Republic of the Philippines
Supreme Court
Manila

EN BANC

JUDGE MARTONINO R. MARCOS (Retired), Complainant,	**A.M. No. RTJ-16-2472** **[Formerly OCA IPI No. 13-4141-RTJ]**
	Present:
- versus -	SERENO, *C.J.*, CARPIO, VELASCO, JR.,* LEONARDO-DE CASTRO, PERALTA, BERSAMIN, DEL CASTILLO, MENDOZA, REYES, PERLAS-BERNABE, LEONEN, JARDELEZA, and CAGUIOA, *JJ.*
HON. PERLA V. CABRERA-FALLER, Presiding Judge, Regional Trial Court, Branch 90, Dasmariñas City, Cavite , Respondent.	Promulgated: January 24, 2017

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DECISION

Per Curiam:

Before the Court is an administrative complaint[1] against Judge Perla V. Cabrera-Faller *(Judge Cabrera-Faller)* of the Regional Trial Court, Branch 90, Dasmariñas City, Cavite *(RTC)*, filed by Martonino R. Marcos, a retired judge *(complainant)*, for ignorance of the law, misconduct, violation of the anti-graft and corrupt practices act, and for knowingly rendering an unjust judgment/order.

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* No Part
[1] *Rollo*, pp. 1-8.

The Antecedents

The controversy stemmed from the death of complainant's grandson, Marc Andrei Marcos *(Marc Andrei)*, during the initiation rites of Lex Leonum Fraternitas *(Lex Leonum)* held on July 29, 2012 at the Veluz Farm, Dasmariñas City, Cavite.

A preliminary investigation was conducted and, thereafter, the Office of the City Prosecutor *(OCP)* issued its Resolution,[2] dated May 8, 2013, recommending the prosecution of several members of Lex Leonum for Violation of Republic Act *(R.A.)* No. 8049, otherwise known as *The Anti-Hazing Law*. In the same resolution, the OCP also recommended that Cornelio Marcelo *(Marcelo)*, the person assigned to be the buddy or "angel" of Marc Andrei during the initiation rites, be discharged as a state witness pursuant to the provisions of Section 12 of R.A. No. 6981.[3]

Thereafter, the Information[4] for Violation of R.A. No. 8049 was filed against Jenno Antonio Villanueva *(Villanueva)*, Emmanuel Jefferson Santiago, Richard Rosales *(Rosales)*, Mohamad Fyzee Alim *(Alim)*, Chino Daniel Amante *(Amante)*, Julius Arsenio Alcancia, Edrich Gomez, Dexter Circa, Gian Angelo Veluz, Glenn Meduen, alias Tonton, alias Fidel, alias E.R., and alias Paulo, before the RTC. The case was docketed as Criminal Case No. 11862-13.

Finding probable cause to sustain the prosecution of the accused, Judge Cabrera-Faller issued the Order,[5] dated June 3, 2013, directing the **issuance of a warrant of arrest** and, at the same time, the **archiving of the entire record of the case** until the arrest of the accused.

On June 13, 2013, acting on the Omnibus Motion filed by Rosales, Alim and Amante, Judge Cabrera-Faller issued another Order[6] directing the **recall of the warrants of arrest of the three accused** which she claimed were issued **inadvertently.**

On August 15, 2013, acting on the separate motions for the determination of probable cause and to withhold issuance of warrants of arrest[7] and extremely urgent motion to quash warrant of arrest[8] filed by the accused, Judge Cabrera-Faller issued the *Omnibus Order*,[9] ***quashing, lifting***

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[2] Id. at 18-26.
[3] An Act Providing for a Witness Protection, Security and Benefit Program and for other purposes.
[4] *Rollo*, pp. 13-17.
[5] Id. at 9.
[6] Id. at 12.
[7] Filed by Gian Veluz and Edrich Gomez, Julius Arsenio A. Alcancia, Dexter S. Garcia, Fyzee Alim, Richard Rosales, and Chino Amante.
[8] Filed by Jenno Antonio Villanueva.
[9] *Rollo*, pp. 749- 768.

and setting aside the warrants *for their arrest* and ultimately ***dismissing*** *the case against all of them for* ***lack of probable cause.***

