

SECOND DIVISION

[A.M. No. MTJ-01-1368, October 23, 2003]

JUDGE JOSE GODOFREDO M. NAUI, RTC, BRANCH 37, BAMBANG, NUEVA VISCAYA, COMPLAINANT, VS. JUDGE MARCIANO C. MAURICIO, SR., MTCC, BRANCH 1, PALAYAN CITY, NUEVA ECIJA, RESPONDENT.

D E C I S I O N

CALLEJO, SR., J.:

On March 24, 1998, Presiding Judge Godofredo M. Naui, Regional Trial Court (RTC), Branch 37, Bayombong, Nueva Vizcaya, issued a warrant for the arrest of Pedro de Guzman, the accused in Criminal Case No. 1053-37, for Estafa, raffled to the said branch. The court fixed the amount of P30,000.00 as bail bond for the provisional release of the accused.

Early in the morning of April 1, 1998, police officers of the Criminal Investigation Service (CIS) of the Philippine National Police (PNP) in Cabanatuan City, served the warrant on de Guzman, who was then in the *poblacion* of General Natividad, Nueva Ecija and placed him under arrest. Instead of surrendering De Guzman and delivering him to judge who issued the warrant, the arresting officers brought him to Barangay Mag-asawang Sampaloc, General Natividad, Nueva Ecija. The police officers proceeded to the house of Judge Marciano C. Mauricio, Sr., Municipal Trial Court in Cities (MTCC), Palayan City, Nueva Ecija. De Guzman offered to deposit to Judge Mauricio, Sr. the cash amount of P30,000.00 as cash bond to secure his provisional liberty. The Judge agreed, and thereafter prepared and signed a Release Order dated April 1, 1998 directing the arresting officers to release De Guzman, and ordering the clerk of court, MTCC, Palayan City to forward all the pertinent papers, documents, fingerprints, pictures, etc., of De Guzman, relative to the bond posted by him to Judge Mauricio, Sr.

On the same day, Police Inspector Serafin Valdez of the PNP-CIS informed Judge Naui, *via* a 1st Indorsement, of the service of the warrant of arrest on De Guzman and the latter's subsequent release after depositing the amount of P30,000.00 as bail bond. A copy of the release order issued by Judge Mauricio, Sr. was attached thereto.

On April 2, 1998, De Guzman returned to the house of Judge Mauricio, Sr., and requested that he be allowed to retrieve the P30,000.00 he had earlier deposited with the Judge. He explained that needed the amount to pay the services of his counsel, and offered to post a surety bond as a substitute to secure his provisional liberty. The Judge agreed and returned the amount to De Guzman. De Guzman prepared and signed a handwritten *Pagpapatunay* where he acknowledged receipt of the said amount from Judge Mauricio, Sr. De Guzman, however, failed to post the surety bond as promised, and thus remained free without bail.

On June 15, 1998, Officer-in-Charge Rosalie Dallong-Galicinao of the RTC, Branch 37, sent a letter to the clerk of court of the MTCC, Palayan City, requesting that the original copy of the release order issued by Judge Mauricio, Sr., the original copy of the receipt therefor, and the addendum to the cash bond of de Guzman be immediately forwarded to the Judge Naui's *sala*. The said clerk of court did not respond. Another Letter dated September 18, 1998 reiterating this same request was sent to the MTCC, Palayan City, this time demanding compliance within five days from receipt thereof; otherwise, De Guzman's cash bond would be cancelled and a new warrant of arrest against him would be issued. There was, likewise, no response. A third Letter dated October 26, 1998 was sent to the same court, where the request for the immediate transmittal of the requisite documents and papers was reiterated.

In a Letter dated November 23, 1998, Clerk of Court Rosita L. Bagan of the MTCC, Palayan City replied to the series of requests directed at her office. She explained that when she received the first letter-request, Judge Mauricio, Sr. had not been to office as he was suffering from diabetes and intermittent memory loss and was undergoing treatment for his ailment. When Judge Mauricio, Sr. reported for work, she showed the first letter to the Judge, but the latter Judge told her that he could not recall having issued such a release order. The Judge assured her that he would look into the matter. She further declared that she showed the second and third letters to Judge Mauricio, Sr., but that the latter had suffered a mild stroke and sustained a fracture from a nasty fall. She explained, thus:

This is now my dilemma, I could not send you the requested documents because the Honorable Judge Mauricio has not yet located the same and he (Judge Mauricio) could not remember where he placed said documents.

