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FIRST DIVISION

[A.M. No. MTJ-01-1376. January 23, 2002]

SPO1 EDUARDO CAÑEDA and SPO1 CHARLITO DUERO, *complainants, vs.* **HON. QUINTIN B. ALAAN, ACTING PRESIDING JUDGE, MTCC, BRANCH 1, SURIGAO CITY (PRESIDING JUDGE, TUBOD, ALEGRIA, SURIGAO DEL NORTE),** *respondent.*

SYNOPSIS

Complainants filed with the Office of the Court Administrator a complaint against respondent Judge for gross misconduct, impropriety and bad faith for granting bail without requiring the Office of the City Prosecutor to file its recommendation in relation to a charge for violation of the Omnibus Election Code. Complainants argued that this was a clear violation of Rule 144, Section 18 of the Rules of Criminal Procedure. Further, the amount of bail at ten thousand pesos (₱10,000.00) was insufficient considering the gravity of the offense committed.

The Court Administrator recommended that the complaint be docketed as an administrative case against respondent Judge and that he be fined in the amount of two thousand pesos.

True, the suspects have the right to apply for bail since the charge of violation of the Omnibus Election Code is a bailable offense. In this jurisdiction, however, before the judge may grant applications for bail, whether bail is a matter of right or discretion, the prosecutor must be given reasonable notice of hearing or he must be asked to submit his recommendation.

Considering that the alleged crime was committed to threaten followers of a political party on the occasion of an election, there is a high possibility that the accused would no longer be around to answer the charges after the election. Thusly, the release of the accused the day prior to the election on bail of ten thousand pesos (₱10,000.00) was questionable. Respondent Judge's acts have been less than circumspect. He should have kept himself free from any appearance of impropriety and

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endeavored to distance himself from any act liable to create an impression of indecorum.

The Supreme Court found respondent Judge liable for violation of the Code of Judicial Conduct.

SYLLABUS

1. **REMEDIAL LAW; CRIMINAL PROCEDURE; BAIL; PROSECUTOR MUST BE GIVEN REASONABLE NOTICE OF HEARING OR HE MUST BE ASKED TO SUBMIT HIS RECOMMENDATION BEFORE THE JUDGE MAY GRANT APPLICATIONS FOR BAIL.**— True, the suspects have the right to apply for bail since the charge of violation of the Omnibus Election Code is a bailable offense. In this jurisdiction, however, before the judge may grant applications for bail, whether bail is a matter of right or discretion, the prosecutor must be given reasonable notice of hearing or he must be asked to submit his recommendation.

2. **ID.; ID.; ID.; AMOUNT SHOULD BE HIGH ENOUGH TO ASSURE THE PRESENCE OF THE ACCUSED WHEN REQUIRED; CASE AT BAR.**— The purpose for bail is to guarantee the appearance of the accused at the trial, or whenever so required by the court. Thus, the amount should be high enough to assure the presence of the accused when required but not higher than is reasonably calculated to fulfill this purpose. Considering that the alleged crime was committed to threaten followers of a political party on the occasion of an election, there is a high possibility that the accused would no longer be around to answer the charges after the election. Thusly, the release of the accused the day prior to the election on bail of ten thousand pesos (₱10,000.00) is questionable. The judge must consider the possibility that the accused may not appear at the trial. *A bail application does not only involve the right of the accused to temporary liberty, but likewise the right of the State to protect the people and the peace of the community from dangerous elements.*

3. **LEGAL AND JUDICIAL ETHICS; JUDGES; SHOULD AVOID NOT JUST IMPROPRIETY IN THEIR CONDUCT BUT EVEN THE MERE APPEARANCE OF IMPROPRIETY; CASE AT BAR.**— Judges are required not only to be impartial but also to appear to be so, for appearance is an essential

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manifestation of reality. Canon 2 of the Code of Judicial Conduct enjoins judges to avoid not just impropriety in their conduct but even the mere appearance of impropriety. They must conduct themselves in such a manner that they give no ground for reproach. Judge Alaan's acts have been less than circumspect. He should have kept himself free from any appearance of impropriety and endeavored to distance himself from any act liable to create an impression of indecorum.

