

## EN BANC

[ A.C. No. 5179, May 31, 2016 ]

**DIONNIE RICAFORT, COMPLAINANT, VS. ATTY. RENE O. MEDINA, RESPONDENT.**

### RESOLUTION

**LEONEN, J.:**

Complainant Dionnie Ricafort filed a complaint for disbarment<sup>[1]</sup> against respondent Atty. Rene O. Medina on December 10, 1999.<sup>[2]</sup>

Complainant alleged that at about 7:30 a.m. on October 4, 1999, his tricycle sideswiped respondent's car along Sarvida Street in Surigao City.<sup>[3]</sup> Respondent alighted from his car and confronted complainant. Respondent allegedly snapped at complainant, saying: "*Wa ka makaila sa ako?*" ("Do you not know me?") Respondent proceeded to slap complainant, and then left.<sup>[4]</sup>

Later, Manuel Cuizon, a traffic aide, informed complainant of the plate number of respondent's car.<sup>[5]</sup> Complainant later learned that the driver of the car was Atty. Rene O. Medina, a provincial board member of Surigao del Norte.<sup>[6]</sup>

According to complainant, he felt "hurt, embarrassed[,] and humiliated."<sup>[7]</sup> Respondent's act showed arrogance and disrespect for his oath of office as a lawyer. Complainant alleged that this act constituted gross misconduct.<sup>[8]</sup>

Attached to complainant's letter were his Affidavit,<sup>[9]</sup> Manuel Cuizon's Affidavit,<sup>[10]</sup> and a letter<sup>[11]</sup> dated October 27, 1999 signed by Mayor Arlencita E. Navarro (Mayor Navarro), League of Mayors President of Surigao del Norte Chapter. In her letter, Mayor Navarro stated that respondent slapped complainant and caused him great humiliation.<sup>[12]</sup> Thus, respondent should be administratively penalized for his gross misconduct and abuse of authority:

**Dear Mr. Chief Justice:**

This is to bring to your attention an incident that occurred last October 4, 1999 in Surigao City, committed by Provincial Board Member Rene O. Medina.

The said public official slapped in full public view a certain **Donnie Ricafort**, a tricycle driver, causing great humiliation on the person. We believe that such conduct is very unbecoming of an elected official. Considering the nature and purpose of your Office, it is respectfully submitted that appropriate action be taken on the matter as such

uncalled for abuse consists of gross misconduct and abuse of authority.

Attached herewith is a copy of the affidavit of the victim and the petition of the Municipal Mayors League of Surigao del Norte.

Thank you very much for your attention and more power.

Very truly yours,

(Sgd.)

Mayor ARLENCITA E. NAVARRO  
Mayor's League President  
Surigao del Norte Chapter<sup>[13]</sup>  
(Emphasis in the original)

Attached to Mayor Navarro's letter were two (2) pages containing the signatures of 19 Mayors of different municipalities in Surigao Del Norte.<sup>[14]</sup>

In his Comment,<sup>[15]</sup> respondent denied slapping complainant. He alleged that the incident happened while he was bringing his 10-year-old son to school.<sup>[16]</sup> He further alleged that complainant's reckless driving caused complainant's tricycle to bump the fender of respondent's car.<sup>[17]</sup> When respondent alighted from his car to check the damage, complainant approached him in an unfriendly manner.<sup>[18]</sup> Respondent pushed complainant on the chest to defend himself.<sup>[19]</sup> Sensing, however, that complainant was not making a move against his son and himself, respondent asked complainant if his tricycle suffered any damage and if they should wait for a traffic officer.<sup>[20]</sup> Both parties agreed that they were both too busy to wait for a traffic officer who would prepare a sketch.<sup>[21]</sup> No traffic officer was present during the incident.<sup>[22]</sup>

Four or five days after the traffic incident, respondent became the subject of attacks on radio programs by the Provincial Governor's allies, accusing him of slapping the tricycle driver.<sup>[23]</sup> He alleged that complainant's Affidavit was caused to be prepared by the Provincial Governor as it was prepared in the English language, which was unknown to complainant.<sup>[24]</sup>

Respondent was identified with those who politically opposed the Provincial Governor.<sup>[25]</sup>

According to respondent, the parties already settled whatever issue that might have arisen out of the incident during the conciliation proceedings before the Office of the Punong Barangay of Barangay Washington, Surigao City.<sup>[26]</sup> During the proceedings, respondent explained that he pushed complainant because of fear that complainant was carrying a weapon, as he assumed tricycle drivers did.<sup>[27]</sup> On the other hand, complainant explained that he went near respondent to check if there was damage to respondent's car.<sup>[28]</sup> As part of the settlement, respondent agreed to no longer demand any indemnity for the damage caused by the tricycle to his car.<sup>[29]</sup>

Attached to respondent's Comment was the Certification<sup>[30]</sup> dated October 27, 2006 of the Officer-in-Charge Punong Barangay stating that the case had already been mediated by Punong Barangay Adriano F. Laxa and was amicably settled by the parties.<sup>[31]</sup>

