

EN BANC

[A.M. No. MTJ-97-1120, February 21, 2000]

NATIONAL BUREAU OF INVESTIGATION, COMPLAINANT, VS. JUDGE RAMON B. REYES, RESPONDENT.

DECISION

PER CURIAM:

Before us is an administrative complaint for malfeasance brought by the National Bureau of Investigation against respondent Ramon B. Reyes, Presiding Judge of Municipal Circuit Trial Court (MCTC), Mabini-Tingloy, Batangas.

The facts are:

On the evening of November 12, 1996, barangay officials of Barangay Majuben, Mabini, Batangas, arrested Reynaldo Magday, Melvin Dalangin, Rex Cordero and primo Evangelista, who were caught using methamphetamine chloride, popularly known as shabu, during a drug session. The four (4) were detained at the local police station and were charged of violating Section 16, in relation to Section 27, of Article III of Republic Act (R.A.) No. 6425, otherwise known as the Dangerous Drugs Act of 1972. The corresponding information, docketed as Criminal Case No. 1817, was filed before the Municipal Circuit Trial Court of Mabini-Tingloy, Batangas, presided over by respondent Judge Ramon B. Reyes.

On November 20, 1996, Nenita Dalangin, Marina Cordero and Nelia Evangelista, the mothers of the last three (3) accused, approached respondent to plead for the release of their sons. For the sum of P240,000.00, respondent allegedly promised to dismiss the case against all the accused. Since the mothers did not have sufficient means, the amount was eventually lowered to P15,000.00, and the pay-off was scheduled on November 28, 1996. However, respondent failed to report for work on the aforesaid date, so the exchange was reset a week later to December 5, 1996.

Three (3) days before the pay-off, on December 2, 1996, Dalangin, Cordero and Evangelista reported the alleged extortion to the National Bureau of Investigation (NBI) at its Regional Office in Batangas City. After the mothers executed separate sworn statements,^[1] the NBI planned an entrapment. To accomplish this, it prepared the amount of P3,000.00 consisting of two five-hundred peso bills and twenty one-hundred peso bills. These bills were individually marked "P-96-187, ATP/NMC, 12/3/96, FCD, NBI" using invisible ink and dusted with yellow fluorescent powder.^[2] The NBI also enlisted the services of Intelligence Agent Josephine Cabardo to accompany the mothers to respondent's office, and who posed as the lender of the money.

On the appointed date, Dalangin, Cordero and Evangelista, together with Cabardo appeared at respondent's chambers. He gave Evangelista a piece of yellow pad

paper on which to write a motion for reconsideration to be filed with the Regional Trial Court.^[3] Dalangin, on the other hand, on instruction of respondent, entered the adjoining latrine and placed the envelope containing the marked money on top of a rag mop placed above the latrine.^[4] On re-entering the room, respondent told the women to leave the room on the pretext that he was feeling a little warm. The women exited, and a few moments later, after a pre-arranged signal was given, the NBI operatives entered respondent's chambers.

A slight complication developed, however. The agents were unable to locate the envelope. Ultraviolet testing on respondent's hands conducted by a forensic chemist yielded a negative result, although the rag mop handle showed traces of the yellow fluorescent powder. Since the agents were not armed with a search warrant, they instead asked respondent to accompany them to the regional office. During the questioning, respondent confessed that he had taken the envelope containing the marked money using a handkerchief and placed it inside his desk. Respondent returned to his office with the agents and opened the uppermost left-hand drawer of his table where the envelope was found. When tested with ultraviolet light, the money inside the envelope was found to be that previously marked and dusted by the NBI.

On December 9, 1996 an Information^[5] was filed before the Sandiganbayan charging respondent for violating Section 3(e) of R.A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.

On January 20, 1997, the NBI referred the matter to us for appropriate action, *via* a letter^[6] coursed through the Office of the Court Administrator. Prior thereto, on January 9, 1997, respondent filed a letter^[7] resigning from his position, citing health reasons. He filed another letter dated January 15, 1997^[8] requesting that he be allowed to work at the Judiciary Planning Development and Implementation Office (JPDIO) pending action on his resignation and until his health improves. In due time, the Office of the Court Administrator sent a letter dated February 7, 1997^[9] to respondent directing him to submit his comment on the report filed by complainant. Respondent complied, filing a letter dated February 17, 1997^[10] whereby he alleged that he was not accorded his rights during custodial investigation under Section 2(b) of R.A. No. 7438.^[11]

Thereafter, we issued a Resolution dated April 28, 1997^[12] referring the administrative complaint to Executive Judge Mario Lopez of the Regional Trial Court of Batangas City for investigation, report and recommendation, and further directing him to designate an Acting Presiding Judge in the MCTC of Mabini-Tingloy. In the meantime, we suspended respondent from his office and withheld action on his resignation and request to be detailed at the JPDIO. He subsequently withdrew his resignation,^[13] which was duly noted per our Resolution of July 7, 1997. However, after Judge Lopez inhibited himself from the proceedings, citing close personal ties to respondent,^[14] we referred the matter to former Associate Justice Pedro A. Ramirez of the Court of Appeals for investigation and report.^[15]

