

## EN BANC

**[ A.M. No. RTJ 98-1420, October 08, 1998 ]**

**OFFICE OF THE COURT ADMINISTRATOR (OCA), COMPLAINANT,  
VS. FLORENCIO S. BARRON, PRESIDING JUDGE, BRANCH 35,  
REGIONAL TRIAL COURT OF DUMAGUETE CITY, RESPONDENT.**

### DECISION

#### PER CURIAM.:

This administrative case takes its roots from an entrapment operation conducted by the National Bureau of Investigation (NBI) sub-office based in Dumaguete City, wherein respondent Judge Florencio S. Barron was apprehended for having been found in possession of the marked money utilized by the NBI in the aforementioned operation.

Judge Barron was designated as Acting President Judge of Branch 41, whereat a civil case entitled "Mainit Marine Resources Corporation, Inc. (MMRC) vs. Alex J. Amor, Jr., and the Register of Deeds of Negros Oriental," was pending.<sup>[1]</sup>

In the morning of June 4, 1996, at around 9:00 o'clock, Casildo Gabo, a retired court employee, went to the hatchery of MMRC to see David Crear, the president. Introducing himself as Sheriff Gabo of RTC, Branch 36, he told David Crear that Judge Barron wanted to see him at Salawaki Beach in Zamboanguita, Negros Oriental. Crear replied that he was not feeling well but added that he would go to Salawaki at around 3:00 o'clock in the afternoon. Sensing that there was more than meets the eye in the message of Gabo, Crear instructed Gemma Briones, the bookkeeper of MMRC, to call the NBI office. Crear talked to Special Investigator Teodoro M. Saavedra, that he (Crear) and Judge Barron were to meet at Salawaki Beach Resort at around 3:00 o'clock in that afternoon.<sup>[2]</sup>

Agent-in-Charge Nicetas B. Hontucan instructed Special Investigator Teodoro M. Saavedra, SRA Paterno O. Reserva and SRA Dominador D. Cimafranca<sup>[3]</sup> to proceed to the beach resort that afternoon to conduct discreet surveillance to conform the veracity of the information communicated to them by Crear.

Crear arrived at Salawaki on the appointed hour astride a motorcycle driven by Rosendo Paculanang, a technician at MMRC.<sup>[4]</sup> Thereat, Judge Barron and Gabo were waiting, and so were the NBI agents who observed them through the use of binoculars. Both Crear and Judge Barron were seen talking at the far end of the beach, while Gabo, serving as a look out, stayed in one of the sheds.

According to Crear, he was met by Sheriff Gabo who directed him (Crear) to sit in the chair directly outside the door of the last cottage on the southern side of the resort. Crear had hardly warmed the chair for about five minutes when Judge Barron emerged from the cottage, casually dressed. Respondent judge then asked Crear to

sit with him at a bench out of the beach.

After the meeting, Crear went back to his office and entered on his computer his recollection of events before and during his talk with Judge Barron as follows:

"A (sic) individual identifying himself as Sheriff Cresaldo R. Gabo came to the Mainit Prawn Hatchery at about 0900 hours on Tuesday, 4 June 1996. The man was asked what he wanted by both Rosendo Paculanang and Gemma Briones but he refused to speak to anyone except the 'kano.' Mr. David Crear thereupon approached the visitor who identified (sic) himself as the Sheriff from RTC Branch 36. The Sheriff asked Mr. Crear if he was party to a legal dispute concerning the ownership of the land under the hatchery. Mr. Crear replied in the affirmative. Thereupon the Sheriff indicated that he had been directed by Judge Barron to deliver the message that Judge was waiting for me at Salawaki Beach Resort because he wanted to 'talk with you about the case.' A meeting was arranged for 0300 hours for that afternoon. The Sheriff showed his laminated I.D. card to Mr. Crear with the name Cresaldo R. Gabo and a photo that looked like a man about 20 years younger.

"Than afternoon, Mr. Crear was driven to Salawaki Beach Resort on the motorbike of Rosendo Paculanang. Upon arrival Mr. Crear was greeted by Sheriff Gabo who directed Mr. Crear to sit in the chair directly outside the door of the last cottage on the southern side of the resort. Mr. Crear occupied the appointed chair for a period of about five minutes before the Judge emerged from the cottage, casually dressed. The Judge directed Mr. Crear to accompany him to sit at the bench out on the beach. The following is a reconstruction of the conversation that took place.

"Barron: I've asked you to come here because I want to talk to you about your case. You see I need your help. It is clear to me as God is my witness, that you have been wronged. I can see this from that 'one document' that Alex Amor did not purchase the land. And again I need your help because my wife and daughter are preparing to travel to the United States.

