



Republic of the Philippines

Sandiganbayan

Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 30 January 2024.

Present:

Justice ZALDY V. TRESPESES -----Acting Chairperson

Justice GEORGINA D. HIDALGO ----- Member

Presiding Justice AMPARO M. CABOTAJE-TANG -----Member*

The following resolution was adopted:

Crim. Case No. SB-22-CRM- 0117 - People vs. MARC RED ARCADIO MARIÑAS, ET AL.

This resolves the following:

1. "EX PARTE MANIFESTATION AND COMPLIANCE" dated January 22, 2024 filed by Atty. Andre De Jesus, counsel for accused Carl Jordan Perez.

TRESPESES, J.

During the hearing on 22 January 2024, Atty. De Jesus appeared in court for his client Carl Jordan Perez and was designated by the court to be counsel de officio for accused Abdulhafez "HB" Dela Tonga Hadjibasher, whose attorney was not present in court. After the re-direct examination of prosecution's witness, counsels for the defense were each called to conduct re-cross examination. However, when Atty. De Jesus' name was called, he was no longer in court. The paralegal of Atty. De Jesus came forward and informed the court that the latter left without stating any reason. As such, the court cannot determine whether he intended to conduct re-cross examine the prosecution witness since he left without permission.

Given such misbehavior or interference in the orderly administration of justice by leaving the court without permission during the hearing, Atty. De Jesus was given 24 hours from notice to explain or show cause why he should not be cited for direct contempt of court under Rule 71 of the Rules of Court.¹

¹ **RULE 71 - Contempt**

SECTION 1. *Direct Contempt Punished Summarily.* — A person guilty of misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including disrespect toward the court, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe

*Sitting as Special Member per Administrative Order No. 138-2022 dated 20 June 2022 in view of the inhibition of Justice Ma. Theresa Dolores C. Gomez-Estoesta.

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The court further determines that his behavior seemingly contravenes Sec. 4, Canon 4 of the Code of Professional Responsibility and Accountability (CPRA).

On 23 January 2024, the court received Atty. De Jesus' Ex Parte Manifestation and Compliance.

ATTY. DE JESUS' EX PARTE MANIFESTATION

In his Ex Parte Manifestation, Atty. De Jesus apologizes for leaving the hearing on January 22, 2024 before it was adjourned. He claims that his mother had been a victim of a scam and was being harassed by the individuals or group responsible. He informed his mother and brother that he would need to attend the court hearing and would meet with them thereafter.

However, during the hearing, he was informed of increased harassment against his mother, including a torrent of threats from the people behind the scheme. Since there were no associates who could attend the hearing in his place, he was compelled to leave the courtroom briefly to provide legal intervention and console his mother, who has multiple comorbidities and has been in a deep depression since their father's death three months ago.

He adds that because he was eighteenth in the order of counsels who would conduct re-cross examination, and he was accompanied by his paralegal, he miscalculated the time required to conclude the hearing. He emphasizes that he intended to return to court. Unfortunately, he was informed by his paralegal, whom he assigned to take notes and, if necessary, inform the court of his need to leave briefly and his commitment to return – that the hearing had adjourned earlier than anticipated because majority of the defense counsels did not conduct re-cross examination on the prosecution witness, and that the court had issued a show cause order against him.

He further alleges that he has no reason to disregard the proceedings, much less disrespect the court. At the time he left the hearing, he assumed in good faith that an oral motion in open court to momentarily leave the hearing grounded on intrinsically private personal justifications with the entire gallery being informed, would have been more disruptive of the hearing. Thus, his decision to briefly leave the hearing discreetly.

an affidavit or deposition when lawfully required to do so, may be summarily adjudged in contempt by such court and punished by a fine not exceeding two thousand pesos or imprisonment not exceeding ten (10) days, or both, if it be a Regional Trial Court or a court of equivalent or higher rank, or by a fine not exceeding two hundred pesos or imprisonment not exceeding one (1) day, or both, if it be a lower court. (1a) (2019 Amendments to the 1997 Rules of Civil Procedure, A.M. No. 19-10-20-SC, [October 15, 2019])

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Finally, Atty. De Jesus pleads and begs the court's understanding and consideration. He commits to inform the court of any unforeseen or foreseeable event or circumstance that would impair his ability to participate in the proceedings.

OUR RULING

In *Castillejos Consumers Association, Inc. v. Dominguez*,² the Supreme Court defined contempt of court, as follows:

Contempt of court has been defined as a willful disregard or disobedience of a public authority. In its broad sense, contempt is a disregard of, or disobedience to, the rules or orders of a legislative or judicial body or an interruption of its proceedings by disorderly behavior or insolent language in its presence or so near thereto as to disturb its proceedings or to impair the respect due to such a body. In its restricted and more usual sense, contempt comprehends a despising of the authority, justice, or dignity of a court.