According to Judge Cabrera-Faller, she found no probable cause to indict the accused for violation of R.A. No. 8049 as the statement of Marcelo and those of the other accused "were not put in juxtaposition with each other for a clearer and sharper focus of their respective weight and substance."[10] To her, "there were nagging questions left unanswered by the testimony of Marcelo and some improbabilities therein that boggle the mind and disturb the conscience into giving it absolute currency and credence."[11] In her view, "the statement of Marcelo simply depicted the stages of initiation rites"[12] and failed to show that the accused conspired to inflict fatal injuries on Marc Andrei.[13] She found the statements of the prosecution witnesses, Marcelo Cabansag *(Cabansag)* and Jan Marcel V. Ragaza *(Ragaza)* either untruthful, immaterial and incompetent or brimming with flip flopping testimonies. She brushed aside the admission of the accused that initiation rites were indeed conducted on July 29, 2012 and that they were allegedly present in the different stages of the initiation rites, and simply believed the version of the accused that it was Marcelo, the recruiter and "angel" of Marc Andrei, who inflicted the fatal blows on him, causing his death. Thus, the decretal portion of the Omnibus Order reads:

> IN VIEW OF THE FOREGOING, the court holds to **grant** the motions filed by the following accused, to wit:
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> (a) The motion for determination of probable cause filed by the accused Gian Veluz and Edrich Gomez, which was received by this court on May 20, 2013;
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> (b) The motion for determination of probable cause, filed by the accused Julius Arsenio A. Alcancia and Dexter S. Garcia;
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> (c) The motion for the determination of probable cause, filed by the accused Mahammad Fyzee Alim, Richard Rosales and Chino Amante, which was received by this court on May 23, 2013; although a warrant was issued inadvertently against the accused on June 3, 2013, the same was lifted and recalled in view of the subject motion;
>
> (d) The motion for the determination of probable cause, filed by Emmanuel Jefferson A. Santiago, which was received by this court on May 29, 2013, although a warrant was issued inadvertently against the accused on June 3, 2013; the same was lifted and recalled in view of the subject motion; [and]

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[10] Id. at 766
[11] Id. at 766.
[12] Id.
[13] Id.

> (e) The extremely urgent motion to quash the warrant of arrest, filed by the accused Jenno Antonio Villanueva on June 14, 2013.
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> ACCORDINGLY, the warrant for the arrest, dated June 3, 2013, is hereby quashed, lifted and set aside, and this case is hereby **DISMISSED** in so far as all the accused named in the information is concerned, for the reasons already afore-stated.
>
> SO ORDERED. [Emphases supplied]

The order of dismissal prompted complainant to file this administrative case against Judge Cabrera-Faller. In his Letter-Complaint,[14] he alleged, among others, that:

> 1. On June 3, 2013, the Hon. Perla V. Cabrera-Faller issued an Order in Crim. Case No. 11862-13 stating that *"Finding probable cause to sustain the prosecution of the above-named accused for the crime charged in the criminal information, let a warrant for their arrest be issued, in the meantime sent the entire record of this case to the ARCHIVES until the said accused shall have been arrested."*
>
> However, on June 13, 2013, the Hon. Perla V. Cabrera-Faller issued another order recalling the warrant against accused Emmanuel Jefferson A. Santiago because the same was allegedly INADVERTENTLY issued.
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> The actuations of the Hon. Perla V. Cabrera-Faller clearly demonstrate her incompetence and gross ignorance of the law and jurisprudence. Section 6, Rule 112 of the Rules of Court provides that *"the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest."* When she issued the Order dated June 3, 2013, she certified that she personally evaluated the resolution of the prosecutor and its supporting evidence and ruled that there was probable cause so she directed the issuance of warrants of arrest against all the accused. When she subsequently held that the warrant of arrest was inadvertently issued against accused Emmanuel Jefferson A. Santiago, does this mean that she did not personally evaluate the records of the case before directing the issuance of a warrant of arrest against all the accused? Does this mean that the warrants of arrests issued against all the other accused were also INADVERTENTLY issued? Does this mean that the Order dated June 3, 2013 finding probable cause against all the other accused was likewise INADVERTENTLY issued considering the fact that the basis for the issuance of the warrants of arrest against all the accused is the said order dated June 3, 2013? A judge

[14] Id. at 1-8.

who issues a warrant of arrest INADVERTENTLY has no place in the judiciary because such actuation clearly shows her incompetence and gross ignorance of both substantive and procedural laws.

