

## EN BANC

[ A.C. No. 12457 (Formerly CBD Case No. 16-5128), April 02, 2019 ]

**REV. FR. JOSE P. ZAFRA III, COMPLAINANT, V. ATTY. RENATO B. PAGATPATAN, RESPONDENT.**

### RESOLUTION

#### PER CURIAM:

This administrative complaint arose from a criminal suit for *estafa* filed by complainant Reverend Father Jose P. Zafra III (Fr. Zafra) against Jojo R. Buniel (Buniel) and Anna Liza M. Guirnalda (Guirnalda) docketed as Criminal Case No. 6538 with the Regional Trial Court (RTC) of Tandag City, Surigao Del Sur, Branch 40. Attorney Renato B. Pagatpatan (Atty. Pagatpatan) is the counsel on record of Buniel and Guirnalda.

While the criminal case was pending against Atty. Pagatpatan's clients, said lawyer wrote a letter to the Bishop of the Diocese of Tandag, Surigao Del Sur<sup>[1]</sup> requesting an investigation of Fr. Zafra for his activities, particularly, concocting stories against his clients, Buniel and Guirnalda, who were charged by Fr. Zafra of *estafa*; that such action "was not only a sin but a MORTAL SIN."

Fr. Zafra was embarrassed because of the "malicious" letter sent by Atty. Pagatpatan. He was eventually investigated by the Board of Consultors with the Bishop, where he was able to clear his name.

Thereafter, Fr. Zafra filed a complaint against Atty. Pagatpatan with the Integrated Bar of the Philippines (IBP). He posits that Atty. Pagatpatan's action is a clear violation of Rule 1.02 of the Code of Professional Responsibility, which provides that "(a) lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system." Fr. Zafra claims that instead of Atty. Pagatpatan defending his clients' case in court, the latter instigated them to stir controversies by making libelous and untruthful accusations. Fr. Zafra asserts that Atty. Pagatpatan's act of writing and sending out the letter to the Bishop of the Diocese of Tandag, Surigao Del Sur "was not from a sense of duty x x x but to certainly gratify the personal vendetta and animosity of his clients, who were arrested for the crime *Estafa* x x x" that Fr. Zafra filed with the RTC. Atty. Pagatpatan "failed to live up to the standard of his profession as a lawyer who should be a mediator for concord and a conciliator for compromise rather than an instigator of controversy x x x."

Fr. Zafra also argues that Atty. Pagatpatan is engaged in the unauthorized practice of law. He learned that, in 2005, Atty. Pagatpatan had been suspended by this Court from the practice of law for two (2) years in a decided case entitled *Daniel Mortera, et al. v. Atty. Renato B. Pagatpatan* with docket number A.C. No. 4562.<sup>[2]</sup> Upon further inquiry on said case from the Supreme Court-Public Information Office, he

also learned that the order of suspension of Pagatpatan in the foregoing case had not yet been lifted by the Court.<sup>[3]</sup> Notwithstanding the failure to lift the order of suspension, Pagatpatan continued to practice law by representing party litigants in other cases before four (4) branches of RTC Davao.<sup>[4]</sup>

Atty. Pagatpatan, for his part, asserts that there was nothing unethical in writing a letter for the investigation of Fr. Zafra. As the lawyer of Buniel and Guirnalda, he merely aided his clients in bringing to the attention of the Bishop the actuations of Fr. Zafra in filing the complaint for *estafa*. The letter was for purposes of convincing Fr. Zafra to settle "silently" and "not go to the extent of having the *estafa* charges ventilated in a full-blown trial x x x."<sup>[5]</sup> He reiterates that the letter was not intended to malign the reputation of Fr. Zafra.

Atty. Pagatpatan does not deny in engaging in the practice of law despite this Court's order of suspension in 2005. He reasoned out that he needed to continue working in order to maintain and sustain the needs of his family, especially since his wife was ill and eventually passed away in December 12, 2010. Pagatpatan claims that he has no intention to defy the order of suspension, and manifests withdrawing his appearances in the cases that he is handling, including the *estafa* case against Buniel and Guirnalda.

Proceedings before the IBP ensued. In the Report and Recommendation dated June 13, 2018,<sup>[6]</sup> the IBP, through the investigating commissioner, did not find Pagatpatan administratively liable in writing the letter-complaint against Fr. Zafra. The investigating commissioner held that there was no prohibition for lawyers to write a letter to the Bishop of the Diocese of Tandag, Surigao Del Sur concerning priests in its jurisdiction; and that lawyers are not precluded from writing a letter to the bishop on matters pending before the Office of the Provincial Prosecutors or the courts. The letter was merely requesting for an investigation on the conduct of Fr. Zafra. No malice or bad faith on the part of Atty. Pagatpatan could be attributed from writing the letter-complaint.

Anent Atty. Pagatpatan's continuous practice of law despite his suspension, the IBP held that Atty. Pagatpatan "has no discretion, no option and can neither run or hide from the harsh effects of being suspended from the practice of law." Section 27, Rule 138 of the Rules of Court provides that a member of the bar may be removed or suspended from his office as attorney for willful disobedience of any lawful order of a superior court. In this case, Atty. Pagatpatan was ordered suspended from the practice of law on June 15, 2005, and there is no order to lift the suspension of Atty. Pagatpatan. Yet despite this he has continued practicing law for over thirteen (13) years, which tantamounts to willful disobedience. Thus, the IBP recommended Atty. Pagatpatan's suspension for three (3) years with a warning that a repetition of the same will warrant a more severe penalty.

In a resolution dated July 12, 2018,<sup>[7]</sup> the Board of Governors of the IBP modified the recommended penalty to suspension from the practice of law for a period of three (3) years, after serving his previous suspension from the practice of law for two (2) years.

### **Ruling of the Court**

This Court cannot subscribe to Atty. Pagatpatan's claims that he is merely espousing his clients' cause in writing the letter-request for investigation of Fr. Zafra. On