The power to punish for contempt is inherent in all courts and is essential to the preservation of order in judicial proceedings and to the enforcement of judgments, orders, mandates of the court, and to the due administration of justice.³ It safeguards the respect due to the courts and, consequently, ensures the stability of the judicial institution.⁴

As officer of the court, Atty. De Jesus is charged with the duty to observe and maintain the respect due to the courts and judicial officers.⁵ Sec. 2, Canon II of the CPRA explicitly states that "(a) lawyer shall respect the law, the courts, tribunals, and other government agencies, their officials, employees, and process, and act with courtesy, civility, fairness, and candor towards fellow members of the bar." It is to be noted that courtesy means "behavior marked by polished manners or respect for others."⁶ Whereas, civility pertains to "civilized conduct," "a polite act or expression."⁷ Courtroom etiquette dictates that a counsel should obtain permission before leaving the room if necessary.

The court posits that absence of a lawyer from a courtroom goes at the very core of the meaning of contempt, which is to impede and obstruct the administration of justice. Such contemptuous behavior tends to impair court's

² G.R. No. 189949, 25 March 2015.

³ *Tallado v. Racoma*, A.M. No. RTJ-22-022, 23 August 2022.

⁴ *Turado v. Alberto*, G.R. No. 252014 (Notice), 13 July 2020.

⁵ *Alpajora v. Calayan*, A.C. No. 8208, 10 January 2018.)

⁶ <https://www.merriam-webster.com/dictionary/courtesy>

⁷ [Civility Definition & Meaning - Merriam-Webster](#)

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authority and interrupts the due course of the trial. Thus, a lawyer's failure to be present in court when he has the opportunity or is compelled to do so is a clear display of disrespect toward the court.

In this case, when Atty. De Jesus was called to conduct re-cross examination, he was no longer in court. Admittedly, he did not ask permission to leave the courtroom. When the court asked where he was, his paralegal was not able to provide an answer as he left without stating the reason. This is borne by the TSN of the hearing on January 22, 2024:⁸

ASSOCIATE JUSTICE TRESPESSES:

Where is Atty. De Jesus?

MS. ANTONIO:

Your Honors?

ASSOCIATE JUSTICE TRESPESSES:

Can you come forward?

MS. ANTONIO:

Your Honors, I am Maria Ayreen P. Antonio, paralegal of Atty. De Jesus.

ASSOCIATE JUSTICE TRESPESSES:

But Atty. De Jesus was here a while ago, right?

MS. ANTONIO:

Yes, Your Honors. He stepped down (sic) momentarily. He'll be back.

ASSOCIATE JUSTICE TRESPESSES:

Why?

MS. ANTONIO:

I was not informed, Your Honors.

ASSOCIATE JUSTICE TRESPESSES:

I am sorry. (?)

MS. ANTONIO:

I was not informed, Your Honors. But I could try contacting him now.

xxx

xxx

xxx

⁸ TSN dated January 22, 2024, pp. 67-68.

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In his Manifestation, Atty. De Jesus claims that he told his paralegal that he would return but what appears on record proves otherwise. As a result, the court could not determine whether he still wanted to conduct re-cross examination for his client and accused Hadjibasher because his paralegal had not received such instructions from him. By leaving the courtroom without permission, Atty. De Jesus showed lack of consideration and thus failed to act with courtesy expected of an officer of the court.

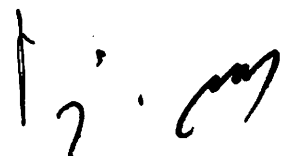
Atty. De Jesus claims that he believed in good faith that an oral manifestation in open court to leave the hearing grounded on personal justification would be more disruptive. It bears to point out that for this case, there are 35 counsels representing 50 accused. Because he left without permission, the court took the time to inquire about the whereabouts of Atty. De Jesus and ascertain his intention to conduct re-cross. In addition, because of the number of defense counsels participating in the proceedings, this was already the fourth time the same prosecution witness was called to the witness stand; this time for purposes of re-direct and re-cross examination. Clearly, such behavior on the part of Atty. De Jesus disrupted the proceedings.

It is worth noting that counsels frequently ask permission to leave the courtroom, and the court has been quite understanding when counsels are finished presenting evidence or questioning a witness and need to attend another hearing. If it is an urgent personal/family matter, the court will not be callous in not understanding. If the circumstance would be too personal or embarrassing for the counsel to make an oral manifestation, he or she may approach the bench discreetly. Counsel may also leave a note for the court with the bailiff or one of the court employees stationed within the courtroom to advise of his or her situation and the intention to return. It should be noted that the basic concept of courtesy is regard for others. Thus, Atty. De Jesus should have informed the court that he will step out and his intention to return to conduct re-cross or that he is waiving re-cross, so that the court can proceed appropriately based on the circumstances. However, Atty. De Jesus failed to do this.