Considering that the letter is now the third request for said purpose I have decided to frankly inform you of my situation. Under the situation, all that I could do is to gently remind our Judge to try to remember and locate the said documents which at the inception were in his possession and has never reached my desk.^[1]

In the meantime, the arraignment of De Guzman in Criminal Case No. 1053-37 was set twice, and the accused failed to appear. On December 7, 1998, the RTC issued an Order of Arrest for de Guzman's apprehension, for his failure to appear before the Court, and for Judge Mauricio, Sr.'s failure to forward the documents/papers relative to the bail bond of the said accused.

On motion of de Guzman, the RTC set aside its December 7, 1998 Order. De Guzman was arraigned on January 18, 1999, and entered a plea of not guilty. The prosecution forthwith complained that the MTCC clerk of court had not yet forwarded to the documents relative to the bond of the accused with the RTC. De Guzman's counsel prayed that he be afforded more time to make the appropriate inquiries from the MTCC clerk of court.

The RTC set the trial on August 5, 1999. On said date, de Guzman and his counsel failed to appear, prompting the court to re-issue a warrant of arrest against de Guzman. De Guzman remained at large.

The Office of the Court Administrator (OCA) thereafter received a Letter-Complaint dated August 5, 1999, from Judge Naui, charging Judge Marciano Mauricio, Sr. with gross negligence. The matter was docketed as A.M. OCA No. 99-804-MTJ. In a 1st Indorsement dated November 12, 1999, the OCA requested Judge Mauricio, Sr. to file his Comment. The respondent judge complied with the directive and filed his Comment on January 24, 2000.

In the meantime, due to his weakening condition, the respondent judge applied for disability retirement, under Republic Act No. 910, as amended. In a Resolution dated March 28, 2000, this Court granted the respondent judge's application, effective November 16, 1999.

In a Resolution dated August 22, 2001, the Court adopted the recommendation of Deputy Court Administrator Jose P. Perez, directing the parties to manifest their willingness to submit the case for resolution on the basis of the pleadings submitted.

In the interim, Judge Mauricio, Sr. filed with this Court Urgent Motions for the Release of Retirement Benefits, manifesting that he is "on the verge of the end of his earthly journey", and in view of his present state of health which has been steadily deteriorating, he was "in dire need of finances to safe-keep his life". He likewise averred that should he be found guilty of the offense charged against him, the penalty that may be imposed may not be so extreme as to warrant the forfeiture of his entire retirement benefits. The respondent appealed to the Court to grant such release, and expressed willingness to withhold therefrom a considerable amount to answer for whatever liability may be imposed upon him by reason of the instant administrative complaint.

In a Report dated July 21, 2001, the DCA Perez found Judge Mauricio, Sr. guilty of simple misconduct and recommended that, considering the judge's state of health, he be ordered to pay a fine in the amount of P5,000.00, which amount was to be deducted from the latter's retirement benefits. According to DCA Perez:

We take exception to the manner by which the respondent Judge allowed the posting of the cash bond and the withdrawal of the same by the accused and his family.

The evidence on record disclosed that respondent judge allowed the accused to post his cash bond right in the confines of his (respondent's) residence at 6:25 a.m. of April 1, 1998 (Release Order dated April 1, 1998). Respondent even admitted in his comment that he personally prepared the Release Order.

The following day (April 2, 1998), the accused returned to respondent's residence and the latter allowed the accused to withdraw the cash bond, on the pretext that the accused would secure a surety bond in lieu of the cash bond.

As the accused did not post the surety bond he promised, he in effect enjoyed temporary liberty without the required bond. This eventuality was facilitated by the erroneous practice of respondent judge of conducting official function/s in his residence. This should not be