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SO ORDERED.

Davide, Jr. C.J. (Chairman), Puno, Pardo, and *Ynares-Santiago, JJ.,* concur.

THIRD DIVISION

[A.M. No. MTJ-00-1282. March 1, 2001]

(Formerly OCA I.P.I. No. 98-628-MTJ)

SOFRONIO DAYOT, *complainant, vs.* **JUDGE RODOLFO B. GARCIA, MUNICIPAL CIRCUIT TRIAL COURT, CALATRAVA-TOBOSO, NEGROS OCCIDENTAL,** *respondent.*

SYNOPSIS

After finding that complainant, who was convicted of Grave Slander, was provided with special sleeping quarters in the third floor of the municipal building instead of serving sentence inside the jail, respondent judge, without hearing and notice to complainant and/or his counsel, discredited the complainant's service of sentence from May 6, 1988 up to November 6, 1998, the date of the order.

Complainant charged the respondent judge with misconduct of office, abuse of authority and oppression. The Supreme Court, as recommended by the Court Administrator, fined the respondent judge for not giving complainant a chance to be heard and for failure to observe the requirements of due process.

SYLLABUS

LEGAL AND JUDICIAL ETHICS; JUDGES; ADMINISTRATIVE COMPLAINT AGAINST JUDGES; ABUSE OF JUDICIAL DISCRETION; IMPOSING A SANCTION WITHOUT HEARING, A CASE OF. — With regard to the allegation that

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complainant was denied his right to be heard, it appears that the subject Order dated November 6, 1998 was issued upon "oral complaint of the mother of the offended party that accused-convict Sofronio Dayot is serving his one (1) year term of imprisonment x x x not inside the prison cell." It appears that thereafter respondent Judge issued an order which decreed that such service of sentence be not credited as service by herein complainant. It is not disputed that the said order was issued without a hearing or notice to the accused or his counsel. As correctly pointed out by the Court Administrator, respondent Judge may have been prompted by his desire to get rid of corruption and special treatment extended to some prisoners, but that is not a license for him to abuse his judicial discretion by depriving the accused of his right to be heard. If indeed complainant was getting special treatment, being provided with special sleeping quarters in the third floor of the municipal building instead of serving sentence inside the jail, this matter is essentially the responsibility of the Jail Warden and the sanction imposed upon the accused should be given only upon due hearing.

D E C I S I O N

GONZAGA-REYES, *J.*:

Complainant Sofronio Dayot was accused of the crime of Grave Slander which was docketed as Criminal Case No. 5072-T. He was convicted by respondent Judge Rodolfo Garcia of the Municipal Circuit Trial Court of Calatrava, Negros Occidental and sentenced to suffer the penalty of imprisonment of one (1) month and one (1) day to four (4) months of *arresto mayor* and to pay the offended party the amount of ₱3,000.00 as attorney's fees and ₱2,000.00 as exemplary damages and costs of suit. The Regional Trial Court affirmed the conviction but increased the penalty to three (3) months of *arresto mayor* as minimum to one (1) year and one (1) day of *prision correccional* as maximum. The award of moral damages was likewise increased to ₱10,000.00. Complainant filed a petition for review, but the Court of Appeals dismissed the petition. The Motion for Reconsideration therefrom was likewise denied.

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The case was elevated to this Court by way of petition for review on *certiorari* which was docketed as G.R. No. 132446. The Court's Second Division, in its Resolution dated March 11, 1998, denied due course to the petition. Herein complainant filed on April 17, 1998 a Motion for Reconsideration of the said Resolution. While this motion was pending, respondent judge issued a warrant for the arrest of herein complainant and ordered his detention in the Order dated May 4, 1998. On July 6, 1998, this Court resolved to deny the motion with finality.

