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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

SECOND DIVISION

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

ANTONIO M. BANGAYAN, *complainant, vs.* **JUDGE JIMMY R. BUTACAN,** *respondent.*

SYNOPSIS

Respondent judge was found guilty of gross misconduct for having committed the following acts: he ordered the release of an accused before the latter posted bail; and he granted the motion to reduce bail without hearing.

The Supreme Court held: that under the present rules, a hearing is required in granting bail and a motion to reduce the amount of bail likewise requires a hearing before it is granted.

SYLLABUS

LEGAL AND JUDICIAL ETHICS; JUDGES; COMPLAINT AGAINST JUDGES; GROSS MISCONDUCT; GRANTING BAIL WITHOUT HEARING, A CASE OF. — Under the present rules, a hearing is required in granting bail whether it is a matter of right or discretion. A motion to reduce the amount of bail likewise requires a hearing before it is granted in order to afford the prosecution the chance to oppose it. Respondent's haste in granting Antonio Cauilan, Jr.'s motion for reduction of bail certainly makes his act suspect. To sum up, the records show that respondent ordered the release of Antonio Cauilan, Jr. before

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the latter posted his bail. He granted the motion for reduction without giving the prosecution the chance to be heard. And he ordered the release of Antonio Cauilan, Sr. despite the latter's failure to post bail in Criminal Case No. 5945. This is gross misconduct which cannot be allowed to go unpunished. It is also a gross violation of Rule 3.01, Canon 3 of the Code of Judicial Conduct, which requires judges to "be faithful to the law and maintain professional competence."

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 ₱24,000.00 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.

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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 ₱24,000.00 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.

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[1] Letter-Complaint, dated June 14, 1999, p. 2.

[2] Letter-Comment, dated Aug. 17, 1999, p.1.

[3] Letter-Complaint, date June 14, 1999, Annex J.

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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 ₱3,000.00 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,

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[4] Letter-reply, dated February 23, 2000, Annex A.

[5] Letter-reply, dated February 23, 2000, Annex B.

[6] OCA Report, p. 4.

[7] RULES OF COURT, Rule 113, §4.

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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 by warrant server SPO1 Larry T. Urbano showing that he served both warrants of arrest on Antonio Cauilan, Sr. on April 29, 1999.

Second. Did respondent order the release of Antonio Cauilan, Sr. even if the latter did not post bail? The order of release dated April 30, 1999 on Criminal Case No. 5944 is proper. Antonio Cauilan, Sr. posted bail on that day, on the basis of which respondent issued an order of release. However, in Criminal Case No. 5945, no bail was posted by the accused, yet he was released. This is a violation of the rules on the part of respondent judge.

Even if Antonio Cauilan, Sr. was arrested on April 29, 1999 in Criminal Case No. 5944 and posted bail, still respondent should not have ordered the release of the accused. Respondent knew very well that there was another case against Antonio Cauilan Sr. Even if the arresting officer did not serve the warrant in Criminal Case No. 5945, respondent should not have allowed the release on bail of the accused in that case.

Third. As for the arrest and release of Antonio Cauilan, Jr., we find that respondent is likewise guilty of grave abuse of discretion.

Respondent judge said that "there is nothing from the records which would disclose that he was arrested."[8] He insists that Antonio Cauilan, Jr. voluntarily surrendered on May 11, 1999. On the same day, he filed a motion for the reduction of his bail, which respondent approved thereby paving the way for the release of the accused.

The records show, however, that respondent ordered the release of Antonio Cauilan, Jr. on April 30, 1999. If Antonio

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[8] Letter-Comment, dated Aug. 17, 1999, p. 3.

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Caulan, Jr. was not arrested until his voluntary surrender on May 11, 1999, then respondent had no basis for ordering the release of the accused on April 30, 1999.

Fourth. As the OCA noted, the motion for the reduction of bail of Antonio Cauilan, Jr. did not contain a notice of hearing to the prosecution. Indeed, the records disclose that no hearing was even conducted by respondent before granting reduction of the bail. This is contrary to Rule 15, §4 which requires written motions to be heard and "served in such a manner as to ensure receipt by the other party at least three days before the date of hearing, unless the court for good cause sets the hearing on shorter notice."[9] In *Espiritu v. Jovellanos*,[10] in which an oral motion was made to reduce the amount of bail, it was held:

> In this case, the failure to give notice to the prosecution may be due to the fact that there was no written motion filed but only, as respondent judge himself admitted, an oral request by Dumlao and his father that the amount of the bail be reduced. What respondent judge should have done was to have Dumlao put his request in writing and then schedule the incident for hearing with notice to the prosecution.

Under the present rules, a hearing is required in granting bail whether it is a matter of right or discretion.[11] A motion to reduce the amount of bail likewise requires a hearing before it is granted in order to afford the prosecution the chance to oppose it. Respondent's haste in granting Antonio Cauilan, Jr.'s motion for reduction of bail certainly makes his act suspect.

To sum up, the records show that respondent ordered the release of Antonio Cauilan, Jr. before the latter posted his bail. He granted the motion for reduction without giving the prosecution the chance to be heard. And he ordered the release of Antonio Cauilan, Sr. despite the latter's failure to post bail in Criminal

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[9] RULES OF COURT, Rule 15, §4, par. 2.

[10] 280 SCRA 579, 590 1997).

[11] RULES OF COURT, Rule 114, §18.

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Case No. 5945. This is gross misconduct which cannot be allowed to go unpunished. It is also a gross violation of Rule 3.01, Canon 3 of the Code of Judicial Conduct, which requires judges to "be faithful to the law and maintain professional competence."

In this case, respondent not only failed to live up to his duties under the law, he has acted in bad faith. Despite the fact that he had ordered the release of persons lawfully arrested even before they had posted bail, he tried to cover up for what he did. This is serious misconduct for which he should be disciplined. A fine of ₱10,000.00 would be appropriate under the circumstance.[12]

WHEREFORE, respondent is found *GUILTY* of gross misconduct and is hereby *ORDERED* to pay a *FINE* of ₱10,000.00 with a *WARNING* that repetition of the same will be dealt with more severely.

SO ORDERED.

Bellosillo (Chairman), Quisumbing, Buena, and *De Leon, Jr., JJ.*, concur.

FIRST DIVISION

[A.M. No. MTJ-98-1160. November 22, 2000]

DR. MA. CRISTINA B. SEARES, *complainant, vs.* **HON. ROSITA B. SALAZAR, Judge, Municipal Trial Court, Bangued, Abra,** *respondent.*

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[12] *Marzan-Gelacio v. Flores*, A.M. No. RTJ-99-1488, June 20, 2000; *De Austria v. Beltran*, 313 SCRA 443 (1999).