RESOLUTION

PARDO, *J.*:

On July 4, 2001, SPO1 Eduardo Cañeda and SPO1 Charlito Duero filed with the Office of the Court Administrator a complaint against Judge Quintin B. Alaan, Acting Presiding Judge, MTCC, Branch 1, Surigao City for gross misconduct, impropriety and bad faith.[1]

At or about 12:15 a. m. of May 13, 2001, while complainants were at the Surigao Police Station to monitor election-related incidents, a report regarding illegal discharge of firearms reached their unit. A group of policemen, including complainants, was dispatched to the scene.

Investigation showed that one of the suspects fired his gun to threaten some errand boys of the LAKAS-NUCD Party who were then posting election paraphernalia within the vicinity. Thereafter, the suspects left on board a white Mitsubishi Adventure bearing plate number GJA 467.

After a short chase, the complainants apprehended the suspects. Suspect Ruperto Dequinio had in his possession an unlicensed automatic rifle HPRFL, Daewoo, Caliber 5.56 with serial number 100009. On the other hand, suspect Joseph Pagalpagan, had an unlicensed 12-gauge shotgun with no serial number.

Immediately thereafter, the police investigator filed a complaint for violation of the Omnibus Election Code Comelec Resolution

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[1] *Rollo*, pp. 3-8.

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No. 3328 with the Office of the City Prosecutor, Surigao City docketed as IS No. 2001-199.[2]

At about 6:55 in the evening of the same day, the suspects filed with respondent judge (in his house) an application for bail.[3]

At around 8:10 p.m., Judge Quintin B. Alaan issued an order[4] granting the application for bail and directing the release of the suspects.

Complainants claimed that Judge Alaan is the husband of Provincial Board Member Candidate Regina Gatpolitnan Alaan[5] who was seeking re-election as an official candidate of the Puwersa ng Masang Pilipino (PMP) for the provincial board of Surigao del Norte. Mrs. Alaan is a sister of Rogelio Gatpolintan,[6] who was the official candidate of PMP for municipal mayor of Mainit, Surigao del Norte. The suspects were the personal bodyguards of outgoing governor Francisco Matugas, who ran for Congress as the official candidate of PMP for District II, Surigao del Norte.

Complainants averred that Judge Alaan should have inhibited himself from hearing the petition for bail considering that his favorable decision therein would benefit his wife or the political party to which his wife and brother in law belong.

Respondent judge granted bail without requiring the Office of the City Prosecutor to file its recommendation. Complainants argued that this was a clear violation of Rule 114, Section 18 of the Rules of Criminal Procedure.

Further, the amount of bail at ten thousand pesos (₱10,000.00) was insufficient considering the gravity of the offense committed by them and the possibility that the suspects may jump bail.

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[3] Complaint, Annex (B), *Rollo*, pp. 3-8.

[4] Complaint, Annex (C), *Rollo*, pp. 3-8.

[5] Certificate of Candidacy, Annex D, Complaint.

[6] Certificate of Candidacy for Mayor, Annex E, Complaint.

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In his comment, Judge Alaan stated that at around 6:55 p.m. Atty. Bayani S. Atup came to his residence and handed him an application for bail of Ruperto Diquinio and Joseph Pagalpalan.

The two suspects had been detained since 1:25 a.m. (or about 18 hours) of that day at the Surigao City Police Station and that no formal charges had been filed against them.

Finding the application for bail in due form and substance and taking into account the suspect's Constitutional right to bail, Judge Alaan granted the application.

The judge argued that Rule 114, Section 18, Rules on Criminal Procedure had been amended such that a recommendation from the Office of the City Prosecutor is required only when the applicant for bail was prosecuted for a crime the imposable penalty of which is death, *reclusion perpetua* or life imprisonment.

