

SECOND DIVISION

[A.M. No. RTJ-00-1528, March 28, 2000]

**ROMULO SJ TOLENTINO, STATE PROSECUTOR AND ACTING
PROVINCIAL PROSECUTOR OF CAMARINES SUR, COMPLAINANT,
VS. JUDGE ALFREDO A. CABRAL, REGIONAL TRIAL COURT,
BRANCH 30, SAN JOSE, CAMARINES SUR, RESPONDENT.**

D E C I S I O N

MENDOZA, J.:

This is a complaint^[1] filed by State Prosecutor and Acting Provincial Prosecutor of Camarines Sur Romulo SJ Tolentino against Judge Alfredo A. Cabral of the Regional Trial Court, Branch 30, San Jose, Camarines Sur, for grave abuse of discretion, gross ignorance of the law, grave abuse of authority, violations of Canons 1, 2, and 3 of the Code of Judicial Conduct, rendering unjust orders, and grave misconduct in connection with the trial of Criminal Case No. T-1417 entitled "People v. Roderick Odiamar."

The facts are as follows:

Roderick Odiamar was charged with rape upon the complaint of Cecille Buenafe before the sala of herein respondent judge. On October 24, 1994, he filed a motion for bail, which the prosecution opposed. In an order, dated March 24, 1995, respondent judge granted bail stating that the evidence against the accused was not strong.^[2]

On April 19, 1995, counsel for the accused filed an *ex-parte* motion for the confinement of the accused in a hospital on the ground that he was suffering from "Type I insulin dependent diabetes mellitus." On the same date, respondent judge granted the said motion, at the same time setting a hearing on April 26, 1995 for the purpose of determining the status of the illness of the accused and the nature and duration of his treatment.

Complainant was furnished a copy of the order setting the motion for hearing. Thus, even as he failed to appear, the hearing proceeded. Dr. Benjamin Florendo testified, after which respondent judge issued an order, dated May 5, 1995, confirming the hospitalization of the accused.

The records further show that on June 19, 1995, respondent judge issued an order amending his March 24, 1995 order granting bail in order to correct some clerical and typographical errors. The records of the case were then transmitted to the RTC, Branch 58, San Jose, Camarines Sur presided over by Judge Policarpio Camano, Jr. But, Judge Camano, Jr. inhibited himself, for which reason the records were returned to the RTC, Branch 30 of respondent judge.^[3]

Prior to the said transfer, the prosecution filed several motions, namely, Motion to Recall and Invalidate Order of March 24, 1995 granting bail, Motion to Recall and/or Reconsider Order of May 5, 1995 confirming the hospitalization of the accused, and Motion for Clarification.

In an order, dated June 14, 1996, respondent judge denied the first two motions for lack of merit but took no action on the other motions filed by the prosecution, to wit, Motion for Clarification, Motion to Resolve Pending Motions, and its Supplemental Motion. Respondent judge considered the motions to be mere reiterations of the two motions denied by him. On June 26, 1996, respondent judge ordered the release of the accused from detention.^[4]

Complainant then filed this complaint, alleging that the order of March 24, 1995 of respondent judge, which granted bail to the accused, was carelessly prepared, if not ghostwritten, because of its "incredible reasoning, grammatical, and clerical errors"; that the belated efforts of respondent judge to correct the alleged typographical errors in his order of June 19, 1995, which substantially changed the meaning of the order granting bail, was resorted to in order to conceal his negligence and partiality; that the factual findings were arbitrary and partial to the accused; and that the conclusions were based on misapplied, misunderstood, and overlooked facts and circumstances, such as the intentional omissions of the pertinent testimonies of witnesses, which would alter the result of the order if they were considered.^[5]

Moreover, complainant points out that respondent judge granted the request of the accused for hospitalization merely on the basis of an ex-parte motion which should have been denied for being a mere scrap of paper. Although notice was later sent to the prosecution, complainant claims that he was not able to attend the hearing on April 26, 1995, because he received the notice on the same day the hearing was held. Respondent judge thereafter issued his order of May 5, 1995 confirming the order for the hospitalization of the accused.^[6]

Complainant further alleges that the resolution of the prosecution's several motions were made beyond the reglementary period.

