Supreme Court E-Library

respondent Commissioner left public office. Apparently, his successor was of a different mind. Hence the case was not disposed of sooner.

WHEREFORE, the appealed decision is affirmed. No costs.

Aquino, Concepcion Jr., Abad Santos and *De Castro, JJ.*, concur.

Barredo, J., did not take part.

FIRST DIVISION

[Adm. Mat. No. P-2251, November 6, 1981]

ANGEL C. DEL MUNDO and EDMUNDO T. REYES, complainants, *vs.* ATILANO BARROZO and ERNESTO BISCARRA, respondents.

SYNOPSIS

A complaint about the delay in the raffle of Criminal Case No. 159489-SA for estafa which was filed and docketed in the City Court of Manila on February 13, 1981, but was forwarded only on June 9, 1981 to the Office of the Executive Judge for inclusion in the raffle, was referred to the Executive Judge for proper action and recommendation. Upon being required to explain, Atty. Atilano Barrozo, Branch Clerk of Court, Branch XI, alleged that it was Deputy Clerk of Court Ernesto Biscarra of Branch XI (night court) who is in charge of all special arrest cases and who is in possession of the docket stamp machine. Atty. Biscarra, on the other hand, disclaimed knowledge of how the case in question was docketed. In his report, the Executive Judge made the findings of a clear case of neglect of duty on the part of Deputy Clerk of Court Biscarra which was shared by the Branch Clerk of Court Barrozo under the doctrine of command responsibility. It further appears that Barrozo had been previously found guilty of similar negligence in Administrative Matter No. P-2457.

The Supreme Court, under the established facts, ordered both respondents to pay a fine equivalent to their respective salaries for two months, a penalty higher than that recommended by the Executive Judge with warning that the same or similar offense shall be dealt with more severely.

Supreme Court E-Library

SYLLABUS

CONSTITUTIONAL LAW; ADMINISTRATIVE SUPERVISION OF LOWER COURTS; ADMINISTRATIVE COMPLAINT; NEGLECT OF DUTY; DELAY IN THE RAFFLE OF A CRIMINAL CASE; RESPONSIBILITY SHARED BY BOTH BRANCH CLERK OF COURT AND DEPUTY CLERK OF COURT; PENALTY; CASE AT BAR.— Under the established facts that in a letter, dated June 8, 1981, Angel C. del Mundo and Edmundo T. Reyes complained about the delay in the raffle of Criminal Case No. 159489-SA for estafa which was filed on February 13, 1981, in the City Court of Manila, and in the report submitted by the Executive Judge, he made the findings that such is a clear case of neglect of duty on the part of Deputy Clerk of Court Ernesto Biscarra who is in charge of the docketing of all special arrest (SA) cases in the Night Court (Branch XI) and that Branch Clerk of Court Atilano Barrozo shares the negligence of Biscarra, his deputy clerk, under the doctrine of command responsibility, and it appearing further that the former had been previously found guilty of "inexcusable neglect of duty for delaying for six days in the transmitting of a case to the Executive Judge for raffling . . ." in Administrative Matter No. P-2457, the Supreme Court ordered both respondents to pay a fine equivalent to their respective salaries for two (2) months with warning that the repetition of the same or similar offense shall be dealt with more severely, a penalty higher than a fine equivalent to their salary of fifteen (15) days as recommended by the Executive Judge.

DECISION

FERNANDEZ, *J.*:

In a letter dated June 8, 1981 Angel C. del Mundo and Edmundo T. Reyes complained about the delay in the raffle of Criminal Case No. 159489-SA for estafa which was filed on February 13, 1981 in the City Court of Manila by the Office of the City Fiscal.[1]

The matter was referred to Executive Judge Antonio Padua Paredes for proper action and recommendation.[2]

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[1] Rollo, p. 9.

[2] Rollo, p. 8.

Supreme Court E-Library

Judge Paredes, in turn, directed Atty. Julia M. Naciongayo, Acting Clerk of Court, City Court of Manila, to comment on the letter of Angel C. del Mundo and Edmundo T. Reyes dated June 8, 1981.[3]

In a letter dated June 23, 1981 Acting Clerk of Court Naciongayo stated, among others, that Criminal Case No. 159489-SA was filed, received and docketed in Branch XI on February 13, 1981 but it was only on June 9, 1981 when said case was forwarded to the Office of the Executive Judge for inclusion in the raffle.[4]

Executive Judge Paredes directed Atty. Atilano Barrozo, Branch Clerk of Court, Branch XI to explain in writing within three days from receipt why no disciplinary action should be taken against him for withholding for almost four (4) months Criminal Case No. 159489-SA.

