

SECOND DIVISION

[A.M. No. MTJ-00-1320, November 22, 2000]

ANTONIO M. BANGAYAN, COMPLAINANT, VS. JUDGE JIMMY R. BUTACAN, RESPONDENT.

DECISION

MENDOZA, J.:

This is an administrative complaint against Judge Jimmy R. Butacan, Presiding Judge of the Municipal Circuit Trial Court of Solana-Enrile, Cagayan for grave misconduct and grave abuse of discretion.

The facts are as follows:

Complainant Antonio M. Bangayan filed charges of grave threats against Antonio Cauilan, Sr. and Antonio Cauilan, Jr. The cases, docketed as Criminal Case Nos. 5944 and 5945, were assigned to respondent.

Complainant alleges that respondent issued two warrants of arrest on April 23, 1999 in Criminal Case Nos. 5944 and 5945 for the apprehension of Antonio Cauilan, Sr. and Antonio Cauilan, Jr. and set the bail for the provisional liberty of the accused at P24,000.00 each. By virtue of these warrants, Antonio Cauilan, Sr. was arrested on April 29, 1999, while Antonio Cauilan, Jr. was apprehended on April 30, 1999. Both were, however, ordered released by respondent judge on April 30, 1999.

It is further alleged that on May 7, 1999, another order was issued by respondent for the release of Antonio Cauilan, Sr. in connection with Criminal Case No. 5945; that on May 11, 1999, Antonio Cauilan, Jr. filed a Motion for the Reduction of Bail in Criminal Case Nos. 5944 and 5945; and that the motion was approved by respondent and Antonio Cauilan, Jr. was ordered released.

Complainant charges that —

Culled from the facts above, it was apparent that: (1) Judge Jimmy R. Butacan approved the Order of Release of Antonio Cauilan, Jr., on April 30, 1999 without the submission of the required bond which was supposed to precede the approval of the said Order of Release but nonetheless such bond was submitted only on May 11, 1999 after the approval of the reduction of bail; and, (2) Judge Jimmy Butacan did not give opportunity for the prosecution [to] oppose [the] motion for reduction of bail as the same was immediately approved on that very day.^[1]

Respondent says that the charges against him are "irresponsible, and without any

basis" and "should not be given the least degree of consideration."^[2] He admits issuing the two warrants of arrest on April 23, 1999 and fixing the bail at P24,000.00 for each of the accused in the two criminal cases. He states, however, that when Antonio Cauilan, Sr. was arrested on April 29, 1999, it was only with respect to Criminal Case No. 5944 but not also with respect to Criminal Case No. 5945. Consequently, he claims that when Antonio Cauilan, Sr. posted bail on that day, it was only for his arrest in Criminal Case No. 5944 and that he approved the bail after finding it in order.

Respondent further says that on May 7, 1999, Antonio Cauilan, Sr. was again arrested, this time in connection with Criminal Case No. 5945. Thus, when the latter posted bail on the same day, respondent approved it and issued an order for the release of the accused.^[3]

Respondent denies that Antonio Cauilan, Jr. was arrested on April 30, 1999. Respondent says that Cauilan, Jr. voluntarily surrendered on May 11, 1999. He filed a motion for the reduction of his bail on the same day which respondent claims to have approved for which reason Cauilan, Jr. was ordered released.

Respondent argues that he exercised his discretion under the rules in granting a reduction of bail and prays that the complaint against him be dismissed.

Complainant filed a reply disputing respondent's claim that on April 29, 1999, only the warrant of arrest in Criminal Case No. 5944 was served. Complainant secured a certification from the arresting officer, SPO1 Larry T. Urbano, stating that the warrants of arrest issued in the two cases were served on April 29, 1999.^[4] Complainant states that, contrary to respondent's claim that Antonio Cauilan, Jr. was not arrested, a police report shows that said person was arrested in April 1999.^[5]

In his report, Court Administrator Alfredo L. Benipayo recommends that respondent be found guilty of grave misconduct and ordered to pay a fine of P3,000.00 with a warning that a repetition of the same or similar offense will be dealt with more severely.^[6]

We find the recommendation to be well taken.

First. With respect to the arrest and release of Antonio Cauilan, Sr., it is not disputed that two warrants of arrest were issued on April 23, 1999 against him in connection with Criminal Case Nos. 5944 and 5945. Under the rules, these warrants must be executed within 10 days from its receipt. Otherwise, a report must be made by the officer concerned to the judge who issued the warrant.^[7] In this case, respondent judge would have us believe that the arresting officer served two warrants issued on the same day and against the same person on different dates. This is disputed by the warrant server himself in a certification presented to this Court by the complainant.

Indeed, it is natural to assume that an arresting officer, who under the law is given only 10 days to serve an arrest warrant, would serve it as soon as possible. It is therefore puzzling why, in this case, the warrant server should serve two warrants for the arrest of the same person on different dates when he could do this on the same occasion. We are more inclined to give credence to the certification executed