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EN BANC

[A.M. No. MTJ-99-1191. August 31, 2000]

FEDERICO S. CALILUNG, *complainant, vs.* **JUDGE WILFREDO S. SURIAGA, MTC, Angeles City,** *respondent.*

[A.M. No. RTJ-99-1437. August 31, 2000]

FEDERICO S. CALILUNG, *complainant, vs.* **JUDGE PHILBERT I. ITURRALDE, RTC, Branch 58, Angeles City,** *respondent.*

SYNOPSIS

Complainant is the plaintiff in an unlawful detainer case filed with respondent Suriaga, MTC Judge in Angeles City. A favorable decision was rendered, but it was appealed to the sala of respondent Iturralde. Claiming that Suriaga was demanding ₱250,000.00 for a favorable judgment of the appealed case, complainant sought the assistance of the National Bureau of Investigation. The entrapment was conducted on April 19, 1999 with NBI Supervising Agent Dapilos acting as the "yaya" of complainant's son. Suriaga, after talking with somebody over the phone about the appealed case and assuring that complainant would be given a draft of the favorable decision, received the marked money in the amount of ₱250,000.00. Thus, his arrest which was even published in the Philippine Daily Inquirer's April 22, 1999 edition. Suriaga was thereafter charged with the crime of Corruption of a Public Official under Article 212 of the Revised Penal Code before the Sandiganbayan and this administrative complaint for serious misconduct was filed against him and Iturralde. However, the evidence presented against respondent Iturralde was the alleged telephone conversation between him and Suriaga that transpired during the entrapment.

A judge should avoid impropriety and the appearance of impropriety in all activities. Improper conduct erodes public confidence in the judiciary. Respondent Suriaga's culpability

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for serious misconduct has been established not just by substantial evidence but by an overwhelming preponderance thereof. To demand and receive money from a party in a case before him constitutes serious misconduct for which act he has no place in the judiciary. Suriaga was dismissed from service with forfeiture of all retirement benefits and leave credits and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations. However, there being no sufficient evidence to establish the culpability of respondent Iturralde, the case was referred back to the OCA for further investigation.

SYLLABUS

1. **JUDICIAL ETHICS, JUDGES; SERIOUS MISCONDUCT; DEMANDING AND RECEIVING MONEY FROM A COMPLAINANT IN A CASE BEFORE RESPONDENT IS NO LESS THAN A BRIBE AND CONSTITUTES SERIOUS MISCONDUCT.** — As regards to respondent Suriaga, the Investigating Justice observed that the testimonies of the Calilung spouses were replete with important details that could not be ignored. He pointed out that mere denials and an unsatisfactory refutation on the part of Judge Suriaga to prove his innocence do not persuade to establish the falsity of complainant's testimony and that of his wife. It was no less than a bribe for Judge Suriaga to demand and receive money from a party in a case before him for which act he has no place in the judiciary. Neither is respondent judge's improper and illegal act, of asking from complainant the amount of ₱250,000.00 to be given to Judge Iturralde, to be condoned. The Court agrees with the foregoing findings and conclusion of Justice Ramirez. The culpability of respondent Judge Suriaga for serious misconduct has been established not just by substantial evidence which suffices in an administrative investigation but by an overwhelming preponderance thereof.

2. **ID.; ID.; DUTY TO AVOID ANY IMPRESSION OF IMPROPRIETY TO PROTECT THE IMAGE AND INTEGRITY OF THE JUDICIARY.** — Case law repeatedly teaches that "[j]udicial office circumscribes the personal conduct of a judge and imposes a number of restrictions thereon, which he has to pay

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for accepting and occupying an exalted position in the administration of justice. The irresponsible or improper conduct of a judge erodes public confidence in the judiciary. It is thus the duty of the members of the bench to avoid any impression of impropriety to protect the image and integrity of the judiciary." As has been stated earlier, the Court has time and again "[a]dmonished judges to conduct themselves in a manner that is free even from the appearance of impropriety. For judicial officers to enjoy the trust and respect of the people, it is necessary that they live up to the exacting standards of conduct demanded by the profession and by the Code of Judicial Conduct. This is especially true in the case of judges who, on a daily basis, interact with the public. Their official conduct, as well as personal behavior should always be beyond reproach."

3. **ID.; ID.; THEIR CONDUCT SHOULD MERIT THE RESPECT AND CONFIDENCE OF THE PEOPLE.** — A judge should conduct himself at all times in a manner which would reasonably merit the respect and confidence of the people for he is the visible representation of the law. Rule 2.01 of Canon 2 of the Code of Judicial Conduct directs that a judge should behave at all times to promote public confidence in the integrity and impartiality of the judiciary.

APPEARANCE OF COUNSEL

Marion B. Lauder for complainant.

D E C I S I O N

PER CURIAM:

These consolidated administrative cases charge both respondent judges with irregular activities amounting to serious misconduct in office.

It appears from the record that on April 19, 1999, agents of the National Bureau of Investigation (NBI) conducted an entrapment operation involving Judge Wilfredo S. Suriaga, Presiding Judge of the Metropolitan Trial Court of Angeles City. The operation stemmed from an Affidavit Complaint dated

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April 16, 1999[1] filed by Federico Calilung *y* Surla with the NBI. The complaint alleged that:

1. Calilung was the complainant in a case against one Emiliano D. Joven in an ejectment case docketed as Civil Case No. 98-116 pending before the MTC of Angeles City presided by Judge Suriaga.

2. While the case was still pending with him, Judge Suriaga approached Calilung soliciting the amount of Five Hundred Thousand Pesos (₱500,000.00) in exchange for a favorable decision in Civil Case No. 98-116.

3. Calilung haggled with the judge and requested that the amount be lowered to Three Hundred Thousand Pesos (₱300,000.00) as that was all he could afford, to which Judge Suriaga agreed.

4. Sometime thereafter in November 1998, Calilung delivered the money to Judge Suriaga at the latter's residence at Regina Street, Sta. Maria Village II, Balibago, Angeles City.

5. On December 4, 1998, Judge Suriaga rendered a decision in favor of Calilung.[2]

6. Emiliano Joven eventually appealed the decision to the Regional Trial Court (RTC) sometime in January 1999, which appeal, now docketed as Civil Case No. 9314, was raffled to Branch 58 in Angeles City which was presided by respondent Judge Philbert Iturralde.

7. Thereafter, Judge Suriaga again approached Calilung and informed him that there will be no problem with the appeal, because Judge Iturralde assured him of a favorable decision in consideration of the amount of Two Hundred Fifty Thousand (₱250,000.00) Pesos.

8. Calilung made it appear that he agreed to Judge Suriaga's proposal. The latter then directed Calilung to prepare

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[1] *Rollo*, Vol. 1, Annex B.

[2] *Rollo*, Vol. 1, Annex A.

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and deliver the money to him on Monday, April 9, 1999, at Judge Suriaga's residence.

9. Before the due date, Calilung approached the NBI requesting the Bureau to apprehend the two Judges "while in the act of receiving the money x x x [to] cut short their illegal activities and to deter them from victimizing other litigants in the future."

10. Calilung was not able to talk to Judge Iturralde personally. It was his counsel, Atty. Marion Lauder, who talked to Judge Iturralde regarding Calilung's case. According to Atty. Lauder, Judge Iturralde advised him to "talk to Judge Suriaga instead as they had already come to an agreement regarding the matter."