After reception of the parties' respective evidence, the Investigating Justice

rendered his Report dated August 12, 1998. The Investigating Justice disbelieved respondent's defense and ruled accordingly:

"Respondent Judge never denied that the money that was placed by Nenita Dalangin on the floor mop atop the toilet bowl was the same money that was taken by him from the drawer of his table in his chamber and was handed by him to the NBI agents. Neither did he explain how the money happened to be in the drawer of his table in his chamber. It is clear, however, that it was respondent Judge himself who took the money from his table drawer and handed it over to the NBI agents. Indeed, the bribe money was in his possession when he gave it up to the NBI agents. Having been in possession of the bribe money that was given to him, there can no longer be any question as to his receipt of it. By analogy the presumption in the rule of evidence "that a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act x x x" (Section 3-k, Rule 131, Revised Rules of Court), is applicable against him. There can be no question any more that respondent Judge is a bribe taker in this case."^[16]

Consistent with his findings, he recommended that respondent be dismissed from service with forfeiture of benefits and disqualification from re-employment in the government including government-owned or controlled corporations. He also recommended respondent's disbarment.

In view of the aforesaid recommendation, we issued a Resolution on April 20, 1999 requiring respondent to show cause why he should not be disbarred. He failed to comply within the period allowed him. Thus, in our Resolution of September 14, 1999, we imposed upon him a fine of P2,000.00 payable within five (5) days from notice, or imprisonment for five (5) days should he fail to pay the fine on time.

On October 1, 1999, respondent filed his "Compliance /Motion for Reconsideration," wherein he reiterated the alleged infringement of his rights during custodial investigation, as guaranteed by the Constitution and R.A. No. 7438. In addition, he averred that the private complainants were guilty of instigation. The compliance/motion was duly noted but the motion for reconsideration was denied.^[17]

Respondent's account of the entrapment differs. In his counter-affidavit filed before the Office of the Special Prosecutor, and which the parties agreed would constitute respondent's direct examination,^[18] he claimed:

"3. On or about November 20, 1996, three (3) women, who turned out to be Nenita Dalangin, Nenita Evangelista and Marina Cordero, the mothers of the Accused in the above case, asked to talk to me. Considering that Nelia Evangelista was an acquaintance, I agreed to talk with the women in my chambers. Inside my chambers is a toilet which I and the personnel of the Court and even lawyers and private individuals use. The door to my chambers could be seen from the outside through open jalousie [sic] smoked glass windows on the walls dividing my chambers and the area outside my chambers;

"4. The three (3) women pleaded to me that I dismiss the criminal

complaint against their sons. However, I told the women that I cannot accede to their request. I suggested that they secure the services of counsel to represent their sons in connection with their case and have their children post bail. When the women asked me how much was the bail for their children, I told the amount as provided for in the guidelines issued by the department of Justice. I never suggested to the women, and neither did I ever demand, that they give me any amount in consideration for the dismissal for [sic] the criminal complaint against their sons;

"5. On November 27, 1996, I signed a 1st Indorsement to the Provincial Prosecutor, hereto attached as Exhibit "2", endorsing the case to the latter and transmitting the records of said case, pursuant to Section 7, Rule 112 of the Rules of Court. On November 28, 1996, my Clerk of Court transmitted the records of the case to the Provincial Prosecutor with a covering letter, hereto attached as Exhibit "3";

"6. On November 27, 1996 in the morning, the three (3) women saw me in my chambers and pleaded anew that I dismiss the criminal complaint against the children. However, I told the women that I cannot accede to their pleas. I told them I had already signed earlier that day an endorsement of the case to the Provincial Prosecutor and the transmittal of the records against their sons to the Provincial Prosecutor. I suggested that they wait for the transmittal of the records of the case to the Provincial Prosecutor and for them to make their representations with the Provincial Prosecutor in connection with said case. The three (3) women never made any offer on said occasion to give me money in consideration for the dismissal of the criminal complaint against their sons. Neither did they tell me that they were coming back in the afternoon of said date to any reasons whatsoever. I never could have agreed to dismiss the case against the sons of the three (3) women and to receive money from the latter in consideration of said demand because I already decided to endorse the case to the Provincial Prosecutor;

"7. On December 5, 1996, in the morning, the three women with another woman, arrived in my chambers and again pleaded that I intercede in behalf of their sons with the Office of the Provincial Prosecutor. The woman, who was with the three (3) mothers of the Accused, who was a complete stranger to me was not introduced to me. I considered it odd and suspicious that the three (3) women would be accompanied by another woman when, on the other two (2) occasions that they talked to me, they were not accompanied by any other person at all. However, I told the women that I cannot intercede for them in the Office of the Provincial Prosecutor. However, I suggested to them to make inquiries from the Office of the Provincial Prosecutor about the case of their sons if the charges had already been filed against them with the court, for them (the three women) to prepare money for the bail bonds of their sons. I suggested also that they write a letter to the Provincial Prosecutor requesting for his help for the release of their sons from detention after posting bail with this Court. The three (3) women then told me that they had the money for the bail of their children and Nenita Dalangin showed to me an envelope. The three (3) women then prepared the letter that I