

EN BANC

[A.M. NO. MTJ-03-1503, November 16, 2006]

**NATIONAL BUREAU OF INVESTIGATION (NBI), COMPLAINANT,
VS. JUDGE LUISITO T. ADAOAG, MUNICIPAL CIRCUIT TRIAL
COURT, GERONA-RAMOS-PURA, TARLAC, RESPONDENT.**

DECISION

PER CURIAM:

Respondent Judge Luisito T. Adaoag, Acting Presiding Judge of the Municipal Circuit Trial Court, Gerona-Ramos-Pura, Tarlac, stands charged with (a) serious misconduct for acts constituting direct bribery in relation to violation of the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019), as amended; and (b) violation of the Court's August 4, 2003 resolution for issuing a warrant of arrest while under suspension.

On June 9, 2003, Desiree A. Legario (Legario) filed a Complaint^[1] and executed a *Sinumpaang Salaysay*^[2] before the National Bureau of Investigation (NBI) alleging that she was arrested on May 9, 2003 pursuant to a warrant of arrest issued by respondent Judge for violation of Batas Pambansa Blg. 22. PO3 Eddie Galicia (PO3 Galicia), who implemented the warrant, informed Legario that she should prepare money for her release order. On May 12, 2003, she was released on bail after giving P1,500.00 to PO3 Galicia and P2,000.00 to respondent Judge. Thereafter, PO3 Galicia advised Legario to prepare a motion to postpone and a motion to quash, as well as P20,000.00 to be given to respondent Judge in consideration of the dismissal of the case. This was confirmed by respondent Judge in a cellular phone conversation with Legario on May 20, 2003.

Instead of delivering the money, Legario sought the help of a television network and of the NBI. Her Complaint was subscribed before NBI Supervising Agent Atty. Alexander Bautista who took down the statements of Legario in her *Sinumpaang Salaysay* which was subscribed before Special Agent Rosauro Bautista.^[3]

Thereafter, the NBI agents prepared five pieces of P100 bills^[4] dusted with fluorescent powder and mixed them with several bundles of money.^[5] At around 3:00 p.m. of June 11, 2003, they conducted the entrapment operation.

Atty. Olga I. Angustia (Atty. Angustia), the NBI agent who posed as the aunt of Legario in the entrapment operation, testified that on June 11, 2003, she accompanied the latter to the chambers of respondent Judge where they conversed for about 15 to 20 minutes. Respondent Judge said to Legario: "*mahirap ang maraming kaso, bata ka pa, ayusin mo.*" At this point, Atty. Angustia handed the marked money to respondent Judge who received the same after commenting "*baka may marka yan?*" Atty. Angustia and Legario immediately left the chambers to give

the signal to the other NBI operatives.^[6]

Special Investigator III Ocampo Criste (Sp. Investigator Criste), testified that after the lady agent gave the signal, he, together with other NBI agents, entered the chambers of respondent Judge. He identified himself as an NBI agent and asked respondent Judge to bring out the money from his pocket. At first, respondent Judge refused but eventually took out the money from his pocket using a handkerchief. Sp. Investigator Criste added that the entire incident was videotaped.^[7]

On the same day, respondent Judge was brought to the NBI where the dorsal and palmar portions of his left and right hands were examined and all were found positive for fluorescent powder.^[8]

On June 18, 2003, the NBI forwarded a copy of the investigation records to the Office of the Court Administrator and informed the Court that on June 12, 2003, respondent Judge was brought to the Office of the Ombudsman for inquest proceedings docketed as OMB-C-C-03-0346-F.^[9]

On August 4, 2003, respondent Judge was suspended pending final outcome of the criminal proceedings against him.

