

EN BANC

[**A.M No. RTJ-06-1976 [Formerly OCA IPI No. 03-1857], April 29, 2009]**

**PROVINCIAL PROSECUTOR MANUEL F. TORREVILLAS,
COMPLAINANT, VS. JUDGE ROBERTO A. NAVIDAD,^[1] REGIONAL
TRIAL COURT, BRANCH 32, CALBAYOG CITY, RESPONDENT.**

[A.M NO. RTJ-06-1977 [FORMERLY A.M. NO. 04-2-110-RTC]]

**REPORT ON JUDICIAL AUDIT CONDUCTED IN THE REGIONAL
TRIAL COURT, BRANCH 32, CALBAYOG CITY.**

D E C I S I O N

CARPIO MORALES, J.:

These two administrative cases at bar, **A.M. No. RTJ-06-1976** and **A.M. No. RTJ-06-1977**, were originally consolidated with two other cases: A. M. No. RTJ-06-1978, Office of the Court Administrator v. Judge Roberto A. Navidad, RTC, Br. 32, Calbayog City, Samar, and A.M. No. RTJ-06-1980, Eric C. Isidoro and Atty. Anecio R. Guades v. Judge Roberto A. Navidad, RTC, Br. 32, Calbayog City.

By Resolution of January 31, 2007,^[2] this Court dismissed the complaint in A.M. No. RTJ-06-1978, while that in A.M. No. RTJ-06-1980 was also dismissed, Judge Roberto A. Navidad (Judge Navidad or respondent) was reminded to be more circumspect in the performance of his duties. This leaves for disposition the first and second cases.

Re: A.M. No. RTJ-06-1976

On July 16, 2003, Provincial Prosecutor Manuel Torrevillas, Jr. brought to the attention of then Chief Justice Hilario G. Davide, Jr. the "inappropriate actuation" of Judge Roberto A. Navidad of Branch 32, the RTC of Calabayog City in the handling of cases before his sala. The Chief Justice thus instructed the Provincial Prosecutor to submit a written report thereon to which he complied by letter-complaint dated August 15, 2003,^[3] attaching thereto the reports^[4] of the trial prosecutor in the sala of Judge Navidad.

By 1st Indorsement dated August 25, 2003,^[5] the above-said August 15, 2003 letter-complaint was referred by the Chief Justice to then Court Administrator and now a member of this Court, Presbitero J. Velasco, Jr., for comment and recommendation.

By Resolution of September 23, 2003,^[6] this Court acting on the recommendations of Justice Velasco in his September 8, 2003 Memorandum^[7] to the Chief Justice, required Judge Navidad to comment on the complaint and directed the Court

Management Office of the Office of the Court Administrator (OCA) to: (1) conduct a judicial audit on "all undecided criminal cases, which include cases that are pending, submitted for decision, archived, etc. for the purpose of determining any inappropriate actuation with respect to the issuance of court orders especially on matters pertaining to the grant of bail in non-bailable offenses"; and (2) coordinate with Trial Prosecutor Cicero T. Lampasa as regards the other cases that needed to be investigated.

By Resolution of March 8, 2006, the Court referred the complaint to Justice Isaias P. Dicdican of the Court of Appeals for investigation, report and recommendation.

Covered by A.M. No. RTJ-06-1976 are: (1) Criminal Case No. 4037, "*People of the Philippines v. Nestor Sandongan*," for murder; (2) Criminal Cases No. 4023 and 4024, both entitled "*People of the Philippines v. Simproso Paghunasan*," for frustrated murder and murder, respectively; and (3) Criminal Case No. 4147, "*People of the Philippines v. Alfredo L. Tesoro, et al.*," for murder.