The bail he fixed was reasonable considering that it was only two thousand pesos ₱2,000.00 below the twelve thousand pesos ₱12,000.00 bail fixed by the Regional Trial Court where that case was subsequently filed.

The reference by complainants to the candidacies of his wife and brother-in-law in the last elections had no relation whatsoever to the exercise of his judicial duty of granting the application for bail. The complaint was intended to harass him. Complainants were policemen used by political mandarins of Surigao.

On August 08, 2001, complainants filed their reply claiming that Judge Alaan misinterpreted Rule 114, Section 18 of the Rules on Criminal Procedure. They maintained that even if bail is a matter of right in non-capital cases, notice of application for bail is still required to be given to the prosecutor even though no charge has been filed in court.

They claimed that the judge was liable for gross misconduct and impropriety for holding office and performing his function as a judge at his residence when he received the application for bail and granted the same at his residence at about 8:10 p.m. on a Sunday.

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They denied that they were used as tools by political mandarins in Surigao and claimed that the grant of bail would definitely bolster and favor the candidacy of Mrs. Alaan as well as the political party to which respondent's wife and the brother in law belong.

On September 10, 2001, the Court Administrator submitted the following recommendation:

"1. This complaint be FORMALLY DOCKETED as an administrative case against Judge Quintin B. Alaan, Acting Presiding Judge, MTCC, Branch 1, Surigao City;

"2. Judge Quintin B. Alaan be FINED in the amount of Two Thousand Pesos (₱2,000.00) with a WARNING that a repetition of the same and similar act in the future will be dealt with more severely."

True, the suspects have the right to apply for bail since the charge of violation of the Omnibus Election Code is a bailable offense. In this jurisdiction, however, before the judge may grant applications for bail, whether bail is a matter of right or discretion, the prosecutor must be given reasonable notice of hearing or he must be asked to submit his recommendation.[7]

The purpose for bail is to guarantee the appearance of the accused at the trial,[8] or whenever so required by the court.[9] Thus, the amount should be high enough to assure the presence of the accused when required but not higher than is reasonably calculated to fulfill this purpose.[10]

Considering that the alleged crime was committed to threaten followers of a political party on the occasion of an election, there is a high possibility that the accused would no longer be around to answer the charges after the election. Thusly, the

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[7] *Comia v. Antona*, 337 SCRA 656, 669 [2000], citing *Cortes v. Catral*, 344 Phil. 415 [1997].

[8] *Yap v. Court of Appeals*, G.R. No. 141529, June 6, 2001, citing *Almeda vs. Villaluz*, 66 SCRA 38 [1975]

[9] Sec. 2, Rule 114, Revised Rules of Criminal Procedure.

[10] *Yap v. Court of Appeals*, G.R. No. 141529, June 6, 2001, *Villaseñor v. Albaño*, 128 Phil. 385 [1967].

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release of the accused the day prior to the election on bail of ten thousand pesos (₱10,000.00) is questionable. The judge must consider the possibility that the accused may not appear at the trial.

A bail application does not only involve the right of the accused to temporary liberty, but likewise the right of the State to protect the people and the peace of the community from dangerous elements.[11]

We find that respondent judge acted with undue haste in issuing the order granting bail. Judge Alaan reasoned that he had to act on the petition for the sake of securing the prompt release of the detained accused, who were then not charged with any offense.

Yet, the records show that on May 13, 2001, SPO3 Raul C. Commendador of the Surigao City Police Station filed a complaint before the Office of the City Prosecutor against the suspects for violation of the Omnibus Election Code and Comelec Resolution No. 3328.

The election scheduled for the following day is not an excuse for the judge to be overzealous in acting on the suspect's application for bail. Rather, it should have been a cause for him to be more cautious.

