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WHEREFORE, the respondent, Ruben Magtoto, Deputy Sheriff of Bulacan Province, is hereby reprimanded with a warning that a repetition of the same failure to perform his duty on time will be dealt with severely.

SO ORDERED.

Teehankee (Chairman), Makasiar, Muñoz Palma, Martin, and *Guerrero, JJ.*, concur.

SECOND DIVISION

[A.M. No. 502-MJ. June 30, 1977]

SALVADOR VELOSO, *complainant*, *vs.* **MUNICIPAL JUDGE GODOFREDO CARMONA of Socorro, Oriental Mindoro**, *respondent.*

R E S O L U T I O N

AQUINO, *J*:

Marceliano Rivera, Jr. was charged by the chief of police with slight physical injuries in the municipal court of Pola, Oriental Mindoro in a complaint dated June 18, 1973. The offended party was Salvador Veloso (Criminal Case No. 2584). Rivera voluntarily surrendered to the chief of police on July 30, 1973. He posted a "character bond" for his release.

Godofredo L. Carmona, the incumbent municipal judge of the neighboring town of Socorro (he is a native of Pola) and the acting municipal judge of Pola, heard the case. At the hearing scheduled on August 18, 1973 Rivera did not appear. His bond was cancelled. The hearing was reset for August 28, 1973. According to Judge Carmona, Veloso was notified of that hearing through his father and he (the judge) even wrote him a letter to apprise him of that hearing.

Rivera, assisted by a counsel *de oficio*, appeared at the hearing scheduled on August 28. Veloso was not present. In

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view of Veloso's absence, the chief of police asked for postponement. Rivera's counsel objected. He was arraigned. He pleaded guilty. When Veloso arrived in court at ten o'clock that morning, he was informed that the case was already terminated.

On that same morning, Judge Carmona signed a decision, convicting Rivera of slight physical injuries and imposing upon him a fine of twenty-five pesos and the penalty of public censure, "without costs." No civil liability was adjudged. The mitigating circumstances of plea of guilt and voluntary surrender to the authorities were appreciated in Rivera's favor. Rivera paid the fine on that same date, August 28.

That decision provoked Veloso to file on September 3 an administrative complaint against Judge Carmona. Veloso alleged that on the date of the trial, respondent judge reproached him for not assenting to Rivera's offer of compromise. Veloso was surprised as to why only a fine was imposed on Rivera, considering that the latter never appeared at the trial and he was not even arrested when he failed to appear at the scheduled hearing. Veloso said that the judge did not answer his inquiries and that he was not given a copy of the decision and he was not shown any document confirming that Rivera had pleaded guilty and had paid the fine.

The Judicial Consultant observed that respondent should have ordered the arrest of the accused upon his failure to appear at the trial despite due notice of his bondsmen.

It may further be observed that respondent Judge should have made a finding as to the civil liability of the accused considering the allegation in the complaint that the offended party suffered "contusion with abrasions on the left cheek and left axillary fold, which injuries will require medical treatment from 7 to 9 days barring complication."

As to Veloso's gripe that he was not given a copy of the decision, it should be noted that the chief of police, as the representative of the prosecution, was furnished with a copy of the decision.

The foregoing facts do not warrant any disciplinary action against the respondent.

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WHEREFORE, the complaint is dismissed but the respondent is warned and admonished to be more careful in the performance of his duties so that his integrity and fairness will be above suspicion. Let a copy of this resolution be attached to his personal record.

SO ORDERED.

Fernando, Barredo, Antonio, and *Concepcion Jr., JJ.*, concur.

SECOND DIVISION

[A.C. No. 1019. June 30, 1977]

BENJAMIN J. SOTO, *complainant*, *vs.* **RUBEN B. LACRE**, *respondent.*

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; DISBARMENT; BURDEN OF PROOF RESTS UPON COMPLAINANT AND THE CHARGE MUST BE ESTABLISHED BY CONVINCING PROOF.— "Caution or great care should be taken by persons before instituting a complaint for disciplinary action against members of the bar. Otherwise, irreparable injury would result from unfounded or baseless accusation such as the instant case. Certain degree of case, prudence and reflection should, therefore, be exercised by them before complaining against any member of the bar, who is not guilty of negligence, malice or corruption to avoid undue harassment and prejudice to him or her. And as the foregoing discussion shows, no proof has ever been presented to prove that respondent Ruben Lacre was guilty of any unethical conduct or malpractice. "In disbarment proceedings, the burden of proof rests upon the complainant and the charge against the lawyers must be established by convincing proof. The record must disclose as free from doubt a case which compels the exercise by the court of its disciplinary powers. The dubious character of the act done as well as of the motivation thereof must be clearly demonstrated (*Go vs. Candoy*, Adm. Case No. 736, October 23, 1967; *de los Santos vs. Bolaños*, Adm. Case No. 483, July 21, 1967 and other cases).