Acting on the complaint, the NBI formed a team composed of several NBI agents. The Joint Affidavit of Arrest[3] outlined the plan and procedure which the team adopted in the entrapment of Judge Suriaga, *viz*:

> Upon the receipt of the complaint, the NBI agents immediately proceeded to Angeles City for the surveillance and casing of the target area as well as to physically identify the subjects (Suriaga and Iturralde).
>
> On April 18, 1999, the NBI agents prepared the money provided by Mr. Calilung to be used in the operation. It amounted to two hundred fifty thousand pesos (₱250,000.00) in two hundred fifty (250) one thousand peso (₱1,000.00) bills. The NBI agents took down the serial numbers of the money[4] and forwarded the same to the NBI-Forensic Chemistry Division for fluorescent powder dusting together with a brown envelope with initials "JCG" and the date.
>
> It was agreed that Supervising Agent Julma Dizon-Dapilos (SA Dapilos) of the NBI-ACADED would act as the baby-sitter of Mr. Calilung's two-year old son, Marco. The NBI agents acted as back-up to SA Dapilos.
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> On the appointed date, the NBI agents stationed themselves along Katherine Street (near the house of Judge Suriaga). They waited for

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[3] *Rollo*, Vol. 1, Annex C.

[4] *Ibid.*, Annexes D to D-32.

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the warning signal of SA Dapilos. The signal came at around 3:00 p.m. When the NBI agents moved in, they found the envelope containing the marked money in Judge Suriaga's possession. Mr. Calilung also turned over to them the recording machine containing his conversation with Judge Suriaga as well as the latter's phone conversation with Judge Iturralde.

The NBI agents immediately proceeded to their Regional Office in San Fernando where they conducted a forensic/laboratory examination of the dorsal palmar and dorsal portion of Judge Suriaga's hands to determine the presence of fluorescent powder. The examination yielded a positive result. Consequently, they brought Judge Suriaga to the NBI Office for further interrogation after which he was booked, photographed and fingerprinted. Judge Suriaga did not however give any written testimony invoking his Constitutional rights.

In her affidavit dated 20th day of April 1999,[5] SA Dapilos also recounted what transpired on April 19, 1999. She stated that at about 8:30 a.m., Mrs. Joselin Calilung, accompanied by SA Dapilos and baby Marco, went to Judge Suriaga's residence to tell Mrs. Suriaga that they would deliver the money at lunch time. Mrs. Calilung asked for the favorable decision of Judge Iturralde because the money would be given simultaneously with the delivery of a copy of Judge Iturralde's decision. Sometime in the afternoon at about 12:30 p.m., Mrs. Joselin Calilung talked to Judge Suriaga at the latter's house. SA Dapilos who was then nearby with the Calilung's two-year old son, Marco, heard their conversation. Judge Suriaga said: "*O, dalhin mo na ang asawa mo rito at ang pera. "Naka-usap ko na si Judge Iturralde na ngayon na daw niya ire-release ang decision niya sa inyong kaso.*"

At around 1:35 p.m. of the same day, Mr. Calilung together with his wife Joselin, their son Marco and SA Dapilos entered Judge Suriaga's residence to deliver the marked money. Judge Suriaga assured Mr. and Mrs. Calilung that Judge Iturralde would render a decision favorable to them upon delivery of the money. The complainants however insisted that they would

[5] *Id.*, Annex E.

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wait for Judge Iturralde who promised that he would personally hand-carry the favorable decision to them. To convince the Calilung spouses that there was indeed an agreement between Judge Suriaga and Judge Iturralde, the former dialed the phone and called Judge Iturralde. The taped conversation from the end of Judge Suriaga went as follows:

"Hello, Branch 58? Nandiyan ba si Judge Iturralde? Puwede bang makausap? Si Judge Suriaga (Paused for a while.) Hello! Tuloy tayo sa golf. Oo, mag-go-golf tayo ha? O papaano, anong oras ka pupunta rito? Mamayang hapon? O, sige, ikaw na ang bahala dyan? Sa side mo ha? Tuloy na tuloy na tayo sa golf. May pambayad na ako sa caddie. Hindi na siguro. Pagkatapos ng hearing, puntahan mo ako rito alas kuwatro, alas singko. Alas kuwatro. Oo, oo, ngayon na Ha, ha. Eh, nandito eh Ha? Sige na, sige na. Sige na, ngayon na O sige, Ayos na? Kopya? Isang ano? O, dalhin mo na ang isang kopya, para makuha na nila ang kopya. Oo. Hindi, hindi, hindi. O sige sige sige. Hindi, computer naman." At this point, Mr. Calilung butted in and told Judge Suriaga: *"Judge, kahit draft lang para masaya naman kami."* Then, Judge Suriaga told Judge Iturralde: *"Huwag kang magalit pare, huwag kang magalit. Sige, sige, computer naman yan eh. Kahit na ipa-*follow up *nila bukas.* (Paused for a few seconds). *O, sige, sige sige, o sige, sige, sige. Oo. Masyadong halata? Masyadong halata? Pero siguradong, ano, pabor sa kanila. O sige, sige sige. Basta hihintaying kita rito ng four o'clock. Oo, sige. Mag-go-golf tayo. Okay, okay."* Then Judge Suriaga turned to complainants and said: *"Ayos na ayos na. Kaya lang, huwag ninyo lang ipa-follow up doon baka mahalata. Sabi niya sa akin, ibibigay niya daw sa inyo yung kopya mamaya, pero mababasa ninyo lang hindi ninyo madadala."* Mr. Calilung then said: *"Oo, di bale, kahit punitin ang kopya okay lang sa akin."* Then, Mrs. Calilung said: *"Lalabas kaya yon on time?"* To which Judge Suriaga replied: *"antayin na lang namin dito,"* Judge Suriaga however said: *"Hindi, huwag ninyong . . . kasi . . . maingat si Judge Iturralde. Andoon na, may date na i-me-mail sa inyo. I-me-mail sa inyo. Hintayin ninyong matanggap ninyo na. Meron na kaming . . . pero sigurado ko na yon. Ang ayaw niya lang, baka malaman na bakit alam ninyo kaagad na may desisyon na."* Mr. Calilung then said: *"Eh, syempre magfa-follow up kunwari."* Judge Suriaga then said: *"O, ano ngayon, Monday? Mga Wednesday punta ka sa . . . (blurred). Pero huwag mong ipa-follow up yung sa ano. Ang i-check mo sa Wednesday, sasabihin sa inyo, ah meron na ba kayong . . .*

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ah, meron na ho ba? Oo, patay malisya. Huwag na huwag kayong . . . (blurred). Kasi medyo maingat din yun sa reputasyon niya eh, hi hi hi." Complainant then said: *"Akala ko magkakainan tayo."* Judge Suriaga said: *"Eh, nagkainan na kami, wala kayo eh. Pero sigurado na iyon. Nagagalit nga eh. Wala silang tiwala, huwag na lang. Sabi ko naman, hindi, hindi, hindi, huwag."*

