

## **THIRD DIVISION**

**[ A.M. No. MTJ-98-1149, March 31, 1998 ]**

**SOCORRO YULO-TUVILLA, COMPLAINANT, VS. JUDGE ROLANDO  
V. BALGOS, RESPONDENT.**

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

**ROMERO, J.:**

In a letter addressed to Chief Justice Narvasa dated January 29, 1996, Negros Occidental Sangguniang Panlalawigan Board Member Socorro Yulo-Tuvilla charged Judge Rolando V. Balgos, MTC, Hinigaran, Negros Occidental with Grave Abuse of Discretion and Improper Conduct. The complaint stemmed from a case brought before respondent for preliminary examination. Complainant Tuvilla alleged that Myra Gumban, then 14 years old, was kidnapped and brought to the house of one Norman Mapagay where she was detained and raped by several men. Gumban was able to escape and reported to the authorities that there were more than 10 other young girls still in captivity in the house of Mapagay.

A complaint was thereafter filed before respondent Judge who conducted a preliminary examination leading to the issuance of warrants of arrest on December 8, 1995 against Mapagay and his companions. Mapagay, through counsel, filed a motion to recall the warrant of arrest issued against him. This incident was immediately heard and granted by Judge Balgos without the presence of private complainant for the purpose of identifying Mapagay.

Complainant Tuvilla argued that respondent judge should not have acted on the motion filed by Mapagay and should instead have inhibited himself from hearing the same since Mapagay's counsel, Atty. Manlapao, is the lawyer of the family of Judge Balgos in a civil case pending before the RTC of Himamaylan, Negros Occidental. Tuvilla stated that respondent judge eventually inhibited himself from further hearing the case only when the community protested against him. However, the inhibition was useless since damage had already been done.

In his comment dated July 29, 1996, respondent judge claimed that the charges against him are unreasonable. He averred that the present complaint stemmed from a case for Kidnapping and Serious Illegal Detention filed for preliminary investigation in his sala. The complaining witness, Myra Gumban, also filed a separate complaint for Rape against Mapagay and several others. Respondent Judge issued corresponding warrants of arrest after conducting a joint preliminary examination of the complaining witness and her mother. He admitted to recalling the warrant of arrest against Mapagay claiming that he did so only because he believed that it was within his discretion to do so. Respondent stated that he found that the evidence adduced at the hearing "overwhelming countervailed his finding of probable cause after preliminary examination." Respondent further cited the illness of Mapagay of cancer and the fact he was due for an operation at St. Luke's hospital (which the records show he did undergo).