In the present case, Complainant alleges that respondent judge committed misconduct of office, abuse of authority and oppression when he issued the warrant of arrest and ordered complainant's detention despite the pendency of a motion for reconsideration as this Court had yet to resolve the petition with finality; that he filed a motion to lift the arrest warrant but up to this time the same remained unacted upon; that respondent Judge further issued an Order discrediting his service of sentence from May 6, 1998 up to November 6, 1998, the date of the order, after considering that his service of sentence was made outside the prison cell.

In the Resolution dated June 14, 2000, the parties were required to manifest if they are submitting the case on the basis of the pleadings/records already filed and submitted. Both parties submitted their respective "Manifestation with Additional Records."

The Court Administrator, in his Memorandum, recommended that respondent Judge be fined in the amount of ₱5,000.00 upon finding that respondent Judge issued the Order dated November 6, 1998 (which declared that the service of sentence from May 6, 1998 to November 6, 1998 be not credited as service by herein complainant) without a hearing or notice to the accused and/or his counsel.

We find the recommendation of the Court Administrator to be well-taken.

Complainant charges respondent Judge with misconduct of office, abuse of authority and oppression when he issued the

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warrant of arrest and ordered complainant's detention despite the pendency of the motion for reconsideration in G.R. No. 132446 before this Court. It should be noted that complainant filed a Manifestation in G.R. No. 132446 reiterating the fact that a warrant of arrest was issued by respondent judge despite the pendency of the motion for reconsideration but the said Manifestation was merely noted without action in view of the fact that the petition for review on *certiorari* had already been denied for lack of merit and the motion for reconsideration was likewise denied with finality per SC Resolution dated October 12, 1998 (Annex "A"). As to whether there was error on the part of the respondent Judge in ordering the issuance of the warrant of arrest, complainant addressed this matter in the Motion to Lift the said warrant of arrest which he filed with the respondent Judge, wherein complainant argued that the petition before this Court is still pending. This motion was however denied by respondent Judge in his Order dated June 25, 1998. Whether the respondent Judge correctly denied the motion is a judicial matter which is not a proper subject in an administrative proceeding. Consequently, complainant's charge that respondent Judge failed to act on the Motion to Lift the arrest warrant is untenable as he had issued an Order on June 25, 1998 denying the said motion.

With regard to the allegation that complainant was denied his right to be heard, it appears that the subject Order dated November 6, 1998 was issued upon "oral complaint of the mother of the offended party that accused-convict Sofronio Dayot is serving his one (1) year term of imprisonment x x x not inside the prison cell." It appears that thereafter respondent Judge issued an order which decreed that such service of sentence be not credited as service by herein complainant. It is not disputed that the said order was issued without a hearing or notice to the accused or his counsel. As correctly pointed out by the Court Administrator, respondent Judge may have been prompted by his desire to get rid of corruption and special treatment extended to some prisoners, but that is not a license for him to abuse his judicial discretion by depriving the accused of his right to be heard. If indeed complainant was getting

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special treatment, being provided with special sleeping quarters in the third floor of the municipal building instead of serving sentence inside the jail, this matter is essentially the responsibility of the Jail Warden and the sanction imposed upon the accused should be given only upon due hearing. While a judge may not always be subjected to disciplinary action for every erroneous order or decision he renders, that relative immunity is not a license to be negligent or abusive and arbitrary in performing his adjudicatory prerogatives (*De Vera vs. Dames II*, 310 SCRA 213). The issuance of the Order of November 6, 1998 without the benefit of a hearing is a clear evidence of the judge's failure to understand the limitations of his power and betrays his ignorance of the cardinal principles of due process (*Macasasa vs. Imbing*, 312 SCRA 385). By unilaterally discrediting the period served outside the jail without giving complainant a chance to be heard, respondent Judge failed to observe the requirements of due process.

WHEREFORE, as recommended by the Court Administrator, respondent Judge is hereby *FINED* in the amount of Five Thousand (₱5,000.00) Pesos, with stern warning that a repetition of the same or similar act shall be dealt with more severely by this Court.

SO ORDERED.

Melo (Chairman), Vitug, Panganiban, and *Sandoval-Gutierrez, JJ.*, concur.