The Calilung spouses then decided to give the marked money to Judge Suriaga and not to wait for Judge Iturralde anymore. SA Dapilos then saw Mr. Calilung hand over the marked money to Judge Suriaga who was then standing by the main door. At that instance, SA Dapilos announced the entrapment and informed Judge Suriaga that he was under arrest for receiving the marked money in violation of the provisions of R.A. 3019. She also informed him of his constitutional rights after which she gave the warning signal to her back-up NBI agents. Judge Suriaga was thereafter placed under arrest and brought to the NBI Regional Office in San Fernando where an ultra-violet ray examination was conducted on him by Chemist Edwin Purificacion. The examination showed that Judge Suriaga was positive for specks of fluorescent powder on both his palmar and dorsal right and left hands.[6]

On April 20, 1999, Director Santiago Y. Toledo of the NBI forwarded the findings of SRA Arnel B. Azul and company to the Inquest Prosecutor of the Department of Justice in Padre Faura, Manila.[7] On the same day, two Informations were filed against Judge Suriaga by State Prosecutor Rosalina P. Aquino for "Corruption of Public Officials (Art. 212, RPC) [Criminal Case No. OMB-1-99-0726]" and for "Violation of Sec. 3(a) of R.A. No. 3019 otherwise known as the Anti-Graft and Corrupt Practices Act." [Criminal Case No. OMB-1-00-0727]."[8] These were indorsed by Chief State Prosecutor Nilo C. Mariano to the Ombudsman on the same date "requesting approval for the

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[6] *Id.*, Annex F.

[7] *Id.*, Annex G.

[8] *Id.*, Annexes H and I.

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filing of the corresponding informations and to direct the prosecutor of this Office to handle the prosecutions of the case."[9]

Thereafter, in a Joint Review Action dated 21 April 1999,[10] Graft Investigating Officer II Germain G. Lim recommended "that the subject Informations and the Resolutions dated 20 April 1999 rendered by the Department of Justice, National Prosecution Service, Manila be AFFIRMED and APPROVED *en toto*, finding the existence of probable cause against" Judge Suriaga as charged. On even date, this Joint Review Action was referred to the Office of the Ombudsman.[11] Likewise on the same day, an Information docketed as Criminal Case No. 25244[12] was filed before the Sandiganbayan accusing Judge Wilfredo Samson Suriaga of the crime of Corruption of a Public Official, defined and penalized under Article 212 of the Revised Penal Code.

"That on or about April 19, 1999, in Angeles City, Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, WILFREDO SAMSON SURIAGA, a public officer, being then a Judge of the Municipal Trial Court of Angeles City, Pampanga, did then and there willfully, unlawfully and feloniously demand and receive the amount of PESOS: TWO HUNDRED FIFTY THOUSAND (₱250,000.00) from Spouses Federico and Joselin Calilung for the purpose of mediating, inducing and influencing Judge Philbert Iturralde, Regional Trial Court Judge of Angeles City, into rendering a favorable decision for said spouses in Civil Case No. 98-116."

The entrapment operation that led to the arrest of Judge Suriaga was published in the Philippine Daily Inquirer's April 22, 1999 edition.[13]

The Office of the Court Administrator (OCA), to which the cases were subsequently referred for evaluation and report,

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[9] *Id.*, Annex J.

[10] *Id.*, Annex K.

[11] *Id.*, Annex L.

[12] *Id.*, Annex M.

[13] *Id.*, Annex N.

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found the evidence sufficient to support the charges against respondent judges and recommended that: 1.] they be treated and docketed as a regular administrative matter; 2.] Judge Suriaga be required to answer the complaint dated April 16, 1999 as well as the criminal charges against him within ten (10) days from notice; 3.] Judge Iturralde be likewise required to answer the complaint dated April 16, 1999 within ten (10) days from notice; 4.] thereafter, the case be referred to an Associate Justice of the Court of Appeals or a consultant of the OCA for immediate investigation, report and recommendation; 5.] Judge Suriaga be placed immediately under suspension pending the resolution of the investigation and criminal charges against him; 6.] Judge Iturralde be likewise placed under suspension and until final orders from the Court; and 7.] the Court Administrator and/or the Spouses Calilung be authorized to institute criminal proceedings against Judge Iturralde.

The Court thereafter issued a Resolution dated May 4, 1999 adopting the foregoing recommendations of the OCA and referred the matter to Justice Pedro A. Ramirez for immediate investigation, report and recommendation within thirty (30) days from notice.

On May 31, 2000, Justice Ramirez submitted his Report exhaustively synthesizing the evidence of complainant and respondent judges thus:

EVIDENCE FOR THE COMPLAINANT

Complainant Federico S. Calilung's came to know respondent Judge Suriaga early in 1998 when he filed a case for unlawful detainer against a tenant which was assigned to Judge Suriaga's branch.[14] Almost a year after the case was filed he went to court to verify its status. It was there that he met respondent Judge Suriaga whom he asked if there was already a decision in his case. Respondent Judge Suriaga answered there was "none yet" and told him, "your case has a problem. If you want let us talk and you go to my house" in Sta. Maria Village, Balibago, Angeles City.[15] When he went to see

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[14] TSN, 17 August 1999, p. 18.

[15] *Ibid.*, p. 19.

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respondent Judge Suriaga at his house, the latter told him that expenses that had to be incurred amounting to ₱500,000.00 "if you want to have a decision."[16] The amount was to be given to him, respondent Judge.[17] Told that he could not afford that much, respondent Judge Suriaga reduced the amount to ₱300,000.00. [18] After raising the amount of ₱300,000.00 in November 1998, he went to respondent Judge Suriaga's house and gave the money to him (respondent Judge Suriaga). A few days thereafter the decision in his favor was released.[19] He then went to see again respondent Judge Suriaga in his house to ask him about the writ of execution that he was supposed to issue in the case.[20] Respondent Judge Suriaga told him, "Do not wait for the execution, anyway, they are going to appeal the case. I would take care of it in the RTC."[21] The case was assigned in the Regional Trial Court to respondent Judge Iturralde.[22] One day upon seeing him at the hallway of the RTC and MTC premises respondent Judge Suriaga told him (witness) that his case was now with Judge Iturralde and advised him (witness) to see him (respondent Suriaga) at his house to talk things over.[23] A few days thereafter the (witness) went to respondent Judge Suriaga's house to see him.[24] There respondent Judge Suriaga told him (witness) that he has already talked with Judge Iturralde who was asking ₱250,000.00 for a favorable decision.[25] He haggled with respondent Suriaga about the amount but the latter told him that he had already done that for him and advised him not to haggle any further.[26] Respondent Judge Suriaga then set a date for the delivery of the amount. Because of doubts

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[16] *Id.*, p. 20.

[17] *Id.*, p. 22.

[18] *Id.*

[19] *Id.*, p. 23.

[20] *Id.*

[21] *Id.*

[22] *Id.*

[23] *Id.*, p. 24.

[24] *Id.*

[25] *Id.*, p. 25.

[26] *Id.*, pp. 25, 26.