In his letter dated July 2, 1981 Atty. Barrozo alleged that Deputy Clerk of Court Ernesto Biscarra of Branch XI (night court) is in-charge of, and responsible for, the docketing of all special arrest cases filed with the court and, as such, he was in possession of the docket stamp machine. Atty. Barrozo disclaimed knowledge of how the case in question was docketed.[5]

Upon being required to explain, Deputy Clerk of Court Ernesto Biscarra stated that in the late afternoon of February 13, 1981, he received from the Special Docket Division (night court) twenty (20) new informations from the City Fiscal's Office, which he entered and numbered from Criminal Case No. 159469-SA to Criminal Case No.159488 and that he did not place the number on the subject case but suspected that it must have been done by somebody when he was attending to his duties as Branch Clerk of Court at the night court.[6]

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[3] Rollo, p. 10.

[4] Rollo, pp. 11-14.

[5] Rollo, p. 24.

[6] Rollo, pp. 25-29.

Supreme Court E-Library

In his report submitted on August 10. 1981, Judge Paredes made the following findings:

"From the foregoing evidence, the undersigned finds Biscarra is in charge of the docketing of all special arrest (SA) cases in the Night Court (Branch XI). As such, he has custody and possession of the docket stamping machine. Since he claims that somebody had 'unlawfully' numbered Ramon Lulu's information as Criminal Case No. 159589-SA (See Annex "B", Naciongayo's comment) while he was on trial duty after 5:15 p.m. the reasonable conclusion is that Biscarra did not keep the stamping machine well and had not safely guarded it from unauthorized use by other court employees or even outsiders. Such is a clear case of neglect of duty on his part.

"Barrozo cannot simply disclaim any responsibility regarding the safekeeping and misuse of the docket stamping machine. Being the branch clerk of court he is supposed to have supervision and control over the employees under him. He thus shares the negligence of Biscarra, his deputy clerk under the doctrine of command responsibility or for failure to see to it that Biscarra properly and diligently discharged his duty or to help him do it if his deputy was truly busy at the trial.

"On April 27, 1981, in Administrative Matter No. P-2457 before the Honorable Supreme Court, entitled "Judge Antonio P. Paredes, Executive Judge of the City Court of Manila, complainant, *versus* Atilano Barrozo, Branch Clerk of Court, respondent," therein respondent was found guilty of inexcusable neglect for delaying for six days in the transmitting of a case to the Executive Judge for raffling and ordered to pay a fine equivalent to his compensation for twenty (20) days, with warning against a repetition of another irregularity which penalty on June 17, 1981 was subsequently reduced to a fine equivalent to five (5) days salary."[7]

and recommended "that Branch Clerk of Court Atilano A. Barrozo and Deputy Clerk of Court Ernesto Biscarra, both of Branch XI, City Court of Manila be each ordered to pay a fine equivalent to fifteen (15) days compensation with warning."[8]

It appears that Branch Clerk of Court Atilano Barrozo had been previously found guilty of "inexcusable neglect for delaying for six days in the transmitting of a case to the Executive Judge

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[7] Rollo, p. 6.

[8] Rollo, p. 7.

Supreme Court E-Library

for raffling . . ." on April 27, 1981 in Administrative Matter No. P-2457.

Under the established facts, a penalty higher than a fine equivalent to the salary for fifteen (15) days should be imposed.

WHEREFORE, Branch Clerk of Court Atilano A. Barrozo and Deputy Clerk of Court Ernesto Biscarra, both of Branch XI, City of Manila, are each ordered to pay a fine equivalent to their respective salaries for two (2) months with warning that the repetition of the same or similar offense shall be dealt with more severely.

Let this decision be made a part of their personal records in this Court.

SO ORDERED.

Teehankee (Chairman), Makasiar, Guerrero and *Melencio-Herrera, JJ.*, concur.

EN BANC

[G.R. No. 50155. November 6, 1981]

SATURNINO OCAMPO, ANTONIO LIAO, RAMON ISBERTO, ESTER CENIZA-ISBERTO, and EVELYN SARMIENTO, petitioners, *vs.* MILITARY COMMISSION NO. 25; TRIAL COUNSEL OF MILITARY COMMISSION NO. 25; PROSECUTION DIVISION, MILITARY TRIBUNALS; and MINISTRY OF NATIONAL DEFENSE, respondents.

SYNOPSIS

At the hearing of this case for subversion before the respondent military tribunal, petitioners who were arrested and detained pursuant to arrest, search and seizure orders, including those on temporary release, filed: (1) a motion to Quash, (2) a motion for Bill of Particulars, and (3) a motion for Discovery, which were all denied. Due to their refusal to plead during the arraignment, a plea of not guilty was ordered entered for each of them, and the trial of the case was postponed to a later date to afford them the