The Hon. Perla V. Cabrera-Faller could likewise not claim that the warrant of arrest was INADVERTENTLY issued because of the filing of the Omnibus Motion by accused Emmanuel Jefferson A. Santiago. It must be pointed out that when the Hon. Perla V. Cabrera-Faller issued the Order, dated June 3, 2013, finding probable cause against all the accused and directed the issuance of a warrant of arrest against all the accused, the said motion was already filed with the Honorable Court. Despite the fact that the said Omnibus Motion was already filed with the court, the Hon. Perla V. Cabrera-Faller still found probable cause and directed the issuance of warrants of arrests against all the accused in its Order dated June 3, 2013. Consequently, **it could not be said that the warrant of arrest issued against the accused was INADVERTENTLY issued. It could only be surmised that there are far more other reasons why the warrant of arrest was recalled but definitely not due to its alleged INADVERTENT issuance.** Unless, of course, the Hon. Perla V. Cabrera-Faller admits issuing the Order dated June 3, 2013 without evaluating the resolution of the public prosecutor and its supporting evidence.

Very clearly, the Hon. Perla V. Cabrera-Faller manifested her incompetence and/or gross ignorance of the law by issuing the Order, dated June 13, 2013. She was probably swayed by reasons not based on the law but probably for some other reasons to the great damage and prejudice of the relatives of Marc Andrei Marcos whose life was lost at such a very young age.

x x x x

2. On August 15, 2013, Hon. Perla V. Cabrera-Faller again issued an Omnibus Order in Criminal Case No. 11862-13 quashing, lifting and setting aside the warrant of arrest, dated June 3, 2013, and **dismissing** the case against all the accused in Criminal Case No. 11862-13. In issuing the said Omnibus Order, the Hon. Perla V. Cabrera-Faller again demonstrated her incompetence and/or gross ignorance of the law as well as manifest biased in favor of the accused in the said case.

   In dismissing the case against the accused, the Hon. Perla V. Cabrera-Faller ruled in its Findings and Conclusions that Marcelo's statement and the statements of the accused were not put in juxtaposition with each other for a clearer and sharper focus of their respective weight and substance. She then further held that the information in Criminal Case No. 11862-13 was filed by the Office of the City Prosecutor of Dasmariñas City only on the basis of the lone statement of Cornelio Marcelo, without any corroborating testimony and that the Office of the City Prosecutor of Dasmariñas City, Cavite, was swayed by public pulse, considering the media mileage caused by the incident. **These rulings of the Hon. Perla V. Cabrera-Faller are based solely**

on her own conjectures and pre-determined decision to dismiss the case as clearly shown by the fact that she recalled the warrants of arrests she earlier directed to be issued even without conducting hearings and without waiting for any comment from the public and private prosecutors.

A perusal of the Resolution, dated March 1, 2013, will readily show that the counter-affidavits of the accused who submitted their counter-affidavits were duly considered in the issuance of the resolution. In fact, a summary of their allegations were even put in the body of the said Resolution. While the Office of the City Prosecutor of Dasmariñas City, Cavite, might not have presented the resolution in the format desired by the Hon. Perla V. Cabrera-Faller, it does not mean that the Office of the City Prosecutor did not weigh the substance of the statements of the accused and the witnesses presented for purposes of determining probable cause. The ruling of the Hon. Perla V. Cabrera-Faller that the information in the case was filed by the Office of the City Prosecutor only on the basis of the statement of Cornelio Marcelo, without any corroborating testimony, likewise shows her incompetence and manifests biased in favor of the accused. **The statement of Cornelio Marcelo was corroborated by the statements of Manuel Adrian Cabansag and Jan Marcel V. Ragasa.** A perusal of the statements of the said neophytes clearly shows that they were subjected to hazing, together with the late Marc Andrei Marcos and other neophytes, at the Veluz Farm in Dasmariñas City, Cavite, by the members of the Lex Leonum Fraternity. **The fact of hazing at the Veluz Farm was likewise corroborated by statements of Rene Andaya and Roger Atienza, farm overseers at the Veluz Farm**. Consequently, the **sweeping ruling by the Hon. Perla V. Cabrera-Faller that the information was filed only on the basis of the statement of Cornelio Marcelo, without corroborating testimony, and that the Office of the City Prosecutor was swayed by public pulse is absolutely false and without any basis.**