Judges are required not only to be impartial but also to appear to be so, for appearance is an essential manifestation of reality.[12] Canon 2 of the Code of Judicial Conduct enjoins judges to avoid not just impropriety in their conduct but even the mere appearance of impropriety.

They must conduct themselves in such a manner that they give no ground for reproach.[13]

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[11] *Marzan-Gelacio v. Flores*, 334 SCRA 1 [2000].

[12] *Alejandro v. Plan*, A.M. No. MTJ-00-1330, October 27, 2000, citing *Espiritu v. Jovellanos*, 345 Phil 823 [1997].

[13] *Ibid.*, citing *San Juan v. Bagalacsa*, 347 Phil 696 [1997]; *Dysico v. Dacumos*, 330 Phil 834 [1996].

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Judge Alaan's acts have been less than circumspect. He should have kept himself free from any appearance of impropriety and endeavored to distance himself from any act liable to create an impression of indecorum.

In *Rallos, v. Judge Irineo Lee Gako, Jr.,* RTC Branch 5, Cebu City,[14] we held that:

"Judges must not only render just, correct and impartial decisions, but must do so in a manner free of suspicion as to their fairness, impartiality and integrity."

This reminder applies all the more sternly to municipal trial court judges like respondent because they are the judicial front-liners who have direct contact with the parties. They are the embodiments of the people's sense of justice. Thus, their official conduct should be beyond reproach.[15]

Indeed, respondent must always bear in mind that:

"A judicial office traces a line around his official as well as personal conduct, a price one has to pay for occupying an exalted position in the judiciary, beyond which he may not freely venture. Canon 2 of the Code of Judicial Conduct enjoins a judge to avoid not just impropriety in the performance of judicial duties but in all his activities whether in his public or private life. He must conduct himself in a manner that gives no ground for reproach."[16]

IN VIEW WHEREOF, the Court finds Judge Quintin B. Alaan liable for violation of the Code of Judicial Conduct, and imposes on him a *FINE* of *FIVE THOUSAND PESOS* (₱5,000.00). He is further *WARNED* that a repetition of the same or similar act would be dealt with more severely.

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[14] 328 SCRA 324 [2000]; See also *Dacera v. Dizon*, 337 SCRA 144 [2000].

[15] *Dacera v. Dizon, supra,* Note 13, citing *Macasasa v. Imbing*, 371 Phil 314 [1999].

[16] *Ibid*; *Virginia Villaluz Vda. de Enriquez v. Judge Jaime F. Bautista,* 331 SCRA 538 [2000], citing *San Juan v. Bagalacsa*, 347 Phil 696 [1997].

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SO ORDERED.

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

EN BANC

[A.M. No. P-00-1371. January 23, 2002]
(Formerly OCA IPI No. 98-410-P)

DEVELOPMENT BANK OF THE PHILIPPINES (DBP), *complainant, vs.* **RUBEN S. NEQUINTO, Sheriff IV, Regional Trial Court, Branch 145, Makati City,** *respondent.*

SYNOPSIS

Development Bank of the Philippines (DBP), through its Chief Legal Counsel, filed an administrative complaint against respondent sheriff for abuse in the implementation of the writ of execution issued by the trial court in connection with its decision in a case for collection of sum of money filed by FPHC against DBP, whereby the trial court decided against DBP. In the implementation of the writ of execution, respondent insisted on enforcing FPH's bloated computation of ₱46,310,684.93, as the judgment debt, instead of the amount of ₱19,998,400.00 stated in the writ. Respondent threatened to seal the bank's vault and to forcibly seize any money he may possibly retrieve from the teller's cages if he were not paid in cash the full amount demanded. He also levied on sensitive computers of the bank threatening not only to disrupt but to collapse its operations. Respondent likewise denied DBP its option to choose which of its property may be levied upon, as provided for in Section 9(b), Rule 39, Revised Rules of Court.

The Supreme Court resolved to dismiss respondent from the service because he deliberately failed to follow the