"Crear: Travelling to the U.S. is quite costly.

"Barron: Yes, and I need your help. You see we are in a symbiotic relationship. I can help you and you can help me. I can clearly see that it would be easy for me to write a decision for your case that would be favorable for your situation. But I will need your help. You know, I like working with foreigners because they understand that the salaries here in the Philippines are very low. Honestly, if I weren't a Judge I would have already gone to the United States where I could earn more money. So, I can see that I will have to write a decision in this case against my good friend Attorney Amor but I will do it but reluctantly so. Of course he will appeal the decision so have to make sure that the decision is good. You should tell your lawyer that you must complete your testimony as soon as possible so that it will be certain that I will be the Judge to write the decision. Maybe Judge Villarete will return to Branch 41 but I don't think so because I've heard that he is being transferred to Manila. Now, I don't

want you to tell either your wife or your lawyer about our arrangement. This must be strictly confidential between the two of us. Yes, I like working with foreigners because they understand about these things. I also like working with Sheriff Gabo, well, we have had an understanding and have been working together for about 20 years! I often come down here to Salawaki and I can work on my legal decisions in a quiet, clean environment. I'm like you I enjoy living by the beach. You know I am disappointed in Atty. Amor and his son Alex. They have clearly, as God is my witness, wronged you. I also notice that Attorney Amor made a serious legal error. He notarized (sic) the signature of his (sic) on the extra-judicial deed-of-sale. This was foolish.

"Crear: Attorney Amor is guilty of much more. He has consistently aided and abetted the theft of documents, money, and equipment committed by his son, Alex Amor, Jr. But never mind that now.

"Barron: Yes. Now you understand that we have a symbiotic arrangement and an agreement can be arrived at to effect a favorable decision on your case. In this instance I will have to write a decision against my good friend Attorney Amor and I will do so reluctantly.

"Crear: So what are the mechanics of this arraignment?

"Barron: Well, as I said my wife and daughter will be flying to the U.S. and I think that they will need \$2,000 each.

"Crear: Okay but when is all this suppose to happen?

"Crear: So you are saying sooner or rather than later.

"Barron: Yes"

"Crear: Well, how about on Saturday right here.

"Barron: That would be good. Let's make it for four o'clock on Saturday afternoon right here.

"Crear: Okay, I'll see you next Saturday."<sup>[5]</sup>

On June 6, 1996, David Crear, along with Gemma Briones and Rosendo Paculanang executed their respective sworn statements<sup>[6]</sup> at the NBI Dumaguete City Sub-Office. Thereafter, on June 8, 1996, Rosendo Paculanang and David Crear gave their supplemental sworn statements.<sup>[7]</sup> Crear also filed a complaint sheet with the NBI.<sup>[8]</sup>

Subsequently, the NBI agents drew up an entrapment plan for the respondent judge and Casildo Gabo. Since David Crear did not have the \$4,000.00 cash which the respondent asked, the NBI agents had to improvise. The amount of P30,000.00 in 100, 50, 20 and 10 peso bills were sorted into eleven (11) bundles to make it appear as containing P10,000.00 each thus purportedly totaling P110,000.00<sup>[9]</sup> roughly the equivalent of \$4,000.00 which respondent judge requested. The NBI

Regional Chemist, Cesar Cagalawan, marked and treated the eleven (11) bundles with fluorescent powder at the NBI Dumaguete Sub-Office.

In the morning of June 8, 1996, the NBI operatives occupied strategic places at the Salawaki Beach Resort, again aboard Rosendo Paculanang's motorcycle. At the vicinity of Mag-abo in the town of Zamboanguita, they met Judge Barron's Mitsubishi Lancer bearing plate No. 16-G35, heading in the direction of Dumaguete City. The car blinked its headlights signaling them to stop. Consistent with the entrapment plan, Crear was able to convince Judge Barron to go back as Crear had left the money at Salawaki. Crear rode in Judge Barron's car while Gabo was Paculanang's passenger on the motorcycle.

Upon their arrival at Salawaki, Crear alighted from the car and discreetly informed the NBI operatives that the money would be delivered to Judge Barron inside the latter's car. The NBI agents then positioned themselves and waited for the pre-arranged signal. Crear returned to the car carrying a black leatherette clutch bag containing the eleven (11) bundles of marked money amounting to P30,000.00. Immediately after boarding the car, Crear gave the pre-arranged signal of opening the door on his side twice, indicating that the money had been handed to and received by Judge Barron.