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he entertained about the matter he asked his lawyer, Atty. Marion Lauder, to check the record of the case at Judge Iturralde's Court and find out if Judge Suriaga and Judge Iturralde had really talked with each other.[27] And (witness) himself went to Judge Iturralde's Court and asked one of the clerks for the record of the case.[28] The clerk told him that it was atop judge Iturralde's table, that Judge Suriaga has already talked to Judge Iturralde about the case and suggested that he inquire from Judge Suriaga himself about the matter, whereupon he and Atty. Lauder left,[29] witness (Federico Calilung) believing that really Judges Suriaga and Iturralde had talked with each other about his case.[30] So he prepared the money that Judges Suriaga and Iturralde were expecting from him, the date for its delivery set for April 19, 1999.[31] Before that, on April 16, 1999 he went to the NBI Office in Manila to complain against Judges Suriaga and Iturralde for extortion.[32] Atty. Roel Lazala advised him to prepare the money that was to be dusted with fluorescent powder to be used to entrap the two judges.[33] At 8:30 o'clock in the morning of April 1999, he and his wife Jocelin, their two-year-old son Marco and Julma Dizon-Dapilos of the NBI went to Judge Suriaga's house. They asked Mrs. Evelyn Suriaga, the Judge's wife, "if the luncheon with Judge Suriaga and Judge Iturralde will go through"[34] Mrs. Suriaga answered it "will go through," whereupon they left, went home and told his wife to fetch him at the bank.[35] After he was fetched by his wife from the bank, at about 1:30 o'clock in the afternoon, he, his wife, their son Marco and Agent Dapilos went to Judge Suriaga's house, Agent Dapilos pretending to be his son Marco's " *yaya.*" [36] There they

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[27] *Id.*, p. 26.

[28] *Id.*, p. 27.

[29] *Id.*, p. 28.

[30] *Id.*

[31] *Id.*, pp. 28, 29.

[32] *Id.*, p. 29.

[33] *Id.*, p. 30.

[34] *Id.*, pp. 30, 31.

[35] *Id.*, pp. 32, 33.

[36] *Id.*, p. 33.

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waited for Judge Iturralde to whom the money he had was to be given.[37] Judge Suriaga told him he himself would give the money to Judge Iturralde.[38] Tired already of waiting for Judge Iturralde, he asked Judge Suriaga if Judge Iturralde would really come and suggested it was better that the money be entrusted to Judge Suriaga.[39] Judge Suriaga then went to dial the telephone. He heard respondent Judge Suriaga say, "Is this Branch 58, this is Judge Suriaga. I want to talk to Judge Iturralde." After that Judge Suriaga said, *"Okay na."*[40] "We can already play golf by and by, I have already something to pay the caddie." After that he told Judge Suriaga who was still on the telephone to get a copy of the decision. Judge Suriaga told the person he was talking [with] over the telephone, "They need the decision," followed by "If it is a draft only, let us give them," and "Do not get angry anymore, okay *na naman*, you just bring a computer copy this afternoon at 4:00 o'clock. I would let them read it and tear it afterwards." Thus, he was satisfied and convinced that Judge Iturralde knew about the whole thing.[41] In the presence of his wife, his son Marco and Agent Dapilos he gave to Judge Suriaga the envelope with the amount of ₱250,000.00 inside.[42] It was then that Agent Dapilos shouted "entrapment *ito*" and frisked Judge Suriaga. He (witness) then picked up his son and hurriedly called the NBI agents who were outside.[43] The NBI agents apprehended Judge Suriaga and brought him first to their regional office in San Fernando where his hands were tested for powder dusting. That done he (witness) was brought to the NBI office in Manila.[44] There he (witness) executed the affidavit, Exhibit A.[45]

Jocelin Marcial Calilung, Federico's wife, testified in the following manner: Sometime in November 1998, her husband, upon arriving home

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[37] *Id.*, p. 34.

[38] *Id.*

[39] *Id.*, p. 35.

[40] *Id.*, p. 36.

[41] *Id.*, pp. 36, 37.

[42] *Id.*, p. 37.

[43] *Id.*

[44] *Id.*, pp. 37, 38.

[45] *Id.*, pp. 38, 39.

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told her that there was a problem in their case for ejectment.[46] It was because respondent Judge Suriaga told her husband when he visited the Judge at his residence that "their case has many problems"[47] and that Judge Suriaga was aking ₱500,000.00 from him for a favorable decision.[48] The amount was too much, she remarked and asked why.[49] She suggested that her husband bring her to Judge Suriaga's house so she could haggle with him about the amount being asked.[50] She and her husband then went to see Judge Suriaga at his house where she told the Judge the amount he was asking was too much.[51] Judge Suriaga answered her it was in exchange for a favorable decision and a writ of execution.[52] Told that she had to borrow money for that purpose and asked that it be reduced, respondent Judge Suriaga said, *"O, sigue,"* meaning that he was agreeable to ₱300,000.00, and if she had the money already it be brought to his house.[53] In the latter part of November 1998, she and her husband gave the amount of ₱300,000.00 to respondent Judge Suriaga at his house in Regina Street, Sta. Maria Village.[54] After a while the decision in their favor was rendered by respondent Judge Suriaga.[55] She and her husband then went to see Judge Suriaga again at his house to ask him why no writ of execution was issued in the case.[56] Judge Suriaga explained that the decision would be appealed just the same but assured them he would take care of it in the Regional Trial Court.[57] After coming home they went to see their lawyer who told them that an appeal from the decision had been taken to the Regional Trial Court, Branch

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[46] TSN, 27 August 1999, p. 4.

[47] *Ibid.*

[48] *Id.*, p. 5.

[49] *Id.*

[50] *Id.*

[51] *Id.*

[52] *Id.*, p. 6.

[53] *Id.*

[54] *Id.*

[55] *Id.*, p. 7.

[56] *Id.*

[57] *Id.*

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58, Angeles City, Judge Iturralde, presiding.[58] They then went to see Judge Suriaga at his house, told him of the appeal taken and reminded him to take care of the matter. Judge Suriaga answered that he knew Judge Iturralde and would take care of it, "he is ours," and "*wala namang problema iyan, kilala naman niya si Judge Iturralde siya na ang bahala, sa atin iyan, magbibigay ng favorable decision.*"[59] Asked how much was the amount needed, respondent Judge Suriaga answered, "₱250,000.00 but do not bargain anymore because I have already bargained with him."[60] The amount was for a favorable decision and the writ of execution to be issued, to which she grudgingly agreed, said amount to be delivered on April 19, 1999 at Judge Suriaga's house at Regina Street, Sta. Maria Village, Balibago.[61] On the night of April 14, 1999, her husband broached to her the idea of complaining to the NBI about the matter. She told him not to do that because "they were judges and were very powerful."[62] Finally, she agreed to her husband's idea. On April 15, 1999, about 10:00 o'clock in the morning, they went to see Atty. Roel Lazala of the NBI who told them to return at 2:00 o'clock in the afternoon, which they did.[63] When they returned to his office Atty. Lazala called for Agent Arnel Azul whom she saw taking notes of their conversation.[64] Before leaving the NBI office after talking with Atty. Lasala and Agent Azul, the latter told her and her husband, that they would go to Angeles City at 8:30 in the morning next day April 16, 1999 and told them to meet them at Kentucky Fried Chicken in Mabalacat.[65] As they were leaving, Atty. Lasala told them to confirm with Judge Suriaga "*kung tuloy iyong 19th kay Judge Iturralde.*"[66] on April 16, 1999, at 7:00 o'clock in the morning, she and her husband

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[58] *Id.*, p. 8.

[59] *Id.*

[60] *Id.*, p. 9.

[61] *Id.*

[62] *Id.*, p. 10.

[63] *Id.*, pp. 10, 11.

[64] *Id.*, p. 12.

[65] *Id.*, pp. 12, 13.

[66] *Id.*, p. 13.