On December 5, 2006, this Court referred the case to the Integrated Bar of the Philippines for investigation, report, and recommendation.<sup>[32]</sup>

Only respondent appeared in the Mandatory Conference set by the Integrated Bar of the Philippines on July 20, 2007.<sup>[33]</sup> Integrated Bar of the Philippines Commissioner Jose I. De La Rama, Jr. (Commissioner De La Rama) noted the Certification from Barangay Washington, Surigao City attesting that the case between the parties had already been settled.<sup>[34]</sup> Commissioner De La Rama supposed that this settlement "could be the reason why the complainant has not been appearing in this case[.]"<sup>[35]</sup> The Mandatory Conference was reset to September 21, 2007.<sup>[36]</sup>

In the subsequent Mandatory Conference on September 21, 2007, only respondent appeared.<sup>[37]</sup> Hence, the Commission proceeded with the case ex-parte.<sup>[38]</sup>

In his Report<sup>[39]</sup> dated July 4, 2008, Commissioner De La Rama recommended the penalty of suspension from the practice of law for 60 days from notice for misconduct and violation of Canon 7, Rule 7.03 of the Code of Professional Responsibility, thus:

**WHEREFORE**, in view of the foregoing, it is with deep regret to recommend for the suspension of Atty. Rene O. Medina from the practice of law for a period of sixty (60) days from notice hereof due to misconduct and violation of Canon 7.03 of the Code of Professional Responsibility, for behaving in an scandalous manner that tends to discredit the legal profession.<sup>[40]</sup> (Emphasis in the original)

Commissioner De La Rama found that contrary to respondent's claim, there was indeed a slapping incident.<sup>[41]</sup> The slapping incident was witnessed by one Manuel Cuizon, based on: (1) the photocopy of Manuel Cuizon's Affidavit attached to complainant's complaint;<sup>[42]</sup> and (2) the signatures on the League of Mayors' letter dated October 29, 1999 of the Surigao Mayors who believed that respondent was guilty of gross misconduct and abuse of authority and should be held administratively liable.<sup>[43]</sup>

On August 14, 2008, the Integrated Bar of the Philippines Board of Governors issued the Resolution<sup>[44]</sup> adopting and approving with modification Commissioner De La Rama's recommendation, thus:

*RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, **with modification**, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A "; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering Respondent's misconduct and violation of Canon 7.03 of the Code of Professional Responsibility, for*

*behaving in a scandalous manner, Atty. Rene O. Medina is hereby **SUSPENDED** from the practice of law for thirty (30) days.*<sup>[45]</sup> (Emphasis in the original)

Respondent moved for reconsideration<sup>[46]</sup> of the Board of Governors' August 14, 2008 Resolution. The Motion for Reconsideration was denied by the Board of Governors in the Resolution<sup>[47]</sup> dated March 22, 2014.

We resolve whether respondent Atty. Rene O. Medina should be held administratively liable.

There is sufficient proof to establish that respondent slapped complainant.

Respondent's defense consists of his denial that the slapping incident happened.<sup>[48]</sup> He stresses complainant's seeming disinterest in and lack of participation throughout the case and hints that this administrative case is politically motivated.<sup>[49]</sup>

It is true that this Court does not tolerate the uncereceremonious use of disciplinary proceedings to harass its officers with baseless allegations. This Court will exercise its disciplinary power against its officers only if allegations of misconduct are established.<sup>[50]</sup> A lawyer is presumed to be innocent of the charges against him or her. He or she enjoys the presumption that his or her acts are consistent with his or her oath.<sup>[51]</sup>

Thus, the burden of proof still rests upon complainant to prove his or her claim.<sup>[52]</sup>

In administrative cases against lawyers, the required burden of proof is preponderance of evidence,<sup>[53]</sup> or evidence that is superior, more convincing, or of "greater weight than the other."<sup>[54]</sup>

In this case, complainant discharged this burden.

During the fact-finding investigation, Commissioner De La Rama—as the Integrated Bar of the Philippines Board of Governors also adopted—found that the slapping incident actually occurred.<sup>[55]</sup>

The slapping incident was not only alleged by complainant in detail in his signed and notarized Affidavit;<sup>[56]</sup> complainant's Affidavit was also supported by the signed and notarized Affidavit<sup>[57]</sup> of a traffic aide present during the incident. It was even the traffic aide who informed complainant of respondent's plate number.<sup>[58]</sup>

In finding that complainant was slapped by respondent,<sup>[59]</sup> Commissioner De La Rama gave weight to the letter sent by the League of Mayors and ruled that "the people's faith in the legal profession eroded"<sup>[60]</sup> because of respondent's act of slapping complainant.<sup>[61]</sup> The Integrated Bar of the Philippines Board of Governors correctly affirmed and adopted this finding.

The League of Mayors' letter, signed by no less than 19 Mayors, strengthened