

## SECOND DIVISION

[ A.M. No. RTJ-98-1406, September 01, 1999 ]

**EVELYN DE AUSTRIA, COMPLAINANT, VS. JUDGE ORLANDO D. BELTRAN, ACTING PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH IV, TUGUEGARAO, CAGAYAN, RESPONDENT.**

### R E S O L U T I O N

#### **QUISUMBING, J.:**

In an administrative complaint received on November 18, 1996, by the Office of the Court Administrator complainant Evelyn De Austria charged respondent Judge Orlando D. Beltran, Acting Presiding Judge of Branch IV of the Regional Trial Court of Tuguegarao, Cagayan, with "gross ignorance of the law and/or negligence, and manifest partiality" for the accused in Criminal cases No. 6263, 6264, and 6315.

Complainant is the sister of Evangeline and Eduardo, both surnamed De Austria, who were killed on September 3, 1993 allegedly by one Tomas Bariuan. A complaint for double murder was filed against Bariuan for the killing of the De Austria siblings. Another complaint for frustrated murder against him was filed for the wounding of Marico Bassig during the same incident.

Preliminary investigation of the complaint for double murder was conducted by the Municipal Trial Court of Tuguegarao, which also issued a warrant for the arrest of Bariuan for whom no bail was recommended. Later on Bariuan was allowed to post bail in the amount of P200,000.00, after he filed a petition for bail.

Bariuan failed to submit a counter-affidavit and supporting evidence to the MTC in his defense. The court then forwarded the record of the case to the Office of the Provincial Prosecutor with the finding that Bariuan is probably guilty of double murder.<sup>[1]</sup>

The provincial prosecutor filed before the RTC two separate information against Bariuan inasmuch as he allegedly committed two separate and distinct murders.<sup>[2]</sup> A warrant for the arrest of Bariuan was issued for Criminal Case No. 6264 for murder on April 7, 1994 by RTC Judge Hilarion L. Aquino.\* No bail was recommended. Bariuan filed a motion to quash the warrant on the ground that he had earlier posted bail. He also moved for a joint trial of Criminal Cases No. 6264 and 6263 for murder, and Criminal Case No. 6315 for frustrated murder. The motion to quash was denied.<sup>[3]</sup> The court ruled that what he earlier posted was bail for one crime, the complex crime of double murder with which Bariuan was charged by chief of police of Tuguegarao and for which a preliminary investigation was conducted. However, upon review of the record of the preliminary investigation by the provincial prosecutor, the latter filed two separate informations for two distinct crimes of murder. No bail was recommended in the latter cases. Thus, it could not be said that Bariuan had already posted bail for said cases.

Bariuan moved for reconsideration of the resolution denying his motion to quash and reiterated his motion for joint trial. Judge Aquino granted the motion for joint trial<sup>[4]</sup> and ruled that the motion for reconsideration of the denial of the motion to quash should be resolved by Branch IV, presided over by respondent as acting judge, to which the consolidated cases had been assigned.

On October 11, 1994, Bariuan filed a motion for substitution and reduction of bail bond, alleging that he was granted bail in the three criminal cases and that the bail bond he posted had already expired, thus, the need for substitution. He asked for reduction of the amount of the bail since he could not come up with sufficient funds to cover the amount fixed by the court.

Asked to comment on Bariuan's motion, Asst. Provincial Prosecutor Fred Q. Andres did not interpose any objection. Respondent granted the motion and reduce the amount of bail to P50,000.00 for each of the three cases.<sup>[5]</sup>

On May 22, 1996, public prosecutor Amador T. Arao filed a motion for the immediate issuance of a warrant of arrest against Bariuan. He noted that there is a standing warrant against him issued by Judge Aquino, and that the motion for reconsideration of the resolution denying Bariuan's motion to quash had not yet been resolved. Prosecutor Arao also pointed out that no bail had been recommended for Criminal Case No. 6264 and no bail had been posted for Criminal Case No. 6315.

