



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
Quezon City

Seventh Division

MINUTES of the proceedings held on July 9, 2021.

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA-- Chairperson
Justice ZALDY V. TRESPESES ----- Member
Justice GEORGINA D. HIDALGO----- Member

The following resolution was adopted:

Crim. Case Nos. SB-18-CRM-0344 & 0345 – People of the Philippines vs. Danilo R. Crisologo, et al.

HIDALGO, J.:

This resolves the Motion to Retire as Counsel of Attorney Daniel F. Victorio, Jr., (“Atty. Victorio”) dated July 6, 2021. Citing professional and personal reasons, Atty. Victorio pleads that he be allowed to withdraw his appearance as counsel for accused Danilo R. Crisologo (“Accused”). He claimed that his application for withdrawal of appearance as counsel was based on a good cause, considering that the said accused was no longer reimbursing him for the filling of pleadings nor paying for his representations in court. He also alleged that he tried to obtain the conformity of the accused for the said withdrawal of appearance but the latter refused to sign the same. Nonetheless, he maintained that in the case of *Venterez vs. Atty. Cosme*,¹ the Supreme Court allowed the withdrawal of counsel even without the consent of a client, upon such counsel’s application for withdrawal based on a good cause found under Rule 22.01, Canon 22 of the Code of Professional Responsibility, like non-payment of fees for services or the client’s failure to comply with the retainer agreement. Furthermore, he mentioned that due to the pandemic, he temporarily gave up his private practice in Manila to cut down on cost and moved his family to the province for the duration of the pandemic.

In this case, the motion of Atty. Victorio is anchored on the provision of Section 26, Rule 138 of the Revised Rules of Court, allowing for a change of counsel, thus:

¹ A. C. No. 7421, October 10, 2007

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Sec. 26. *Change of attorneys.* — An attorney may retire at any time from any action or special proceeding, by the written consent of his client filed in court. He may also retire at any time from an action or special proceeding, without the consent of his client, should the court, on notice to the client and attorney, and on hearing, determine that he ought to be allowed to retire. In case of substitution, the name of the attorney newly employed shall be entered on the docket of the court in place of the former one, and written notice of the change shall be given to the adverse party.

A lawyer may retire at any time from any action or special proceeding with the written consent of his client filed in court and with a copy thereof served upon the adverse party. Should the client refuse to give his consent, the lawyer must file an application with the court. The court, on notice to the client and adverse party, shall determine whether the lawyer ought to be allowed to retire. The application for withdrawal must be based on a good cause.

Significantly, the above provision instructs that a counsel who wishes to withdraw his appearance from a case but was unable to obtain the conformity of his client must file before the court an application for withdrawal, which must be based on a good cause provided under Rule 22.01, Canon 22 of the Code of Professional Responsibility, to wit:

CANON 22 — A LAWYER SHALL WITHDRAW HIS SERVICES ONLY FOR GOOD CAUSE AND UPON NOTICE APPROPRIATE IN THE CIRCUMSTANCES.

Rule 22.01 — A lawyer may WITHDRAW his services in any of the following cases:

- a) When the client pursues an illegal or immoral course of conduct in connection with the matter he is handling;
- b) When the client insists that the lawyer pursue conduct violative of these canons and rules;
- c) When his inability to work with co-counsel will not promote the best interest of the client;
- d) When the mental or physical condition of the lawyer renders it difficult for him to carry out the employment effectively;
- e) **When the client deliberately fails to pay the fees for the services or fails to comply with the retainer agreement;**
- f) When the lawyer is elected or appointed to public office; and
- g) Other similar cases. (Emphasis supplied)

In the case of *Renesonia M. Destreza vs. Atty. Roy Allan T. Arellano*, citing the case of *Somosot v. Atty. Lara*, the Supreme Court recognized the impact of unpaid service fees to a lawyer's livelihood, viz.:

The non-payment of fees is a factor that we cannot simply disregard. As a rule, law practice is not a *pro bono* proposition and a lawyer's sensitivity and concern for unpaid fees are understandable;

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lawyers incur expenses in running their practice and generally depend, too, on their law practice income for their living expenses.

Here, the Court finds that Atty. Victorio's withdrawal of appearance as counsel has a good cause, as the herein accused did not only stop paying for his representations in court, but also failed to reimburse the expenses incurred for the pleadings filed in court. The Court is not unaware that the practice of law is not a money-making trade; however, it is important to emphasize that lawyers are still entitled to a reasonable fee for the effort and work done in pursuing the cause of their clients.² Hence, the motion is justified.


WHEREFORE, premises considered, the **MOTION TO RETIRE AS COUNSEL** dated July 6, 2021 of Attorney Daniel F. Victorio is **GRANTED**. Let the notices/processes of this Court and the pleadings/motions/correspondence from the adverse party in this case be sent directly to accused Danilo R. Crisologo until such time that the said accused obtains a new counsel. The accused is hereby enjoined to engage the services of a new counsel, who must be ready to represent him in the next scheduled hearing set on August 11, 2021, at 8:30 in the morning.

SO ORDERED.



GEORGINA D. HIDALGO
Associate Justice

WE CONCUR:



MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice
Chairperson



ZALDY V. TRESPESSES
Associate Justice

² *Renesonia M. Destreza vs. Atty. Roy Allan T. Arellano*, A. C. No. 9924, October 7, 2020