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went to Judge Suriaga's house.[67] There Judge Suriaga told them, "*O Tuloy na iyon ha? Ang tagal tagal ninyo, kung bumalik kayo agad tapos na iyan.*"[68] After talking with Judge Suriaga at about 9:00 or 10:00 o'clock in the morning she and her husband went to Kentucky Fried Chicken to meet with Atty. Lazala,[69] who upon seeing them introduced them to the agents who would go with them to Judge Suriaga's house to familiarize themselves with the inside portion of his house.[70] After her husband and the agents had left Atty. Lazala introduced her to Agents Edmund Arugai and Dapilos.[71] It was agreed upon that Agent Dapilos would pose as her two-year old son Marco's "*yaya*" when they go to Judge Iturralde's house.[72] While she was talking with Agent Dapilos, her husband returned with the NBI agents from Judge Suriaga's house.[73] After lunch at Kentucky Fried Chicken in Mabalacat, they left to return to the NBI office at Taft Avenue, Manila where they arrived at 4:00 o'clock in the afternoon.[74] There she and her husband gave their sworn statements marked Exhibits A and B,[75] which were finished at about 7:00 o'clock in the evening.[76] On April 17, 1999, between 9:00 and 10:00 o'clock in the morning, Agent Azul called up her house to tell her husband about the money to be used in the entrapment.[77] He agreed to bring next day "real money" to be used.[78] The next day, April 18, 1999, he brought the money which was received by Atty. Lazala who issued the receipt for it and turned it over to Joey Guillen for dusting with

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[67] *Id.*, p. 14.

[68] *Id.*

[69] *Id.*

[70] *Id.*

[71] *Id.*, p. 15.

[72] *Id.*

[73] *Id.*, p. 16.

[74] *Id.*, p. 17.

[75] *Id.*, p. 18.

[76] *Id.*, p. 19.

[77] *Id.*, p. 20.

[78] *Id.*, pp. 20, 21.

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fluorescent powder.[79] Early in the morning of April 19, 1999, Agent Dapilos was brought to her house.[80] After she was introduced to her son, her husband (Federico) told them to go to respondent Judge Suriaga's house "to confirm if our lunch with Judge Iturralde will push through."[81] Together with her two-year old son and Agent Dapilos, she went to respondent Judge Suriaga's house[82] where upon arrival the Judge's wife told her that her husband brought their children to "Mimosa *para magpraktis ng golf* then "to proceed to MTC"[83] and confirmed the lunch date with respondents Judges Iturralde and Suriaga.[84] Afterwards she and her husband went to Kentucky Fried Chicken where they met with the two groups of Atty. Arugai and Atty. Lazala, consisting of ten to twelve persons each group.[85] Together with Agent Dapilos and her son she went to Judge Suriaga's house at Regina Street, Sta. Maria Village, Balibago.[86] After being allowed by the houseboy to get inside she asked Mrs. Suriaga if respondent Judge Suriaga was "there already and she said yes, I would call him."[87] Upon meeting her, respondent Judge Suriaga asked where her husband was and said, *"dalhin mo siya rito."* She answered he was "in Equitable Bank,"[88] to which respondent Judge Suriaga replied, *"O, dalhin mo na siya rito pati iyong pera,"*[89] whereupon she and Agent Dapilos left and went to the gasoline station where her husband and the rest of the agents were.[90] She told her husband that respondent Suriaga told her, "*dalhin mo na rito ang asawa mo*

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[79] *Id.*, p. 21.

[80] *Id.*

[81] *Id.*, pp. 21, 22.

[82] *Id.*, p. 22.

[83] *Id.*

[84] *Id.*, p. 23.

[85] *Id.*, pp. 23, 24.

[86] *Id.*, p. 26.

[87] *Id.*, p. 27.

[88] *Id.*

[89] *Id.*

[90] *Id.*

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pati na ang pera."[91] Together with her husband and son and Agent Dapilos she returned to respondent Judge Suriaga's house between 1:00 and 1:30 o'clock in the afternoon.[92] Upon reaching his house, she asked Mrs. Suriaga if her husband was there. Mrs. Suriaga answered, *"Sige tawagin ko lang sandali,* just a while and she said sit down."[93] It took respondent Judge Suriaga about thirty minutes to come out of his bedroom.[94] Asked about their case, respondent Judge Suriaga blurted out, "*Wala ata kayong tiwala sa akin,"* to which she answered, "*hindi naman.*" [95] Her husband asked respondent Judge, *"talaga bang ilalabas nila ang decision, iyong favorable decision with writ of execution this time."* He stood up and answered *"Okay, sige tatawagan ko si Judge Iturralde."*[96] Thereupon respondent Judge stood up and went to the telephone between the dining room and the sala. After dialing the telephone he said, *"Hello, Branch 58, si Judge Iturralde,"* followed by, *"Si Judge Suriaga ito, o, tuloy na tuloy na tayo, maggogolf na tayo mamaya tuloy na tuloy na tayo, mayroon na tayong pambayad sa caddie."* It was then that her husband butt[ed] in. *"Judge iyong Decision."* Respondent Judge continued, *"O, iyong desisyon daw, o ano lalabas ba ngayon ay hindi hindi, o ano alas kwatro, alas singko, alas kwatro, o sige hihintayin na lang kita dito."* She (witness) butt[ed] in and said, *"Judge lalabas kaya iyon on time o ano, sabi niya ho eh, huwag kang magalit, computerized naman iyan eh, draft de puede a, hindi, o sige sige huwag kang magalit,"* respondent Judge said as he put down the phone.[97] Respondent Judge then said to them, *"Hayan nagalit si Judge Iturralde, kasi para atang wala kayong tiwala sa kanya eh,"* to which she replied, *"Judge gusto lang naman naming makasiguro."*[98] Respondent Judge said, *"Maingat iyang si Butz, huwag kayong pupunta doon ng basta basta sabi niya kasi*

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[91] *Id.*

[92] *Id.*, pp. 27, 28.

[93] *Id.*, p. 28.

[94] *Id.*

[95] *Id.*, p. 29.

[96] *Id.*

[97] *Id.*, p. 30.

[98] *Id.*

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baka mahalata, basta magtiwala na lang kayo sa akin."[99] Complainant Federico Calilung replied, *"Judge, sana huwag nang mangyari ang nangyari katulad before na walang execution,"*[100] to which respondent Judge Suriaga replied, *"akong bahala diyan sabi niya malapit ako diyan kay Butz"* (referring to respondent Judge Iturralde).[101] Complainant Federico Calilung then left to get the money from the car. Upon returning, complainant Federico Calilung said to respondent Judge Suriaga, *"x x x Judge eto na iyong pera kunin mo na kasi aalis pa kami, dahil susunduin ko iyong nanay ni Joy sa airport,"* which was in the amount of ₱250,000.00 in ₱1,000.00 denomination, in a brown envelope,[102] which respondent Judge Suriaga received saying, "thank you, thank you," after seeing what was inside the envelope, his favorite expression everytime she gave him money.[103] Present on that occasion were she (witness Jocelin Calilung), her son, Agent Dapilos and Mrs. Suriaga.[104] Agent Dapilos then announced, *"Entrapment ito Judge,"* to which respondent Judge Suriaga answered, "Ha? Ha? Dick (referring to complainant Federico Calilung) *bakit mo ginawa sa akin ito."*[105] Witness Jocelin Calilung went out of the house waving her hands at NBI agents Guillen, Gayas, Lazala, Arugai, Uson and others who went inside respondent Judge Suriaga's house.[106] Together with respondent Judge Suriaga, she and the NBI agents went to the NBI Regional Office in San Fernando, Pampanga aboard different cars.[107] Tested for fluorescent powder specks, respondent Judge was found positive for it.[108] From there they went to the NBI office in Manila where she and her husband Federico Calilung jointly swore to an affidavit that they executed before DOJ Prosecutor Aquino.[109]

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[99] *Id.*

[100] *Id.*

[101] *Id.*

[102] *Id.*, pp. 31, 32.

