

EN BANC

[RTJ-96-1347, June 14, 1996]

PROS. LEO C. TABAO, COMPLAINANT VS. JUDGE PEDRO S. ESPINA, RESPONDENT

[RTJ-96-1348. JUNE 14, 1996]

**REGIONAL STATE PROS. FRANCISCO Q. AURILLO, JR.,
COMPLAINANT, VS. JUDGE PEDRO S. ESPINA, RESPONDENT**

D E C I S I O N

PER CURIAM:

In a sworn complaint dated 4 July 1995, First Assistant City Prosecutor for Tacloban City, Leo C. Tabao, accused Judge Pedro S. Espina then presiding judge, Regional Trial Court, Branch 7, Tacloban City of: (a) Gross Irregularity, (b) Abuse of Authority and (c) Bias in favor of the accused, in handling and deciding Criminal Case No. 93-04-197 entitled "*People of the Philippines v. Salvador Padernal*" a case for violation of Republic Act No. 6425 (Drug Pushing).

In another sworn complaint dated 21 July 1995, Regional State Prosecutor Francisco Q. Aurillo, Jr. manifested his desire to be a co-complainant against Judge Espina for his handling of the above-mentioned criminal case.

Prosecutor Leo C. Tabao narrated Judge Espina's acts which allegedly merit disciplinary sanction, as follows:

1. On 19 April 1995, when accused Salvador Padernal finished testifying as the third and last witness for the defense in said Criminal Case No. 93-04-197, defense counsel Atty. Lauro G. Noel made a reservation to submit within five (5) days, documentary evidence consisting of the accused's alleged business licenses and permits and the defense's formal offer of exhibits, after which the defense would rest its case;^[1]
2. On 22 June 1995, the prosecution received a notice of promulgation of judgment in the said criminal case which was set on 27 June 1995;
3. On the same day, 22 June 1995, the prosecution filed an urgent manifestation seeking to postpone promulgation of judgment since the defense had not submitted its documentary evidence, formal offer of exhibits and rested its case. The prosecution also manifested its intention of adducing rebuttal evidence to the documentary exhibits to be submitted;^[2]
4. On 23 June 1995, Judge Espina nonetheless issued an order reiterating the notice setting the date of promulgation of judgment on 27 June 1995;^[3]

5. On 27 June 1995, Judge Espina promulgated a judgment in the said Criminal Case No. 93-04-197 entitled "*People v. Salvador Padernal*" acquitting the accused. The decision was dated 1 June 1995.

Prosecutor Aurillo, aside from reiterating the grounds relied upon by Prosecutor Tabao for holding Judge Espina administratively liable, adds that he (Aurillo) had earlier assailed before the Court of Appeals an Order, dated 22 April 1993, issued by respondent judge granting bail to the accused in the same above-mentioned criminal case without giving the prosecution a chance to present evidence to oppose the grant of bail.^[4] The Court of Appeals in a decision dated 30 August 1994 annulled Judge Espina's orders granting bail to the accused and denying the prosecution's motion for reconsideration of the order which granted bail. The dispositive part of the Court of Appeals decision which became final and executory on 19 September 1994^[5] reads:

"WHEREFORE, for having been issued with grave abuse of discretion, and for lack of or in excess of jurisdiction, the Orders dated April 22, 1993 and June 23, 1993 issued in Criminal Case No. 93-04-197, are declared null and void and set aside. Consequently, the bail bond posted by accused-private respondent is ordered cancelled and respondent court is ordered to issue a warrant of arrest for the accused.

We leave to the sound discretion of respondent Judge, the herein petitioner's prayer for inhibition as he has not been given the opportunity to rule on said motion.

SO ORDERED."^[6]

On 22 September 1995, respondent Judge Pedro S. Espina filed comment on the first complaint, arguing that:

1. He proceeded to decide the case without the documentary evidence of the defense since such documents were not submitted within the period allowed;
2. He is of the opinion that the documentary evidence, consisting of business licenses and permits, even if offered to show that accused is gainfully employed, is immaterial to the innocence or guilt of the accused;
3. Respondent judge invokes Sections 3 and 4 of Rule 128 on the admissibility only of evidence relevant to the issue;
4. Finally, respondent judge invokes Section 3(m) of Rule 131 (not Sec. 5(m) of Rule 128 as erroneously referred to in the comment) that presumes that official duty was regularly performed unless the contrary is shown.

On 19 December 1995, respondent Judge Espina filed a pleading entitled "Consolidated Comments" alleging:

1. He granted bail to the accused (Padernal) after the prosecuting fiscal in Criminal

Case No. 93-04-197 agreed to submit the issue of bail for resolution after the prosecution filed an opposition to the petition for bail;

2. He granted bail in the amount of P200,000.00 a day after the prosecution filed said opposition;

3. He denied the prosecution's motion for reconsideration of the order granting bail on the ground that the order had become final;

4. The enactment into law of Republic Act No. 7659 on 31 December 1993 and the ruling of the Supreme Court in *People v. Simon* (G.R. No. 93028, 29 July 1994, 234 SCRA 555), giving the law (R.A. 7659) retroactive effect insofar as it is beneficial to the accused, now entitles the accused in the subject criminal case to bail as a matter of right;

5. It is an undue interference with the prerogative of the trial court to argue that the decision in the subject criminal case should not have been rendered (the way and form it was rendered);

6. It is the sole prerogative of the trial court, in the exercise of its authority to appreciate the evidence, to decide the relevance or irrelevance of evidence.

On 6 February 1996, the Office of the Court Administrator submitted to the Court a recommendation to absolve respondent Judge Espina from any administrative liability, based on the opinion that respondent's acts constitute an exercise of judicial prerogative.

We are not persuaded by the recommendation.

The Court has repeatedly stressed the ruling in *People v. Dcicudao*^[7] that a hearing is absolutely indispensable before a judge can properly determine whether the prosecution's evidence is weak or strong on the issue of whether or not to grant bail to an accused charged with a heinous crime where the imposable penalty is death, reclusion perpetua or life imprisonment. Hence, a denial of the prosecution's request to adduce evidence, deprives it of procedural due process, a right to which it is entitled equally as the defense. A hearing is required to afford the judge a basis for determining the existence of those factors set forth under Rule 114, Sec. 6, Rules of Court in granting or rejecting a plea for bail. The hearing for bail though summary in nature is necessary to afford both the prosecution and the defense an opportunity to prove their respective contentions on the matter of bail for the accused.

The Court has never hesitated to impose sanctions on judges who had granted bail to an accused charged with a heinous crime punishable with death, *reclusion perpetua* or life imprisonment, without the required hearing. In *Santos v. Ofilada*^[8] the Court expressing almost exasperation over repeated violations by judges in this regard stated that, "It is indeed lamentable that despite the series of its pronouncements on the same administrative offense, this Court still has to contend with the same problem all over again and to impose once more the same sanction."

In the present case, respondent Judge Espina's failure to comment on this aspect of the complaint against him aggravates his situation. It will be recalled, in this