The NBI reported the arrest as follows:

"NBI operatives then rushed up toward the car and caught Subject Barron in flagrante delicto in possession of the marked money in the act of putting the same underneath the driver's seat from a black leatherette clutch bag. During the arrest, Subject BARRON tried to draw his gun from his shoulder holster but was prevented from doing so.

"Subject BARRON was handcuffed and was informed of the reason for his arrest and was likewise informed of his right under the Constitution as well as his rights under R.A. 7438.

"Recovered underneath the driver's seat were the eleven (11) bundles of marked money and a black leatherette clutch bag. Confiscated likewise from his possession was a 9mm Cal. Browning Short Pistol with Serial No. 9203338 from his shoulder holster."<sup>[10]</sup>

After the arrest was made, respondent judge was taken to the NBI Office, where he was booked, photographed, and fingerprinted.<sup>[11]</sup> The ultra violet light examination<sup>[12]</sup> conducted on his hands yielded residues of the "fluorescent yellow powder" used earlier to mark the bundles of money. The peso bills with serial numbers and denominations were duly listed<sup>[13]</sup> by the bundle. Respondent Judge was then turned over to the Dumaguete City police station for temporary custody and safekeeping. An information<sup>[14]</sup> for the crime of DIRECT BRIBERY was filed before the Sandiganbayan against Respondent Judge, as principal and Casildo Gabo, as accomplice.

On June 11, 1996, the Philippine Daily Inquirer,<sup>[15]</sup> on page 18 carried the news story "NBI Arrests Negros Judge for getting P30,000.00 bribe." Likewise, the incident came out in the Negros Chronicle on June 16, 1996.<sup>[16]</sup>

The Office of the Court Administrator (OCA) sought<sup>[17]</sup> the assistance of NBI Director Santiago Toledo to verify the authenticity of the news report. The OCA was then furnished with a certified copy of the radio message received from the NBI at Dumaguete City and media Release<sup>[18]</sup> containing a case summary and photographs of respondent judge being examined, and pictures of his car and marked money.

In a memorandum<sup>[19]</sup> addressed to the Chief Justice, Deputy Court Administrator Bernardo P. Abesamis recommended that respondent judge be placed under suspension and that the case be referred to a Justice of the Court of Appeals for investigation, report and recommendation. The Court referred<sup>[20]</sup> the case to Justice Portia Aliño-Hormachuelos of the Court of Appeals.

Judge Barron, in his verified comment dated September 20, 1996 rendered his revision of the incident as follows:

"Sometime in the month of April 1996, David Crear chanced to hold my audience privately at Lab-as Restaurant in Dumaguete City, where he frankly offered me money in exchange for a favorable decision in Civil Case No. 10104. He offered something like P30,000.00. In deference to his being a foreigner, I patiently and politely told him that what he was doing was against the law, and that besides, I was only an acting presiding judge who could be replaced anytime by a regular judge before the case could even be decided. Thereafter, he made more indecent calls increasing his bribe offer to P50,000.00, thence to P100,000.00 which upset me. It was his insolent remark that even Justices are receiving offers that made me decide that I had (sic) had enough of this man's impudence (sic). I then referred the matter to Judge Teopisto Calumpang of RTC Branch 39, and he advised me to report the bribe offer to the PNP and set the entrapment of Mr. Crear (Annex 'D').

"On May 4, 1996, I officially reported Mr. Crear's bribe offer to the Dumaguete City PNP and the same was entered in the Police Blotter (Annex 'E'). SPO1 Burlaza and I agreed to set the entrapment after I could get Mr. Crear to agree on the time and place of pay off. It was our understanding that the PNP through SPO1 Burlaza, would wait for my go signal (Annex 'F').

"Thus, on June 4, 1996 I sent Criseldo Gabo to David Crear to inform the latter that I wanted to meet him at Salawaki Beach Resort at Dauin, Negros Oriental. In the afternoon of said date David Crear met me at the beach resort. There we talked about his offer. But we could not agree on the amount even as I pretended to haggle with him. Neither could I get a definite commitment from him as to where and when the pay-off would be made so that I could relay it to SPO1 Burlaza. David Crear expressed surprise, though, why suddenly I was interested in his offer which I firmly refused before. He warily said he would like to meet me to finalize the project on June 8, 1996 at Salawaki Beach at 4:00 p.m. It was my impression that on June 8, 1996 we would agree on the amount, the place and the time of the pay-off would be made. Thus, I went to Salawaki Beach on that day for the purpose of obtaining said information