[103] *Id.*, p. 32.

[104] *Id.*, pp. 32, 33.

[105] *Id.*, p. 33.

[106] *Id.*

[107] *Id.*

[108] *Id.*, p. 34.

[109] *Id.*, p. 35.

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Sr. Forensic Chemist Edwin C. Purificando testified that in the evening of April 18, 1999, a Sunday, he reported for work at the NBI Forensic Chemistry Division. He received a letter-request from Special Investigator Joselito Guillen of the Special Investigation Division of the NBI, noted by the Chief, SID Roel Lazala, requesting that 250 pieces of ₱1,000.00 bills (original) be dusted and marked with fluorescent powder.[110] That he did. The money bills were used for entrapment.[111]

Supervising Agent Julma Dizon-Dapilos, who acted as *yaya* of complainant's two year old son, testified that she executed the affidavit, Exhibit C, [112] the authenticity of which was stipulated upon by the parties.[113] She corroborated the testimony of the Calilung spouses about respondent Judge Suriaga's conversation with respondent Judge Iturralde over the telephone.

NBI Special Investigator Joselito C. Guillen testified that respondent Judge Suriaga was photographed, fingerprinted and booked at the NBI office in Manila.[114] The ₱250,000.00 in bills were turned over to the evidence custodian by Agent Arnel Azul, now dead. It was Agent Azul who prepared the request for turnover notice dated April 22, 1999.[115] It was he (witness) who prepared the list of money bills and turned over the money bills to the forensic chemist after receipt.[116]

Evidence for respondents Judges

Respondent Judge Suriaga

Complainant Federico Calilung's testimony that in 1998 or on an unspecified date he met the complainant at his court's hallway and that he (respondent Judge Suriaga) demanded from him ₱500,000.00,

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[110] TSN, 10 September 1999, p. 20.

[111] *Ibid.*, p. 28.

[112] TSN, 17 September 1999, pp. 10, 21.

[113] *Ibid.*, p. 3.

[114] Exhibits H, I & J; TSN, 11 October 1999, p. 18.

[115] Exhibit K.

[116] TSN, 1 1 October 1999, p 26.

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reduced to ₱300,000.00, which amount was handed to him, is not true.[117] The Calilungs are lying when they testified that after the case was appealed to Judge Iturralde's court they (Calilungs) sought his (Suriaga's) help.[118] Likewise it is false and not true that prior to April 19, 1999 he met the Calilungs several times, at least six times, and that he arranged to meet with them in his house on April 19, 1999.[119] Early in the morning of that day he left his house to bring his two sons to their swimming lesson at Flow and Arrow near his place of work.[120] From there he went to his office to conduct trial until 11:30 or 11:45 in the morning.[121] He never had occasion to meet the Calilung spouses in the morning of April 19, 1999.[122] After trial he fetched his two sons and went home. He reached home between 12:00 and 12:15.[123] He rested in his bedroom at home after lunch with his wife and children.[124] While resting his wife told him Mrs. Calilung was in his house.[125] At first he did not like to see her but his wife prevailed upon him to know what she wanted from him.[126] So he went out of his bedroom and saw Mrs. Calilung standing at the sala.[127] It is not true that upon seeing Mrs. Calilung he asked her where her husband and the money were. He never said those words.[128] But after greeting him Mrs. Calilung asked if Judge Iturralde had already arrived. Her question surprised him because there was no party to be held in his house and in fact their food for lunch was but good for his family only.[129] After Mrs. Calilung left, he returned

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[117] *Id.*, p. 13.

[118] *Id.*

[119] *Id.*

[120] *Id.*, p. 14.

[121] *Id.*

[122] *Id.*

[123] *Id.*, p. 15.

[124] *Id.*

[125] *Id.*, p. 16.

[126] *Id.*

[127] *Id.*, pp. 16, 17.

[128] *Id.*, p. 17.

[129] *Id.*, pp. 17, 18.

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to his bedroom.[130] After about thirty minutes his wife called him from his bedroom telling that again there were visitors at home, this time Mr. and Mrs. Calilung.[131] Asked what they wanted, his wife told him she did not know.[132] Finally, after thirty minutes he went out of his bedroom to meet the Calilung spouses.[133] Again he was asked if Judge Iturralde had arrived already.[134] He answered them there was no party in his house and asked why they were looking for Judge Iturralde, in whose branch their (Calilungs) case was on appeal. They were asking his help because Judge Iturralde was his friend.[135] He answered he could not do that because Judge Iturralde was but his co-judge and not a friend, their relation with each other being "purely professional," whereupon he excused himself and returned to his bedroom, leaving the Calilungs behind.[136] After five minutes his wife told him that the Calilungs would like to see him again. Asked what for, his wife answered she did not know. Upon emerging from his bedroom he saw Federico Calilung standing near his bedroom door. Asked what was it they wanted from him, he heard Mr. Calilung tell Mrs. Calilung, "*Ibigay mo na kay Judge.*"[137] From the porch of his house, Mrs. Calilung rushed inside and thrust at him an envelope.[138] As he asked, "*Ano iyan,*" a woman who turned out to be an NBI agent emerged pointing, then poking a gun at him.[139] He believes the envelope was thrown on the floor and thinks he was not able to hold it.[140] The NBI agent was Julma Dizon Dapilos who pointed a gun at him.[141] So was his alleged reaction to the NBI

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[130] *Id.*, p. 18.

[131] *Id.*

[132] *Id.*

[133] *Id.*

[134] *Id.*

[135] *Id.*, pp. 18, 19.

[136] *Id.*, pp. 19, 20.

[137] *Id.*, p. 21.

[138] *Id.*

[139] *Id.*

[140] *Id.*, p. 22.

[141] *Id.*

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agents, *"Anong pera?* What money are you looking for? If he had the money why would he react to that statement in that way?"[142] Fifteen to twenty people entered his house, some of them from TV Channel 5. A big NBI agent wearing shorts with a gun tucked to his waist was among them.[143] He never dialed the telephone to call anybody (p. 24, t.s.n., *supra*). On April 19, 1999, he did not know the status of the ejectment case that was with Judge Iturralde. In fact the case was not pending before his court anymore, having decided it in December 1994.[144] Presumably the Calilung's motive in filing the false charges against him was the fact that their notice of appeal and later their motions for execution were denied. Besides, he found that the property subject of the case had already been auctioned for sale.[145]

Respondent Judge Suriaga's wife, Evelyn Torres Suriaga, testifying as a witness for him, sought to corroborate his testimony.[146]

Respondent Judge Iturralde

What complainant Federico Calilung said in his sworn statement (Exhibit A) that respondent Judge Suriaga assured him (Calilung) there would be no problem in the case on appeal because Judge Iturralde himself assured him (Suriaga) of a favorable decision in consideration of the amount of ₱250,000.00, to which he (Iturralde) agreed, is "totally hearsay and not true."[147] Federico Calilung's testimony that although he was not able to talk to Judge Iturralde himself, it was his lawyer, Atty. Marlon Lauder, who did regarding the case on appeal and Judge Iturralde said he should talk to Judge Suriaga instead because they had already come to an agreement regarding the matter, is again "totally hearsay and not true."[148] What the Calilungs swore in their affidavit dated April 20, 1999,[149] that

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[142] *Id.*

[143] *Id.*, p. 23.

