

## THIRD DIVISION

[ A.M. MTJ-00-1262, April 06, 2000 ]

**RODOLFO M. TAPIRU, COMPLAINANT, VS. JUDGE PINERA A. BIDEN, RESPONDENT.**

### D E C I S I O N

**VITUG, J.:**

On 24 February 1997, Rodolfo M. Tapiru filed before the Office of the Court Administrator ("OCA") a complaint against Judge Pinera Biden, Presiding Judge of the 6th Municipal Trial Court of Kabugao, Apayao, charging the latter with arbitrary detention, grave misconduct, and grave abuse of authority.

The antecedents of this administrative case started when, on 10 October 1996, Orlando Laylay and Romero Bucnag were being investigated by the Kabugao Police for the murder of one Dacusin Awisi. In the course of the investigation, Laylay pointed to complainant's son, Richard Tapiru, as being the assailant in the killing on 28 July 1996 of a certain Mario Antonio Maglama. Upon the request of the police investigators, Juan Tapiru, an uncle of Richard Tapiru, accompanied the latter to the police station. On the same day, 10 October 1996, Chief of Police Marner Dacayon requested for a judicial order for the protective custody of Richard Tapiru which respondent judge forthwith granted even before any criminal case could be filed. Complainant asserted that Richard Tapiru did not voluntarily appear before the police but was arrested without warrant on 8 October 1996 or two days before respondent issued his 10th October 1996 order aforesaid. Richard Tapiru was allegedly forced to remain in custody until 31 December 1996.<sup>[1]</sup>

According to complainant, the above incident was not the first time that respondent judge and his "cohorts" at the Philippine National Police ("PNP") filed false charges against his son.<sup>[2]</sup> In another case for "Alarms and Scandals" against Richard Tapiru filed by PNP Cpl. Manuel Enciso, and lodged in the sala of respondent judge, the latter wrote a letter pressuring the Tapirus to enter into an amicable settlement with Cpl. Enciso.<sup>[3]</sup>

Complainant additionally charged respondent Judge for having reportedly prevented the arrest of his own son, Hatcher Biden, an accused in a case for attempted murder<sup>[4]</sup> and, likewise, for conducting adoption proceedings despite his court's utter lack of jurisdiction thereover.<sup>[5]</sup>

In answer to the charges, respondent judge explained that complainant's son, Richard Tapiru, was an incorrigible criminal, with five criminal cases pending against him. Charges, including murder and robbery, remained unresolved because of fear of witnesses for their lives.<sup>[6]</sup> Anent the charge for arbitrary detention, respondent judge averred that, contrary to allegations, complainant's son was committed to the

court only on 10 October 1996, as so attested to by the arresting officers themselves, on which date he issued an Order of Protective Custody.<sup>[7]</sup>

Respondent denied having pressured the Tapirus to enter into a compromise agreement in the Alarms and Scandals case. While he admitted having written a letter addressed to complainant, it was because, he said, the Tapirus themselves pleaded for more time to settle the case with complainant SPO4 Manuel Enciso. Suprema

Relative to the charge that he conducted adoption proceedings in his court, respondent argued that the proceedings took place in 1984 when the matter was supposedly still under the jurisdiction of municipal courts. Juris

The case was referred to Honorable Quirino M. Andaya, Executive Judge of the Regional Trial Court of Luna-Kalinga, Apayao, for investigation, report and recommendation. Following his investigation, Judge Andaya submitted his findings; thus:<sup>[8]</sup>

1. Sworn affidavit complaint dated February 24, 1997 relative to Criminal Case 40-K-89 entitled; People vs. Richard Tapiru; Alarm and Scandal (Exh.'B'-P-2records). Scjuris

Relative to this case, respondent judge wrote two (2) letters to complainant, Rodolfo dated August 25, 1989 (see records pages 4, 5, 39 and 40). The gist of these letters requires, complainant to appear before the office of respondent for the latter to inquire the status of the alleged amicable settlement between Cpl. Manuel Enciso, complainant, and Rodolfo's son, Richard, accused in the aforementioned criminal case pending before the sala of herein respondent judge.

It is the contention of complainant that these two (2) letters of respondent manifest an unholy conspiracy between him (respondent judge) and Cpl. Enciso to extort money from Rodolfo and his son for the dropping and/or dismissal of the case for they (Rodolfo and son) never entered or talk to Cpl. Enciso for the settlement of the case knowing that the same was filed merely to harass complainant and his son.

This belief was further bolstered when the case was eventually dismissed by respondent judge without hearing the case on the merits. Jurissc

On this complaint, respondent admitted to have written both letters (Exh.'2 and '3 for respondent) but denied any evil design in writing said letters. If he (respondent) did it, it was meant to help the parties come to terms for this was what Cpl. Enciso informed respondent Judge(Exh.'4').

Perusal of the two (2) letters could hardly be deduced any conspiracy between respondent and Cpl. Enciso to solicit any consideration from complainant for the dismissal of the case filed against respondent's son.

But the acts of respondent in writing those two (2) letters are unprocedural. What should have been done under the premises is to set the case for hearing and dispose the same accordingly. Misjuris

2. That in connection with the filing of Criminal Case No. 1-96 for Attempted Murder against respondent's son, Hatcher, the former had been protecting and coddling with his son which caused the long delay in the arrest of the accused. (Exh.'A'-letter complaint).

On this complaint, respondent denied having extended any protection for his son Hatcher, but did not give any explanation for the long delay in the arrest of respondent's son.

A glimpse of the factual backdrop of this case reveals that respondent's son is studying in one of the colleges and universities in Tuguegarao, Cagayan, with no information given to the court, hence the warrant of arrest was issued for execution by the PNP Police Station of Kabugao, Apayao, where respondent and his son were residing. Since respondent's, son is not in Kabugao but in Tuguegarao, Cagayan, the warrant was returned to the court unexecuted by the reason that respondent's son could not be located in Poblacion, Kabugao. This cause the delay in the arrest of respondent's son. However, when the alias warrant of arrest was issued and perhaps accused might have learned the issuance of the warrant he voluntarily surface and brought to court for commitment leading to the dismissal of the case upon motion of the prosecution based on the Affidavit of Desistance executed by private complainant.

In a nutshell, the delay in the arrest of respondent's son could not be attributed to respondent although in a situation like this, in order to forestall any suspicion of coddling by respondent he should have voluntarily brought his son to the bar of justice and face the accusation. In this way, respondent could have saved the image of the Judiciary in general from being tarnished and his reputation as member of the bench.  
Jjlex

3. The act of respondent in ordering the incarceration of complainant son, Richard, prior to the filing and resolution of Criminal Case No.217-96 for murder by respondent.

We beg not to discuss this considering the matter to be sub-judice in view of the pendency of two (2) counts of Arbitrary Detention cases (Crim. Cases No. 1-97 & 2-97) filed against respondent et.al., before this court.

4. The act of the respondent in accepting adoption case (Exh. 'D-1' decision dated September 4 ,1984) knowing that MCTCs or MTCs has no jurisdiction)

Anent this complaint, respondent explained that he did it on good faith. At that time (1984) he was not aware that under Batas Pambansa Blg.129 which reorganized the entire judiciary of the Philippines the concurrent jurisdiction of the Justice of the Peace (now MCTC's, MTCs and MeTCs) and the Court of First Instance (now RTC) on adoption cases has been abolished.