In dismissing the case, the Hon. Perla V. Cabrera-Faller likewise held that the statement of Marcelo merely depicted the stages of the initiation rites. However, *she conceded that there were physical infliction of the neophytes but further ruled that the statement did not as much show that the accused conspired to inflict fatal injuries on this particular neophyte, Andrei Marcos, and further ruled that conspiracy was not even established. She further ruled that the story of Marcelo that the neophytes were subjected to excessive beating with paddles and belts during the initiation rites is incredible and uncorroborated.* These **rulings of the Hon. Perla V. Cabrera-Faller show her incompetence and gross ignorance as a judge.** Contrary to said rulings of the Hon. Perla V. Cabrera-Faller, the statement of Cornelio Marcelo did not just depict the stages of initiation rites but detailed what was actually done to Marc Andrei Marcos and other neophytes during the initiation rites which resulted to the death of the late Marc Andrei Marcos. This was corroborated by the statement of Manuel Adrian Cabansag and Jan Marcel V. Ragasa. Cornelio Marcelo stated that Marc

Andrei Marcos was hit with paddle, belt, and/or punched on the thighs and upper arms during the different parts of the initiation rites. This was corroborated by the statements of Manuel Adrian Cabansag and Jan Marcel V. Ragasa, two (2) neophytes who underwent initiation rites with Marc Andrei Marcos and other neophytes, who stated that they were likewise beaten with paddle at their thighs and/or arms during the different stages of the initiation rites. Very clearly, the Hon. Perla V. Cabrera-Faller is incompetent and/or blindfolded just like the neophytes and failed or refused to see that the statement of Cornelio Marcelo was corroborated by the statements of Manuel Adrian Cabansag and Jan Marcel V. Ragasa.

The Hon. Perla V. Cabrera-Faller likewise ruled that the statement of Marcelo did not show that the accused have conspired to inflict fatal injuries on this particular neophyte, Andrei Marcos, then proceeds to posit the question *"Is it reasonable and normal to suppose that all the accused resolved to paddle and hit Andrei Marcos to death?* Then ruled *finally that no one is to be blamed for the death of Andrei Marcos.* These **rulings** of the Hon. Perla V. Cabrera-Faller **clearly shows her incompetence and gross ignorance of our existing laws.** It likewise shows her manifest bias in favor of the accused in this case. **Section 4 of RA 8049 provides** that ***"If the person subjected to hazing or other forms of initiation rites suffers any physical injury or dies as a result thereof, the officers and members of the fraternity, sorority or organization who actually participated in the infliction of physical harm shall be liable as principals x x x."*** Based on this provision of law, **there is no need to prove that the accused has conspired to inflict fatal injuries to Marc Andrei Marcos during the latter's initiation rites. There is no need to prove that the accused resolved to paddle and hit Marc Andrei Marcos to death. It is more than sufficient to prove that Marc Andrei Marcos was subjected to hazing and initiation rites and he died as a result thereof. In fact, mere presence during the hazing or initiation rites is already a prima facie evidence of the participation therein as principal unless he prevented the commission of the acts (Section 4, RA 8049).**

The Hon. Perla V. Cabrera-Faller then ruled that she "cannot somehow consign the above-named accused to a life of untold infamy and cannot in conscience consign all the accused to the dustbin of history simply on the basis of the uncorroborated and incredible lone statement of Cornelio Marcelo" and proceeded to dismiss the case. In coming up with this ruling and dismissing the case, the Hon. Perla V. Cabrera-Faller again manifested her incompetence and gross ignorance of existing laws. It must be pointed out that the Hon. Perla V. Cabrera-Faller is only called upon to determine the existence of probable cause for purposes of the issuance of warrants of arrest against the accused. She is not being called upon yet to determine the guilt of the accused beyond reasonable doubt. As held by the Supreme Court in Pp. vs. CA, et al. (G.R. No. 126005 January 21, 1999), the judge should not override the public prosecutor's determination of probable cause to hold an accused for trial on the ground that

> the evidence presented to substantiate the issuance of an arrest warrant was insufficient. If the information is valid on its face, and there is no showing of manifest error, grave abuse of discretion and prejudice on the part of the public prosecutor, the trial court should respect such determination. The Supreme Court further held in the same case that the rights of the people from what could sometimes be an "oppressive" exercise of government prosecutorial powers do need to be protected when circumstances so require. But just as we recognize this need, we also acknowledge that the State must likewise be accorded due process. Thus, when there is no showing of nefarious irregularity or manifest error in the performance of a public prosecutor's duties, courts ought to refrain from interfering with such lawfully and judicially mandated duties.[15] [Emphases and underscoring supplied]

In her Very Respectful Comment,[16] Judge Cabrera-Faller denied the accusations and asserted that:

> 3) The undersigned very respectfully honors the grief of this grandfather who lost a beloved grandson, but, charging the undersigned judge administratively for performing a judicial function would cause a heavy toll on this respondent judge that always tries her best to dispose of cases pending in the Regional Trial Court of Dasmariñas City, Branch 90, with justice and equity, regardless of the personalities involved in a particular case;
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> 4) The **grapevine, as well as newspaper accounts, has it that the private complainant in Criminal Case No. 11862-13 has already received settlement from all of the accused,** except for the self-proclaimed witness for the prosecution, Cornelio Marcelo, allegedly for the amount of 5 million pesos, and now Mr. Martonino R. Marcos charges the undersigned with his perceived notions of corruption and dishonesty. If the alleged "pay-off" is true, then, the cries of injustice of Mr. Martonino R. Marcos has become a charade.
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> The undersigned respondent judge humbly and modestly states that the questioned order is a twenty-page resolution, where the respective postures of the parties were explicitly and painstakingly incorporated, and in the mind of the undersigned respondent judge, negates corruption, malicious rendering of an unjust judgment and any signs of shoddy disposition of the case. The private complainant has remedies under the law to question the order of this court in Criminal Case No. 11862-13 for violation of the Anti-Hazing Law; in fact, the private complainant, through its private counsel, had filed a motion for reconsideration of the order of this court, and dated August 15, 2013, which is yet pending resolution.

[15] Id. at 1-6.
[16] Id. at 733-735.

> Jurisprudence held that the "alleged errors committed by a judge pertaining to the exercise of his adjudicative functions cannot be corrected through administrative proceedings but should instead be assailed through judicial remedies (A.M. No. MTJ-001311, 459 Phil. 214 [2003]."[17] [Emphasis supplied]

In his Reply,[18] complainant insisted that Judge Cabrera-Faller did not simply commit an error of judgment but she knowingly rendered an unjust judgment which was contrary to law, and prayed that she be held accountable for having committed patent gross ignorance of the law, grave abuse of discretion and complete disregard of the law and the rules of criminal procedure. Furthermore, complainant denied that they had been paid the amount of ₱5 million pesos and asserted that Judge Cabrera-Faller should not have believed or given credence to the "pay-off," which she heard from the "grapevine." "Pay-off" was a term that she should not have even used as it did not exist under the rules of criminal procedure. Granting that there was a "pay-off," Judge Cabrera-Faller should know the basic rule that payment of civil liability was not equivalent to dismissal of the criminal case.

Report of the OCA

In its Report,[19] dated June 10, 2016, the Office of the Court Administrator *(OCA)* found Judge Cabrera-Faller *liable for gross ignorance of the law* [1] for inadvertently issuing the warrants of arrest against the accused; [2] for sending the record of the case to the archives, even prior to the return/report that the accused could not be apprehended in violation of the six *(6)*-month period under Administrative Circular *(A.C.)* No. 7-A-92; and [3] for precipitately dismissing Criminal Case No. 11862-13. The OCA recommended that Judge Cabrera-Faller be suspended from the service for a period of six *(6)* months without salary and other benefits.

The Ruling of the Court

The findings of the OCA are well-taken, but the Court differs as to the recommended penalty.

Without a quibble, Judge Cabrera-Faller demonstrated lack of knowledge and understanding of the basic rules of procedure when she issued the questioned orders.

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[17] Id. at 733-734.
[18] Id. at736-739.
[19] Id. at740-747.

A. On the immediate archiving of Criminal Case No. 11862

Judge Cabrera-Faller violated Administrative Circular No. 7-A-92 when she issued the June 3, 2013 Order directing the immediate archiving of Criminal Case No. 11862-13, after ordering the issuance of the warrants of arrest against the accused in the same order. The archiving of cases is a generally acceptable measure designed to shelve cases but is done only where no immediate action is expected.[20] A.C. No. 7-A-92 enumerated the circumstances when a judge may order the archiving of a criminal case as follows:

> (a) If after the issuance of the warrant of arrest, the accused remains at large for six (6) months from the delivery of the warrant to the proper peace officer, and the latter has explained the reason why the accused was not apprehended; or
>
> (b) When proceedings are ordered suspended for an indefinite period because:
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> (1) the accused appears to be suffering from an unsound mental condition which effectively renders him unable to fully understand the charge against him and to plead intelligently, or to undergo trial, and he has to be committed to a mental hospital;
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> (2) a valid prejudicial question in a civil action is invoked during the pendency of the criminal case unless the civil and the criminal cases are consolidated; and
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> 3) an interlocutory order or incident in the criminal case is elevated to, and is pending resolution/ decision for an indefinite period before a higher court which has issued a temporary restraining order or writ of preliminary injunction; and
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> 4) when the accused has jumped bail before arraignment and cannot be arrested by his bondsman.