Justice Dicdican synthesized the version of complainant in his October 25, 2006 Report of Investigation and Recommendation^[8] as follows:

Criminal Case No. 4037 - People of the Philippines v. Nestor Sandongan

In this case, respondent allegedly improperly cited a witness, SPO2 Rolando Rebotura, in contempt of court for not telling the truth or for violating his oath. Complainant, through (then) Prosecutor Lampasa, alleged that SPO2 Rebotura was testifying on the matter of whether or not he recovered a shotgun from the crime scene. When the said witness first stated that he did not recover any shotgun, he was reminded by defense counsel, Atty. Sisenando Fiel, that he had already revealed to him (Atty. Fiel) in a conference earlier held that he had recovered a shotgun. After the respondent sought a clarification on the matter, SPO2 Rebotura replied to the effect that he might have said that he recovered a shotgun to Atty. Fiel but, because of the lapse of time, he could not anymore recall.

The respondent then adjudged SPO2 Rebotura in contempt of court and allegedly ordered the witness to be detained under the custody of the Clerk of Court for two (2) days. This order of detention was not, however, stated in the order issued by the respondent.

After that session, SPO2 Rebotura allegedly pleaded with the respondent that he be not detained.^[9]

Criminal Cases No. 4023 and 4024 - People of the Philippines v. Simproso Paghunasan

In these cases, the Office of the Provincial Prosecutor in Calbayog City, on July 1, 2002, a copy of a "Motion to Grant Accused Provisional Liberty" filed by the accused. On July 11, 2002, the prosecution then interposed its Opposition/Comments thereto, not knowing that, on July 2, 2002, the respondent had already issued an order granting the accused provisional liberty and approving the bonds filed by the accused.

Complainant claims that the accused had been charged with the capital offense of murder which is a non-bailable offense. The respondent granted bail without conducting a hearing and without affording the prosecution the opportunity to prove the strength of its evidence.^[10]

Criminal Case No. 4147 - *People of the Philippines v. Alfredo I. Tesoro, et al.*

An Information was filed against the accused in June 2002. The accused later on filed, on August 13, 2002, a Motion to Quash Warrant of Arrest and For Judicial Determination of Probable Cause. The prosecution filed an opposition to said motion, contending that the accused should first submit to the jurisdiction of the court before he could ask for any positive relief.

During the scheduled hearing of the case on December 4, 2002, counsel for the accused filed a Motion to Recall Warrant of Arrest and for Accused Alfredo L. Tesoro To Be Allowed To Be Placed Under the Custody of Counsel Pending Resolution of Motion for Judicial Determination of Probable Cause. The prosecution vehemently opposed such motion but the respondent recalled the warrant of arrest previously issued and allowed the accused to be placed under the temporary custody of his counsel.

The December 4, 2002 order issued by the respondent was received by the prosecution only on August 7, 2003. Moreover, the recall of the warrant of arrest was not stated therein.

On December 10, 2002, the prosecution filed its Comments/ Opposition to the Motion for Judicial Determination of Probable Cause with Motion to Reinstate the Recalled Warrant of Arrest. Since the accused had not filed any opposition to the motion to reinstate the recalled arrest warrant, the prosecution filed, on March 11, 2003, a Motion to Submit Incident for Resolution.

However, the respondent granted the motion for judicial determination of probable cause filed by the accused without acting on the motion to reinstate recalled warrant of arrest filed by the prosecution.^[11]

Justice Dicedican summarized respondent's defense as follows:

Regarding the alleged irregularities in his handling of Criminal Case No. 4037, respondent contends that he cited SPO2 Rebotura in direct contempt of court because he found the said witness lying and telling untruths at the witness chair. Respondent further contends that it was very evident then that the said witness was the one masterminding the "manufacture" or filing of trumped-up cases. At the behest of (then) Prosecutor Lampasa, the witness asked for forgiveness and admitted his wrongdoings and misconduct. Upon a sincere promise by the said witness, the citation for contempt was lifted and he was released from his detention at the office of the Clerk of Court.

As for Criminal Cases Nos. 4023 and 4024, respondent denies that the

prosecution was not given the opportunity to prove the strength of its evidence and that the petition for bail was granted without a hearing.

Respondent claims that an oral petition for bail had been presented in open court which was duly heard and partially argued. In fact, the prosecution had allegedly energetically argued and suggested that the defense reduce its petition into writing so the matter can be brought up to the Provincial Prosecutor. The proceedings even revealed that there was an error on the part of the prosecution in not applying Article 48 of the Revised Penal Code and the petition for bail was granted only after the prosecution refused to rectify the error.