In an order dated June 28, 1996, respondent ruled that there was no need to issue another warrant of arrest because of the standing warrant against Bariuan. Respondent cancelled the bail bond amounting to P50,000.00 erroneously approved for the provisional liberty of Bariuan. The latter surrendered to the police three days later and moved that he be allowed to post bail in the amount of P75,00.00 for the three cases.

In an order dated August 16, 1996, respondent granted bail in the amount of P200,000.00 for each of the murder cases. That same day, Bariuan was released from detention per an order of release respondent signed. Complainant's brother Ernesto De Austria saw Bariuan participating in the town fiesta of Tuguegarao on that day. He made inquiries at the provincial jail and was informed that Bariuan had indeed been released. This fact was verified from the personnel of the RTC, Tuguegarao, Branch IV, on August 19, 1996. They showed Ernesto two orders of release, one dated August 16, 1996, and another dated August 19, 1996.

Complainant filed her complaint on November 18, 1996. She alleged that the order of release dated August 16, 1996, was anomalous and irregular since Bariuan had not yet posted bail on that date, and that the order had not yet become final and executory as the prosecution had 15 days to move for reconsideration. She also stated that respondent was grossly negligent in granting Bariuan's motion for reduction of bail when, in fact, no bail was recommended and, thus, no bail was posted in Criminal Case No. 6264. Moreover, she added, the motion for reconsideration of the denial of Bariuan's motion to quash his warrant of arrest was not yet resolved.

In his comment<sup>[6]</sup> on the complaint, respondent stated that he was never made

aware of the pending motion for reconsideration, even if complainant was represented by both public and private prosecutors who could have called his attention. However, respondent was candid enough to admit that he must have overlooked Judge Aquino's directive for Branch IV to resolve the pending motion for reconsideration. He added that if he were duty-bound to examine the records of cases before him, the prosecution was all the more required to call his attention to pending incidents.<sup>[7]</sup>

As regards his order granting reduction of bail, respondent stated that it was the then trial prosecutor himself who asked that the motion be granted. Thus, he did not deem it necessary to inquire further, as the prosecutor's act was an admission that the prosecution's evidence was weak.

Respondent averred that he did not intend to cause injury to complainant or to the State, and that, if indeed he had erred, it was without any corrupt motive or improper consideration.<sup>[8]</sup> He urged this Court to apply in his case our ruling in *Guillermo v. Reyes*,<sup>[9]</sup> that:

"xxx (a) judge may not be held administratively accountable for every erroneous order or decision he renders. To unjustifiably hold otherwise, assuming that he has erred, would be short of harassment and would make his position doubly unbearable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment. The error must be gross or patent, malicious, deliberate or in evident bad faith. It is only in this latter instance when the judge acts fraudulently or with gross ignorance, that administrative sanctions are called for as an imperative duty of this Court.

... Good faith and absence of malice, corrupt motives or improper considerations are sufficient defenses in which a judge charged with ignorance of the law can find refuge."

Respondent denied having exhibited manifest partiality in favor of Bariuan. He claimed to be unaware of having issued an order to release dated August 16, 1996; he said he only issued one dated August 19, 1996. He stated that Bariuan posted a cash bond on the latter date for P150,000.00 for each of the murder cases. These, according to him, were in addition to the P50,000.00 earlier posted for each case, which, though later canceled, was still on deposit with the court.

Respondent took exception to complainant's claim that the order of release is not final and executory until after the lapse of 15 days, stating that there is no rule providing for this requirement.

On November 24, 1997, this Court referred this matter to Court of Appeals Justice Marina L. Buzon for investigation, report, and recommendation.

During the hearings conducted in connection with this case, Rey Camarao, Records Custodian of the Cagayan Provincial Jail, presented certified photocopies of two orders of release, one dated August 16, 1996, and another dated August 19, 1996; a certified photocopy of two pages of the Provincial Jail Detention Logbook with the note that Bariuan was released from detention on August 16, 1996, after having posted bail; a certified photocopy of page 317 of the Provincial Prisons Diary