[144] *Id.*, p. 24.

[145] *Id*, p. 26.

[146] TSN, 15 October 1999.

[147] TSN, 5 November 1999, p. 11.

[148] *Ibid.*, p. 12.

[149] Exhibit B.

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Judge Suriaga instructed them to prepare the money and told them there was no problem in the appeal as Judge Iturralde has assured them of a favorable decision and about the scheduled pay-off on April 19, 1999 at his rented house where Judge Iturralde would receive the money, is likewise "totally hearsay and not true."[150] So is the alleged telephone call by Judge Suriaga insinuating that he (respondent Judge Iturralde) was at the other end of the line, is "totally hearsay and not true."[151] At 1:35 in the afternoon of April 19, he was in his sala conducting a hearing as scheduled in the calendar for that day starting from about 1:30 o'clock in afternoon and ending at about 4:00 o'clock p.m.[152] He was supposed to hear twelve cases for that day starting from 1:30 o'clock.[153] He arrived at his sala about 12:30 o'clock noon, took his lunch and went over the record of the cases involved.[154] He received no telephone call from anybody that afternoon of April 12, 1999 while in Court in Angeles City.[155] He inquired from the members of his staff if they received any for him and they told him there was none.[156] The joint affidavit of his staff members to that effect is marked Exhibit 6. [157] The calendar of cases set for hearing on April 19, 1999 is marked Exhibits 7, 7-A and 7-B.[158] He then left to fetch his wife at the Veterans Memorial hospital near Shoemart at EDSA in Quezon City.[159] He reported for work next day, April 20, and until Friday of that week.[160] He went on leave of absence beginning April 27, 1999, the application therefor he filed on March 25, duplicate copy of which is marked Exhibit 8.[161] He tried once at

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[150] TSN, 5 November 1999, pp. 12-13.

[151] *Ibid.*

[152] *Id.*, p. 13.

[153] *Id.*, pp. 14, 15.

[154] *Id.*, p. 15.

[155] *Id.*

[156] *Id.*, p. 16.

[157] *Id.*

[158] *Id.*, p. 17.

[159] *Id.*, p. 18.

[160] *Id.*

[161] *Id.*, p. 19.

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the driving range but his back ached. He has a set of golf clubs which he bought "*hulugan*."[162] The medical certificate attesting to his health is marked Exhibit 10.[163] It is not true he was supposed to go to Judge Suriaga's house in Angeles City on April 19, 1999. That is totally hearsay and not true.[164]

On the basis of the foregoing evidence, the Investigator recommended the dismissal of both respondents with the forfeiture of benefits except accrued leaves.

As regards to respondent Suriaga, the Investigating Justice observed that the testimonies of the Calilung spouses were replete with important details that could not be ignored. He pointed out that mere denials and an unsatisfactory refutation on the part of Judge Suriaga to prove his innocence do not persuade to establish the falsity of complainant's testimony and that of his wife.[165] It was no less than a bribe for Judge Suriaga to demand and receive money from a party in a case before him for which act he has no place in the judiciary.[166] Neither is respondent judge's improper and illegal act, of asking from complainant the amount of ₱250,000.00 to be given to Judge Iturralde, to be condoned.

The Court agrees with the foregoing findings and conclusion of Justice Ramirez. The culpability of respondent Judge Suriaga for serious misconduct has been established not just by substantial evidence which suffices in an administrative investigation[167] but by an overwhelming preponderance thereof. The testimony of Supervising Agent Julma Dizon-Dapilos who posed *as yaya* of complainant's two-year old son during the entrapment operation demolishes whatever credibility respondent's proffered defense

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[162] *Id.*

[163] *Id.*, pp. 20, 21.

[164] *Id.*, pp. 29, 30.

[165] Citing *NISA v. Tablang,* 199 SCRA 766 [1991].

[166] *Ortigas & Co., Ltd. v. Velasco*, 277 SCRA 34 [1997].

[167] Section 5, Rule 133, Rules of Court.

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has. Dizon-Dapilos, a disinterested observer in addition to being a law enforcement officer corroborated the testimony of the complainant and his wife. She was a direct witness to the entrapment operation and, equally important, respondent judge failed to present any reason why her testimony should be disbelieved.

The Code of Judicial Conduct provides:

CANON 2 — A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES.

Rule 2.01 — A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.

It is evident from the aforesaid provisions that both the *reality* and the *appearance* must concur. Case law repeatedly teaches that "[j]udicial office circumscribes the personal conduct of a judge and imposes a number of restrictions thereon, which he has to pay for accepting and occupying an exalted position in the administration of justice.[168] The irresponsible or improper conduct of a judge erodes public confidence in the judiciary.[169] It is thus the duty of the members of the bench to avoid any impression of impropriety to protect the image and integrity of the judiciary."[170]

This reminder applies all the more sternly to municipal, metropolitan and regional trial court judges like herein respondent, because they are judicial front-liners who have direct contact with the litigating parties.[171] They are the intermediaries between conflicting interests and the embodiments of the people's sense of justice.[172] Thus, their

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[168] *Apiag v. Cantero*, 268 SCRA 47 [1997].

[169] *Panganiban v. Guerrero, Jr.*, 242 SCRA 11 [1995].

[170] *Benalfre J. Galang v. Judge Abelardo H. Santos*, A.M. No. MTJ-99-1197, 26 May 1999, 307 SCRA 582, citing *Nazareno v. Almario*, 268 SCRA 657 [1997].

[171] *Dawa v. Judge De Asa*, 292 SCRA 703 [1998].

[172] *Marces, Jr. v. Arcangel*, 258 SCRA 503 [1996].

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official conduct should remain "free from any appearance of impropriety" and should be beyond reproach.[173]

Given the factual circumstances prevailing in this case, the Court does not hesitate to conclude that "[r]espondent Judge tainted the image of the judiciary to which he owes fealty and the obligation to keep it all times unsullied and worthy of the people's trust."[174] A judge should conduct himself at all times in a manner which would reasonably merit the respect and confidence of the people for he is the visible representation of the law.[175] Rule 2.01 of Canon 2 of the Code of Judicial Conduct directs that a judge should behave at all times to promote public confidence in the integrity and impartiality of the Judiciary."[176] In *National Bureau of Investigation v. Judge Ramon B. Reyes,*[177] whose factual milieu is similar to this case, the Court said:

> Bribery is a serious charge punishable by, *inter alia*, dismissal from service with forfeiture of benefits and disqualification from reinstatement or appointment to any public office including government-owned or controlled corporations.[178] In the case at bench, we find sufficient bases in the charge of malfeasance in office against respondent. On past occasions where we had the disagreeable task of disciplining mulcting magistrates, [179] we did not hesitate to impose the penalty of dismissal. Conformably, as he has demonstrated his

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[173] *Abundo v. Judge Gregorio E. Manio, Jr.*, A.M. No. RTJ-98-1416, 6 August 1999, 312 SCRA 1.