As regards the bail granted to the accused, complainant claims that the amount of P30,000.00 fixed by respondent judge is only 15% of the recommended amount of P200,000.00 in the 1996 Bail Bond Guide; that the bail was approved without registration in the Provincial Assessor's Office; and that when apprised of the need for registration, respondent judge, instead of cancelling the bond, issued an order, dated June 14, 1996, requiring the bondsman to register the same.

Finally, complainant makes much of the detachment of certain pages of the records in Criminal Case No. T-1417 (pages 2, 17, 41, 44, 47, 50, 53, 58, 63, 66, 69, and 73) and the error in pagination of pages 525 and 585. These, according to complainant, raise a suspicion that the records have been tampered with or altered.

Complainant contends that the foregoing acts complained of constitute bad faith, partiality, and bias on the part of respondent.

On the other hand, respondent judge denies the charges against him and alleges the following:

He issued the March 24, 1995 order granting bail because the prosecution failed to show that the evidence against the accused was strong. The testimony of the offended party in the criminal case, given on cross-examination, casts doubts on her claim that she was sexually abused through force and coercion. Respondent judge relied on the testimony of the examining physician given on cross-examination that it was possible that the lacerations on the hymen of the offended party had been caused a month, six months, or even one year, before the alleged rape.^[7]

Respondent judge vehemently denies complainant's allegation that his order granting bail was ghostwritten. While there may have been grammatical errors in the order, he claims that the same were committed by an aide whom he had asked to type the order. But, he said, he subsequently amended his order to correct the typographical errors.

With respect to allegations that respondent judge omitted certain material facts in his order granting bail in order to favor the accused, respondent judge states that he is not really required to quote everything in the transcripts, but that he is at liberty to include or disregard testimony which he thought was "insignificant, irrelevant, immaterial, incredible, [or] absurd."

As regards his order of April 19, 1995 granting the request of the accused to be ordered hospitalized, respondent judge explains that the accused is a "Type I insulin dependent" diabetic person, any delay in the treatment of whom could be fatal. Hence, for humanitarian reasons, he decided to "act now and investigate later." Respondent judge claims that the prosecution was given a copy of the ex-parte motion, as well as the April 19, 1995 order setting the hearing on the motion for hospitalization. However, despite notice to it, the prosecution did not attend the hearing on April 26, 1995. He alleges that because medical evidence presented during the hearing was uncontradicted, he issued on May 5, 1995 his order confirming his previous order for the confinement of the accused in the hospital.

On the alleged delay in resolving the prosecution's Motion to Recall and Invalidate Order of March 24, 1995 and Motion to Recall and/or Reconsider Order of May 5, 1995, respondent judge states that the delay was due to the fact that the case stayed in the RTC, Branch 58, presided by Judge Policarpio Camano, Jr. from April 10, 1995 until April 15, 1996, when the records were returned to respondent's sala at Branch 30, because Judge Camano, Jr. had inhibited himself from the case. But, respondent claims, 60 days after receipt of the records, he resolved the two motions in an order dated June 14, 1996.

Relative to the alleged improper posting of bond, respondent judge claims that he required the bondsman to comply with the registration requirement instead of ordering the bond's cancellation because the defect was only formal and that he could not have been guilty of violation of the 1996 Bail Bond Guide because he fixed the amount of the bail prior to the promulgation of said Bail Bond Guide. On the other hand, the fact that the accused was ill, coupled with the fact that the prosecution did not present strong evidence to prove his guilt, rendered the probability of flight remote, according to respondent judge.

