

EN BANC

[A.M. No. P-02-1599, April 30, 2003]

**EXECUTIVE JUDGE LEANDRO T. LOYAO, JR., COMPLAINANT, VS.
MAMERTO J. CAUBE, CLERK OF COURT II AND RICARDO B.
QUISADIO, COURT INTERPRETER II, BRANCH 1, MTC, MAASIN,
SOUTHERN LEYTE, RESPONDENTS.**

RESOLUTION

PER CURIAM:

On April 15, 1998, Executive Judge Leandro T. Loyao, Jr. of the Regional Trial Court of Maasin, Southern Leyte, Branch 24, directed Judge Ramon P. Velasco of the Municipal Trial Court, Maasin, Southern Leyte, to conduct an investigation on the complaint for Grave Misconduct in Office and Usurpation of Judicial Functions against respondents Mamerto J. Caube, Clerk of Court II, and Ricardo B. Quisadio, Court Interpreter, both of the Municipal Trial Court of Maasin.

The complaint was filed by twenty public school teachers of Manhilo National High School,^[1] five employees of the Integrated Provincial Health Office^[2] and one employee of DPWH Area Equipment, Ibarra, all in Maasin, Southern Leyte.^[3] They alleged that respondent Caube issued subpoenas directing them to appear before his office for a conference to settle their financial obligations to Ester Servacio, owner of the Maasin Traders Lending Corporation. The subpoenas were signed by respondent Caube, purportedly on the authority of the Presiding Judge Sulpicio D. Cunanan, Acting Municipal Judge of the Municipal Trial Court of Maasin. Despite the fact that they were not parties to any civil or criminal cases, complainants appeared before respondent Caube's office, where they met with Servacio and eventually reached a settlement of the latter's claims. Respondent Caube drew the necessary compromise agreement, wherein the complainants agreed to pay the amount of P 12,000.00 each to Servacio on or before 30 April 1998, otherwise, formal complaints may be instituted against them.

The complainants argued that the respondent Caube had no authority to issue court processes against them since they were not involved in any lawsuit. Moreover, the fact of being subpoenaed and required to appear before the court was traumatic to them. They also alleged that respondent Caube collected from them the amount of P500.00 as attorney's fees for his services in preparing the amicable settlement.

On the other hand, the complainants charged respondent Ricardo B. Quisado of collecting on behalf of Mrs. Epifania P. Entuna the account due from her debtor, Mrs. Felicisima M. Bacala.

During the investigation, respondent Caube admitted that, in his capacity as clerk of court, he issued on separate dates subpoenas to the complaining witnesses to appear before his office for an amicable settlement with Mrs. Ester Servacio. He,

however, denied having demanded from the complainants the amount of P500.00 as attorney's fees. Rather, the attorney's fees were intended for the reimbursement of Mrs. Servacio's expenses including consultation fees she paid to her legal counsel

After the investigation, Judge Velasco submitted the following recommendations:^[4]

1. Issue a WARNING to respondent MAMERTO J. CAUBE for his indiscretion on the issuance of court process (subpoena) to non-litigated cases before the court with a FOREWARNING that a repetition of such highly irregular and anomalous acts shall merit a more punitive sanction, to include SUSPENSION AND/OR DISMISSAL FROM SERVICE;
2. As for respondent RICARDO B. QUISADIO, the records and evidences on hand are bereft of any substantial merits that least show by preponderance that act complained of was committed, is hereby recommended DISMISSED for want of merits factually.

Judge Loyao, however, disagreed with the foregoing factual findings and recommended sanctions. In his Report to the Office of the Court Administrator, he found respondents Caube and Quisadio guilty of Gross Misconduct on three counts and one count, respectively, and recommended that respondent Caube be dismissed from the service and respondent Quisadio be suspended for such length of time as this Court may impose.^[5]

While the proceedings were ongoing, respondent Caube filed a request for retirement effective April 1, 1999 pending the resolution of the administrative case against him, retaining whatever such amount as will answer for any penalty that may be imposed on him.^[6]

On June 26, 2001, while the motion was pending resolution, respondent Caube died at the Chung Hua Hospital in Cebu City.^[7]

In a Resolution dated June 16, 2002,^[8] it was resolved to dismiss for lack of merit the charges against Court Interpreter Ricardo B. Quisadio; docket the case as a regular administrative proceeding as regards Clerk of Court Mamerto J. Caube; grant Clerk of Court Caube's request to be allowed to retire pending the resolution of the administrative case; and direct the Financial Management Office, OCA, to withhold the sum of Fifty Thousand Pesos (P50,000.00) from Mamerto J. Caube's retirement benefits pending the resolution of the administrative complaint against him.

The death or retirement of any judicial officer from the service does not preclude the finding of any administrative liability to which he shall still be answerable.^[9] As pointed out in *Gallo v. Cordero*:^[10]

This jurisdiction that was ours at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased in office during the pendency of his case. The Court retains its jurisdiction either to pronounce the respondent public official innocent of the charges or declare him guilty