[174] *Garcia v. Dela Peña*, 229 SCRA 766 [1994].

[175] *Chan v. Agcaoili*, 233 SCRA 331 [1994].

[176] *Magdalena M. Huggland v. Judge Jose C. Lantin,* A.M. No. MTJ-98-1153, 29 February 2000, p. 16.

[177] A.M. No. MTJ-97-1120, 21 February 2000, pp. 10-11.

[178] Section 3 in relation to Section 10A, Rule 140, Revised Rules of Court.

[179] E.g. *Quiz v. Castano*, 107 SCRA 196 [1981]; *OCA v. Gaticales*, 208 SCRA [1992]; *OCA v. Antonio*, 241 SCRA 331 [1995]; *Zarate v. Romanillos,* 242 SCRA 593 [1995].

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unsuitability to remain a member of the bench, respondent is deservingly dismissed from service with all its attendant consequences. For as we held in *Haw Tay v. Singayao*[180]

> x x x The acts of respondent Judge in demanding and receiving money from a party-litigant before his court constitutes serious misconduct in office. This court condemns in the strongest possible terms the misconduct of respondent Judge. It is this kind of gross and flaunting misconduct on the part of those who are charged with the responsibility of administering the law and rendering justice that so quickly and surely corrodes the respect for the law and the courts without which government cannot continue and that tears apart the very bonds of our polity.

In *Saphia M. Magarang v. Judge Galdino B. Jardin, Sr,*[181] the Court in dismissing respondent judge said in scathing terms that —

> Judges must adhere to the highest tenets of judicial conduct. They must be the embodiment of competence, integrity and independence.[182] A judge's conduct must be above reproach.[183] Like Caesar's wife, a judge must not only be pure but above suspicion.[184] A judge's private as well as official conduct must at all times be free from appearances of impropriety, and be beyond reproach.[185]

In *Vedana vs. Valencia,*[186] the Court held:

> The code of judicial ethics mandates that the conduct of a judge must be free of a whiff of impropriety not only with respect to his performance of his judicial duties, but also to his behavior outside his sala and as a private individual. There is no

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[180] 154 SCRA 107 [1987].

[181] A.M. No. RTJ-99-1448, 6 April 2000, pp. 11-12.

[182] Rule 1.01, Code of Judicial Conduct.

[183] Canon 31, Canons of Judicial Ethics.

[184] *Palang v. Zosa*, 58 SCRA 776, 778 [1974].

[185] *Dysico v. Dacumos*, 262 SCRA 275, 283 [1996].

[186] 295 SCRA 1, 15 [1998].

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dichotomy of morality: a public official is also judged by his private morals. The Code dictates that a judge, in order to promote public confidence in the integrity and impartiality of the judiciary, must behave with propriety at all times. As we recently explained, a judge's official life cannot simply be detached or separated from his personal experience. Thus:

> Being the subject of constant public scrutiny, a judge should freely and willingly accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen.
>
> A judge should personify judicial integrity and exemplify honest public service. The personal behavior of a judge, both in the performance of official duties and in private life should be above suspicion.

Respondent judge miserably failed to measure up to stringent judicial standards.[187] Complainant has sufficiently established the corrupt acts of respondent judge . . . He received a bribe . . . He has no place in the Judiciary.[188] He dishonored the judicial robe he wore. His acts could even be criminal in nature.[189] *We have unhesitatingly removed from office judges and court employees for less serious transgressions.*[190] *We removed a deputy sheriff from office for asking a bribe of only ₱1,500.00.*[191] We have no reason to depart from this ruling. Respondent judge's acts of corruption clearly show his unfitness to remain any minute longer in his judicial robe.

Perforce, the penalty of dismissal from the service is the most appropriate penalty under the circumstances for respondent Judge Suriaga's malfeasance in office.

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[187] *Garciano v. Sebastian,* 231 SCRA 588, 612-613 [1994].

[188] *Concerned Employees of the RTC of Dagupan City v. Judge Erma Falloran-Aliposa,* A.M. No. RTC-99-1446, 9 March 2000; *Ortigas & Co. Ltd. v. Velasco,* 277 SCRA 34 [1994].

[189] Article 210, Revised Penal Code.

[190] *Liban v. Villacete,* 237 SCRA 397 [1994]; *Castanos v. Escano,* 251 SCRA 174, 178 [1995].

[191] *Chua v. Nuestro,* 190 SCRA 422 [1990].

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As has been stated earlier, the Court has time and again "[a]dmonished judges to conduct themselves in a manner that is free even from the appearance of impropriety.[192] For judicial officers to enjoy the trust and respect of the people, it is necessary that they live up to the exacting standards of conduct demanded by the profession and by the Code of Judicial Conduct. This is especially true in the case of judges who, on a daily basis, interact with the public. Their official conduct, as well as personal behavior should always be beyond reproach."[193]

As regards the case against Judge Iturralde, complainants capitalized on a telephone conversation that allegedly transpired in the house of Judge Suriaga on April 19, 1999, the date the latter was entrapped and arrested. There being no sufficient showing at this time to establish the culpability of Judge Iturralde, the case against him should be referred back to the Office of the Court Administrator for further investigation as to his participation in the anomalous transactions complained of. In the meantime, in order to enable Judge Iturralde to perform his functions, this Court lifts his suspension pending the proceedings against him.

WHEREFORE, in view of all the foregoing, judgment is hereby rendered:

1.] Respondent Wilfredo S. Suriaga is *DISMISSED* from the service with forfeiture of all retirement benefits and leave credits and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations;

2.] The administrative complaint against respondent Philbert I. Iturralde is *REFERRED* back to the Office of the Court Administrator for further investigation. In the meantime, his preventive suspension is hereby *LIFTED*.

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[192] Canon 2, Code of Judicial Conduct.

[193] *Victoria R. Nabhan v. Judge Eric Calderon*, MTC, Calumpit, Bulacan, A.M. No. MTJ-98-1164, 4 February 2000, p. 7, citing *Spouses Lorena v. Judge Adolfo Encomienda,* 302 SCRA 632 [1999].

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SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and *De Leon, Jr., JJ.*, concur.

SECOND DIVISION

[G.R. No. 109920. August 31, 2000]

CEFERINO A. SORIANO, *petitioner, vs.* **HON. ADORACION C. ANGELES, in her capacity as Presiding Judge of the Caloocan City, Regional Trial Court, Branch CXXI, and RUEL GARCIA,** *respondents.*

SYNOPSIS

Petitioner, a Barangay Captain, filed a case for direct assault against private respondent, a policeman. The case was raffled to herein respondent judge who exerted efforts to have the parties settle their case. Prosecution alleged that private respondent barged into the *barangay* hall and gave petitioner fist blows without resistance from petitioner, and while being watched by four *barangay* tanods who failed to give him succor. Private respondent denied the same, claiming that he went to the *barangay* hall to inquire about his younger brother's arrest, but petitioner blocked his way and pushed him. He retaliated by also pushing petitioner who was injured when he fell on a pile of nightsticks. The trial court rendered judgment acquitting private respondent. It found incredible that petitioner did not resist the attack of private respondent and none of the tanods came to his aid. Hence, this petition. Private respondent moved to dismiss the petition for being filed without the intervention of the Office of the Solicitor General as counsel for the prosecution.