

## FIRST DIVISION

[ A.C. No. 5486, August 15, 2001 ]

IN RE: **ATTY. DAVID BRIONES**

### D E C I S I O N

**PUNO, J.:**

This matter arose from the continued failure of Atty. David P. Briones, counsel for accused-appellant in G.R. No. 130965 (People of the Philippines vs. Restituto Cabacan) pending before the Second Division of this Court, to file the required appellant's brief.

The notice to file appellant's brief was mailed to Atty. Briones on July 30, 1998. The registry return card shows that it was received by the addressee on August 6, 1998. Counsel was given thirty (30) days from receipt of the notice within which to file the brief. Atty. Briones failed to file the required brief within the period which expired on September 5, 1998.

On April 28, 1999, the Court ordered Atty. Briones to show cause why he should not be disciplinarily dealt with or held in contempt for such failure and to submit the required brief within ten (10) days from notice. Atty. Briones failed to comply with the Court's directive within the specified period. Copy of said resolution was returned to the Court unserved without specific reason.

On August 9, 1999, the Court issued a resolution stating among others that the resolution of April 28, 1999 is considered served on Atty. Briones by substituted service pursuant to Section 8, Rule 13 of the 1997 Rules of Civil Procedure. The Court also referred the matter of the repeated failure of Atty. Briones to file appellant's brief to the Integrated Bar of the Philippines (IBP) for evaluation, report and recommendation. The administrative case was docketed as CBD Case No. 00-690.

In a letter dated September 27, 1999, IBP Commissioner Victoria Gonzales-De Los Reyes informed Atty. Briones of the Court's referral of the matter to the IBP and required him to file his Comment within five (5) days from receipt of the letter. The registry return card shows that the letter was received by the agent of Atty. Briones on October 7, 1999. Atty. Briones, however, did not file any Comment.

Commissioner De Los Reyes submitted her Report dated January 25, 2000 with the following observation and recommendation:

“Unfortunately, despite the lapse of the required period of time within which to submit his Comment, respondent failed to do so despite due notice as evidenced by the registry return card.

As can be gleaned from the files, G.R. No. 130965 has remained pending in view of the negligence of Atty. Briones to file the required appellant's brief. It is therefore evident that respondent violated Rule 18.03 of Canon 18 of the Code of Professional Responsibility to wit:

A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

Likewise, respondent's repeated failure to file the appellant's brief and his Comment to the Commission in connection with the Supreme Court Resolution dated August 9, 1999 are apparently tantamount to wilful disobedience to the lawful orders of the Honorable Supreme Court which could not be tolerated, and respondent should not be allowed to go scot-free.

IN VIEW OF THE FOREGOING, the undersigned Commissioner finds that Atty. David P. Briones had the propensity of defying lawful orders, and recommends that for his violation of Rule 18.03 of the Canon 18 of the Code of Professional Responsibility, he be SUSPENDED from the practice of law profession for a period of six (6) months."

On March 18, 2000, the Board of Governors of the IBP passed Resolution No. XIV-2000-56 stating:

"RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution/Decision as annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, Respondent is SUSPENDED/or BARRED from the practice of law for six (6) months for violation of Rule 18.03 of the Canon 18 of the Code of Professional Responsibility."

On May 26, 2000, Atty. Briones filed with the IBP a Motion for Reconsideration/Reinvestigation. The motion was grounded on the alleged denial of due process in the course of the investigation. Atty. Briones claimed that he filed a Comment on the administrative case but the same was not considered by the investigating commissioner. Neither did the IBP conduct a formal investigation.

On July 29, 2000, the Board of Governors of the IBP issued Resolution No. XIV-2000-439 denying the motion for reconsideration, thus:

"RESOLVED to DENY Respondent's Motion for Reconsideration of the Board's Decision in the above-entitled case there being no substantive reason to reverse the finding therein, moreover, the pleading is improper as the remedy of the respondent is to file the appropriate Motion with the Supreme Court within fifteen (15) days from receipt of notice of said Decision pursuant to Section 12 (c) of Rule 139-B."