With reference to the alleged detaching of pages of the criminal case, respondent judge argues that he has no supervision over the Clerk of Court of RTC, Branch 58

and of the Municipal Circuit Trial Court of San Jose, Camarines Sur where the case originated. On the other hand, the error in pagination was the result of the mistakes of an overburdened utility worker in the court.^[8]

Respondent judge filed counter-charges against complainant for breach of Code of Professional Responsibility consisting of the following:

1. violation of Canon 10, Rule 10.02 (knowingly misguiding or misrepresenting the contents of a paper);
2. violation of Canon 10, Rule 10.01 (doing falsehood in court, misleading the court); and
3. violation of Canon 11, Rule 11.03 (for using offensive and menacing language before the court).

Respondent judge claims that complainant deliberately and maliciously distorted some of his orders by misrepresenting their contents, thus- --

1. The order of June 14, 1996 in which it was stated:

Now going over the grounds stated in the first motion, the court believes that the same are not well-founded and meritorious. Rightly so, because they are anchored on the misappreciation of evidence and on clerical, if not, typographical errors. . . .

According to respondent judge, complainant made it appear that the judge had admitted misappreciating the evidence of the prosecution in granting bail.

2. Likewise, respondent judge allegedly admitted that a court aide tampered with or altered the draft of the order granting bail. However, what respondent judge said in his order, dated June 19, 1995, correcting alleged errors in his order, dated March 24, 1995, granting bail, was the following:

For utilizing an aide to type the order dated March 24, 1995 due to the volume of work of the stenographers as a consequence of the morning and afternoon hearings, errors were committed consisting of an omission of words or a word, misspelling and other clerical mistakes. . . .

3. Complainant misled the court when he stated in his Motion to Resolve Pending Motions, dated March 29, 1996, that the counter-affidavits of accused and his witness were attached to said motion when this was not so, as there were no such counter-affidavits in the records of the case.

4. Lastly, complainant in his Final Manifestation, dated June 20, 1996, stated:

The PEOPLE OF THE PHILIPPINES, by the undersigned State Prosecutor and Acting Provincial Prosecutor on Case, to this Honorable Court respectfully manifests that should there be no favorable court action before the end of June 1996 . . . the undersigned will be constrained to file the necessary complaint before the Honorable Supreme Court . . .

I.

The Office of the Court Administrator recommends that respondent judge be found guilty of the charges against him. On April 19, 1999, however, complainant filed a Manifestation stating that the complaint against respondent judge has been rendered moot and academic by the decision of this Court in *People v. Cabra*^[9] annulling the March 24, 1995 order granting bail of respondent judge. Hence, the preliminary question is whether, as a result of the decision in the aforesaid case for *certiorari*, this case has become moot and academic.

We hold that the decision in the *certiorari* case has not in any way rendered this administrative case moot and academic. To the contrary, we think that because of that decision finding respondent judge guilty of grave abuse of discretion in issuing his order of March 24, 1995, there is more reason to proceed with the instant case to determine whether he is administratively liable. Grave abuse of discretion may constitute serious misconduct warranting discipline by this Court. Moreover, as this Court has said:

Administrative actions cannot be made to depend upon the will of every complainant who may, for one reason or another, condone a detestable act. The Supreme Court does not, as a matter of course, dismiss administrative cases against members of the Bench on account of withdrawal of charges.^[10]

II.

We thus proceed to determine whether respondent judge is guilty of the charges leveled against him, warranting the imposition of administrative sanctions.

Re: Order of March 24, 1995 granting bail

In the decision in the *certiorari* case, it was found that respondent judge omitted certain material facts to justify the grant of bail to the accused. It was held in that case:

[T]he lower court's order failed to mention and include some significant factors and circumstances which, to the mind of this Court, are strong, clear and convincing. First, it excluded the testimony of Dr. Belmonte about her psychiatric examination of the victim as well as her findings that the latter manifested "psychotic signs and symptoms such as unusual fear, sleeplessness, suicidal thoughts, psychomotor retardation, poverty of thought content as well as depressive signs and symptom." This particular testimony should have been considered and included in