Verily, courts have a right to demand respect and courtesy from those appearing before them. Lawyers, as officers of the court, are responsible for upholding the dignity and authority of the court. Because of their avowed duty to the courts, they cannot be allowed to disrespect the magistrates and the court they represent.⁹

As counsel, Atty. De Jesus is expected to be present in court throughout the proceedings until excused and should be prepared to proceed particularly when it is his turn to present evidence or question the witness. Thus, his claim that he left since he was eighteenth on the list of counsels who would conduct

⁹ *Valmores-Salinas v. Salinas*, G.R. No. 218281 (Notice), 29 September 2021.



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re-cross examination but miscalculated the time in concluding the hearing cannot be given credence.

Sec. 4, Canon 4 of the Code of Professional Responsibility and Accountability (CPRA) provides:

Section 4. Diligence in all undertakings. — A lawyer shall observe diligence in all professional undertakings, and shall not cause or occasion delay in any legal matter before any court, tribunal, or other agency.

A lawyer shall appear for trial adequately familiar with the law, the facts of the case, and the evidence to be presented. A lawyer shall also be ready with the object and documentary evidence, as well as the judicial affidavits of the witnesses, when required by the rules or the court. (Emphasis supplied.)

A lawyer is bound to protect his clients' interest to the best of his ability and with utmost diligence. The duty of competence and diligence includes not only reviewing the cases entrusted to his or her care or providing sound legal advice, but also properly representing the client before any court or tribunal, attending scheduled hearings or conferences, preparing and filing the required pleadings, prosecuting the handled cases with reasonable dispatch, and urging their termination without waiting for the client or the court to prod him or her to do so.¹⁰

Apparently, such misconduct on the part of Atty. De Jesus resulted in the waiver of the right to re-cross examine for his client and accused Hadjibasher. Atty. De Jesus should be reminded that court proceedings should not be taken lightly because the accused liberty is at stake. Atty. De Jesus needs to be mindful of this:

Every member of the Bar should always bear in mind that every case that a lawyer accepts deserves his full attention, diligence, skill and competence, regardless of its importance and whether he accepts it for a fee or for free. A lawyer's fidelity to the cause of his client requires him to be ever mindful of the responsibilities that should be expected of him. The legal profession dictates that it is not a mere duty, but an obligation, of a lawyer to accord the highest degree of fidelity, zeal and fervor in the protection of the client's interest.¹¹

It is settled that the power to declare a person in contempt is inherent in all courts so as to preserve order in judicial proceedings and to uphold the administration of justice.¹² The court is mindful that contempt power,

¹⁰ *De Saldivar v. Cabanes, Jr.*, A.C. No. 7749, 08 July 2013.

¹¹ *De Borja v. Mendez, Jr.*, A.C. No. 11185, 04 July 2018.

¹² *Spouses Placido v. Dizon*, A.M. No. RTJ-21-009 (Notice), 11 November 2021.

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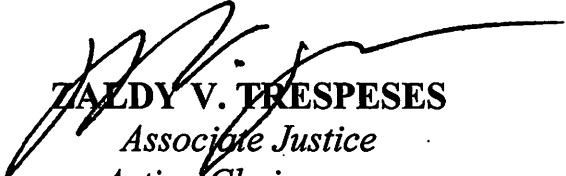
however plenary it may seem, must be exercised judiciously and sparingly with utmost self-restraint with the end in view of utilizing the same for correction and preservation of the dignity of the court, not for retaliation or vindication.¹³

Thus, while the court notes that Atty. De Jesus' allegation that he left the courtroom to give legal assistance and comfort his mother remains unsubstantiated, rather than casting doubt on the veracity of his allegations, the court chooses to accord good faith as an officer of the court. Since, Atty. De Jesus admitted his fault and "pleads" and "begs" for the court's understanding and consideration, as well as committing to inform the court of any foreseen or unforeseen event that would impair his ability to participate in the proceedings, the court grants consideration on the matter. It should be noted, however, that further commission of the same or similar acts which may tend to disrupt the proceedings in this case will not be tolerated and this court will not hesitate to impose the proper sanctions.

WHEREFORE, premises considered, the court **ACCEPTS** the explanation proffered by Atty. Andre De Jesus. He is, however, **WARNED** that a repetition of a similar act will be dealt with more severely.

SO ORDERED.

Quezon City, Philippines.


ZALDY V. TRESPESES
Associate Justice
Acting Chairperson

WE CONCUR:


GEORGINA D. HIDALGO
Associate Justice


AMPARO M. CABOTAJE-TANG
Presiding Justice

¹³ *Britania v. Gepty*, G.R. No. 246995, 22 January 2020.