with the Registry of Deeds if the land is registered, or if unregistered, in the Registration Book on the space provided therefore, in the Registry of Deeds for the province or city where the land lies, and on the corresponding tax declaration in the office of the provincial, city and municipal assessor concerned.

"Within the same period, the accused shall submit to the court his compliance and his failure to do so shall be sufficient cause for the cancellation of the property bond and his re-arrest and detention."

It appears that respondent judge did not require the accused to cause the annotation of the lien (property bond) in the Registration Book of the Registry of Deeds and on the corresponding tax declaration in the office of the provincial, city or municipal assessor concerned.

Executive Judge Madrona's recommendation to dismiss the charges is based on his findings quoted as follows:

"(12) On this particular factual issue of the real date of the official receipt for the cash bond, which the undersigned finds crucial in the overall appreciation of the herein complaint, it is the opinion of the undersigned that *the version of testimony of Mr. Veloso is credible*. That is, the date of issuance of the official receipt was actually March 6, 1999 but that he caused it to change to March 8, 1999 affixing thereon his counter initial for the reason, according to him, that when complainant went to see him on March 8, he was protesting to him about the date, and to avoid further argument he did the alteration. For this indiscretion on Veloso's part, he should be made to answer administratively.

x x x

"(14) In short, the whole complaint boils down to an appreciation of the factual issues which have been substantially presented in the foregoing. As to whether there was really cash bond being posted on March 6, 1999 as could be attested to in the official receipt issued therefor and which could validate the first Order of Release issued by the respondent judge — the undersigned finds in the affirmative. *It is the words of Mr. Veloso, the Clerk of Court who issued the official receipt for the cash, bond as against the words of the complainant.* In the absence of strong and convincing evidence to the contrary, the explanation of Mr. Veloso as regards his official acts had to be given credence as one coming from one whose official duty is presumed to have been regularly performed. (Sec. 3 (m), Rule 131, Rules of Court)

"(15) The factual issue surrounding the date of issuance of the official receipt for the cash bond having been resolved, there is no substantial basis in the claim of complainant about alleged anomaly in the issuance of the two Orders of Release by the respondent judge. Complainant's basis is reduced only to mere suspicion."

On October 10, 2001, this Court referred Executive Judge Madrona's Report and Recommendation to the Office of the Court Administrator (OCA).

In her Report dated March 5, 2002, Deputy Court Administrator Zenaida N. Elepaño, adopted the findings of Executive Judge Madrona but recommended that:

1. The complaint against respondent judge be re-docketed as an administrative case and that he be ordered to pay a fine of Three Thousand Pesos (P3,000.00) for giving unwarranted favor to the accused who is a second cousin of his wife, by approving the two (2) bail bonds and issuing the two (2) release orders;
2. Clerk of Court Servando O. Veloso, Jr. be directed to explain within thirty days from notice why no disciplinary sanction should be imposed on him for: a) altering the date of the official receipt of the cash bond; and (b) failure to cancel the cash bond and the first Order of Release after the approval of the property bond;

3. Interpreter Pedro M. Beltran be ordered to: (a) explain within thirty days from notice why he should not be administratively sanctioned for preparing and processing bail bonds without the authority of his presiding judge; and (b) immediately cease and desist from preparing and processing bail bonds unless duly authorized.

In the same Report, Deputy Court Administrator Elepaño stated that respondent judge was previously adjudged guilty of abuse of authority and gross ignorance of the law and fined in the amount of Twenty Thousand Pesos (P20,000.00) and suspended without pay for three months.^[4]

On May 28, 2002, we issued a Resolution approving respondent judge's application for optional retirement in A.M. No. 10822-RET but directing that his retirement benefits be withheld pending the resolution of the instant case.

On April 24, 2002, we resolved to (a) re-docket the case as a regular administrative matter; (b) direct Clerk of Court Veloso and Interpreter Beltran to submit their explanations as recommended by the OCA; and (c) require the parties to manifest, within twenty (20) days from notice, whether they are submitting the case for decision on the basis of the pleadings.

On July 22, 2002, respondent judge filed his Manifestation that he is willing to have the case so decided. To date, or after almost one year, complainant has not yet submitted the required manifestation. Therefore, he is deemed to have agreed that the case be decided on the basis of the pleadings.

Clerk of Court Veloso and Interpreter Beltran submitted the required explanations.

Clerk of Court Veloso explains that he altered the date of O.R. No. 9215725 from March 6 to March 8, 1999 after complainant went to his office and inquired why it was dated March 6 (Saturday), a non-working day. Veloso stated that there was nothing wrong in rendering service on a Saturday. However, complainant refused to listen and continued to berate him. To avoid further arguments, he superimposed "8" over "6". He altered the date, believing there was nothing irregular in doing so because the cash bond had already been released to the bondsman and substituted with a property bond.

Beltran states that he has been assisting litigants in the preparation of bail bonds with the knowledge of respondent judge and Clerk of Court Veloso. He does not charge fees for this service because he believes that as a court employee, it is his duty to assist anyone who seeks his help. Upon receipt of our April 24, 2002 Resolution, he immediately ceased assisting any litigant in the preparation of bail bonds. He now earnestly seeks the compassion and understanding of this Court.

On January 10, 2003, Deputy Court Administrator Elepaño, submitted a Report reiterating her recommendation that respondent judge be fined in the amount of Three Thousand Pesos (P3,000.00) and recommending further that Clerk of Court Veloso and Interpreter Beltran be fined in the amount of One Thousand Pesos (P1,000.00), each, with a warning that a repetition of the same acts shall be dealt with more severely.