Finally, as to Criminal Case No. 4147, respondent said that he quashed the warrant of arrest for failure of the prosecution to adduce evidence. Furthermore, the preliminary investigation was allegedly improperly conducted with a "tutored" alleged sole eyewitness.

As for the grant of custodial rights to the counsel for accused who were charged with heinous crimes, respondent contends that this grant is given only to the said counsel as officer of the court. Respondent further contends that he followed certain parameters before granting such custodial rights.^[12]

Justice Dicdican thus came up with the following Evaluation:

From the totality of the evidence adduced by the parties, the undersigned investigator, after a judicious evaluation and scrutiny thereof, has come up with a finding that the **respondent had indeed committed irregularities and procedural lapses in the handling of the cases pending before his sala.**

Anent the charge that he granted the accused bail without a hearing in Criminal Cases Nos. 4023 and 4034, the record shows that, in reality, no hearing had been conducted by the respondent before he issued the order dated July 2, 2002 granting the accused provisional liberty and approving the bonds filed.

Respondent's claim that there had been an oral petition for bail which was extensively heard and argued during the pre-trial of the cases on June 20, 2002 is not supported by the record .x x x x

While the respondent maintains that the stenographer failed to take down the discussion on the oral petition for bail, the undersigned finds this unsubstantiated and totally self-serving. The record speaks for itself and the transcript of the stenographic notes is wholly bereft of any reference to the oral petition for bail...

The motion filed by the accused for the grant of provisional liberty was dated June 27, 2002 and was received by the prosecution on July 1, 2002. On July 2, 2002 the respondent had issued an order granting said motion.

It was established by the undersigned that the July 2, 2002 order was based on the June 27, 2002 motion filed by the accused. Respondent contends that the motion filed by the accused was in compliance with an order by the court for the accused to file a formal petition for bail. However, no such order requiring the accused to file a formal petition for bail can be found in the record. The undersigned is thus convinced that the respondent did not conduct a hearing before he granted the motion filed by the accused for the grant of provisional liberty.

Jurisprudence is replete with decisions on the procedural necessity of a hearing, whether summary or otherwise, relative to the grant of bail, especially in cases involving offenses punishable by death, *reclusion perpetua*, or life imprisonment, whether bail is a matter of discretion. Under the present Rules, a hearing is mandatory in granting bail whether it is a matter of right or discretion. It must be stressed that the grant or the denial of bail, in cases where bail is a matter of discretion, hinges on the issue of whether or not the evidence of guilt of the accused is strong, and the determination of whether or not the evidence is strong is a matter of judicial discretion which remains with the judge. In order for the latter to properly exercise his discretion, he must first conduct a hearing to determine whether the evidence, he must first conduct a hearing to determine whether the evidence of guilt is strong. In fact, even in cases where there is no petition for bail, a hearing should still be held.

After the hearing, the court's order granting or refusing bail must contain a summary of the evidence of the prosecution and, based thereon, the judge should formulate his own conclusion as to whether the evidence so presented is strong enough to indicate the guilt of the accused. However, the July 2, 2002 order of the respondent judge does not contain such summary and conclusion.

Based on his investigation and on the evidence presented in this case, the undersigned concludes that **the respondent did not conduct the requisite hearing before he granted bail to the accused, in violation of Sections 8 and 18, Rule 114 of the Revised Rules of Criminal Procedure...**

x x x x

It has been held that such error cannot be characterized as mere deficiency in prudence, discretion and judgment but a patent disregard of well-known rules and, therefore, constitutive of gross ignorance of the law. In line with existing jurisprudence, the undersigned recommends that the respondent be fined P20,000.00 with a stern warning that the commission of the same or similar offense in the future will be dealt with more severely.

Similarly, in Criminal Case No. 4147, where accused Alfredo Tesoro is charged with murder, the respondent judge allowed the said accused to be placed in the custody of his counsel. The record shows that a warrant of arrest for the said accused had already been issued long before he filed a motion to quash warrant of arrest and for judicial determination of