In a resolution dated September 17, 2003, the Court noted the letter of the Office of the Ombudsman referring the case of respondent Judge to the Office of the Court Administrator with attached copy of the June 17, 2003 Order provisionally dismissing the case against respondent Judge to give way to the Court's determination of his administrative liability.^[10]

On October 14, 2003, respondent Judge sought clarification whether his suspension is now deemed lifted in view of the dismissal of his case by the Office of the Ombudsman.^[11]

Meanwhile, the Court received a letter from a certain Ms. Dominga Salazar stating that despite the August 4, 2003 resolution placing respondent Judge under suspension, the latter issued a warrant of arrest against her on October 22, 2003 in Criminal Case No. 0118-03.^[12] Respondent Judge was thus directed to show cause why he should not be dismissed from service for violating the resolution suspending him from service.^[13]

On November 22, 2004, the Court referred the matter to Justice Narciso T. Atienza, a Consultant of the Office of the Court Administrator for investigation, report, and recommendation.^[14]

In his Comment^[15] to the administrative charge for bribery, respondent Judge denied receiving money from Legario on May 12, 2003, or extorting any amount or talking to her on the phone on May 20, 2003. As to the June 11, 2003 incident, respondent Judge claimed that on said date, Legario and a lady companion talked to him inside his chambers regarding her (Legario) pending case. He told the latter "*Areglohin mo yong complainant. Bata ka pa. Sayang ka.*" Addressing Legario, the lady companion said, "*Ibigay mo na yong apat.*" Legario brought out an envelope from her bag prompting him to say "*Para ano yan? Bawal yan! Baka marked money*

pa yan!" Legario and her lady companion replied "*Hindi,*" "*Pangsigarilyo-Pangmerienda*" and hastily went out of the office. He wanted to return the money, but since he was carrying several records which he intended to take home, he placed the money inside his pocket hoping that he would be able to catch up with them outside the building. However, he failed to return the money because the NBI operatives got the same from him on his way out of office.

At the hearing, respondent Judge testified that Legario left an envelope on his table. Out of curiosity, he peeked at the envelope and saw P500.00 peso bills which he suspected to have been dusted with ultra violet powder. He then wrapped said envelope containing the money with a handkerchief and placed the same in his pocket for the purpose of returning it to Legario.^[16] He added that after the latter and her lady companion left, it took about two minutes before the NBI agents entered his chambers.^[17]

Commenting on the issuance of the arrest warrant in Criminal Case No. 0118-03, respondent Judge stated that he acted in good faith on the belief that his suspension was deemed lifted considering that his case before the Office of the Ombudsman had been dismissed.^[18] At the hearing, respondent Judge testified that he belatedly noticed the notation in the Order of the Ombudsman that the dismissal of the criminal case was only provisional.^[19]

On February 22, 2006, Justice Atienza recommended that respondent Judge be (1) dismissed from service for violation of R.A. No. 3019, as amended, with forfeiture of all benefits except accrued leave credits and be disqualified for appointment to any public office, including government-owned or controlled corporations; and (2) fined in the amount of P2,000.00, to be deducted from his accrued leave credits, for issuing a warrant of arrest in Criminal Case No. 0118-03 while under suspension.

The Court agrees with the recommendations of Justice Atienza. There is substantial evidence showing that respondent Judge is guilty of serious misconduct for committing acts constituting direct bribery^[20] in soliciting and receiving money from Legario in consideration of dismissal of the case filed against her. Although Legario failed to testify at the hearing, her Complaint and *Sinumpaang Salaysay* which were admitted as part of the testimony of NBI Supervising Agent Atty. Alexander Bautista, constitute evidence to support the conclusion that respondent Judge agreed to dismiss the case against her for material consideration. Verily, in administrative proceedings, as in the instant case, it is not legally objectionable to resolve a case based solely on position papers, affidavits or documentary evidence submitted by the parties considering that affidavits of witnesses may take the place of their direct testimony.^[21]

In the instant case, the intention of respondent Judge to accept the money was clearly established by his act of pocketing the same. That he touched the marked bills, contrary to his testimony that he merely peeked at the envelope, is proven by the results of the laboratory examination that the palmar and dorsal aspects of his left and right hands were positive for fluorescent powder. It is hard to believe that he intended to return the money to Legario because, instead of immediately rushing towards the door to catch up with Legario and return the money, respondent Judge pocketed it. Indeed, such act shows a resolve to take the money as his own and not to return the same.