When Judge Cabrera-Faller issued the warrants, she also archived the case. She, however, did not cite any ground in A.C. No. 7-A-92 for the suspension of the proceedings. What she did was unprecedented. She did not even bother to wait for the return of the warrants or wait for the six-month period. By doing so, she exhibited bias, if not incompetence and ignorance of the law and jurisprudence. It could also be that she knew it, but **she opted to completely ignore the law or the regulations**. Certainly, it was a case of grave abuse of discretion as her actuations were not in accord with law or justice.

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[20] *Republic of Philippines v. Express Telecommunication Co., Inc.*, 424 Phil. 372, 394 (2002).

B. On the recall of the warrants of arrest that were allegedly issued inadvertently

Judge Cabrera-Faller showed manifest bias and partiality, if not gross ignorance of the law, when she issued the June 13, 2013 Order recalling the warrants of arrest against accused Alim, Amante and Rosales claiming that they were issued inadvertently.

In the judicial determination of probable cause, no less than the Constitution mandates a judge to *personally* determine the existence of probable cause before issuing a warrant of arrest. This has been embodied in Section 2,[21] Article III of the Philippine Constitution and Section 6,[22] Rule 112 of the Rules of Criminal Procedure.

Clearly, Judge Cabrera-Faller was mandated to personally evaluate the report and the supporting documents submitted by the prosecutor regarding the existence of probable cause and, on the basis thereof, to issue a warrant of arrest. Though she was not required to personally examine the complainant or his witnesses, she was obliged to personally evaluate the report and the supporting documents submitted by the prosecutor before ordering the issuance of a warrant of arrest.

In the June 13, 2013 Order, Judge Cabrera-Faller recalled the warrants of arrest against three of the accused. She, however, failed to explain why she issued the warrants inadvertently. She merely wrote that the warrants of arrest were *"inadvertently issued"* without any explanation why there was such inadvertence in the issuance. The Court cannot accept this. There was clearly an abdication of the judicial function. The records of the case were forwarded by the OCP and they contained not only the information but all the supporting documents like the statement of Cornelio Marcelo and the corroborating statements of Cabansag and Ragaza and those of Rene Andaya and Roger Atienza, the farm overseers at the Veluz Farm.

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[21] Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined **personally** by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized. [Emphasis supplied]

[22] Section 6. When warrant of arrest may issue. — (a) By the Regional Trial Court. — Within ten (10) days from the filing of the complaint or information, the judge shall **personally** evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest or a commitment order if the accused has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to section 7 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint of information.

It could only mean that she failed to comply with her constitutional mandate to personally determine the existence of probable cause before ordering the issuance of the warrants of arrest. As the presiding judge, it was her task, upon the filing of the Information, to first and foremost determine the existence or non-existence of probable cause for the arrest of the accused.[23] It was incumbent upon her to assess the resolution, affidavits and other supporting documents submitted by the prosecutor to satisfy herself that probable cause existed and before a warrant of arrest could be issued against the accused.[24] If she did find the evidence submitted by the prosecutor to be insufficient, she could order the dismissal of the case, or direct the investigating prosecutor either to submit more evidence or to submit the entire records of the preliminary investigation, or she could even call the complainant and the witness to answer the courts probing questions to enable her to discharge her duty.

Most probably, she did her duty to examine and analyze the attached documents but because she took pity on the young accused (never mind the victim), she chose to ignore or disregard them. Nonetheless, **"when the inefficiency springs from failure to consider so basic and elemental a rule, law or principle in the discharge of duties, the judge is either insufferably incompetent and undeserving of the position she holds or is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority."**[25]

C. On the hasty dismissal of Criminal Case No. 11862-13

In the same vein, Judge Cabrera-Faller should be held administratively accountable for hastily dismissing the Criminal Case No. 11862-13. The Court cannot ignore her lack of prudence for it is the Court's duty to protect and preserve public confidence in our judicial system.

The well-settled rule that once a complaint or information is filed before the trial court, any disposition of the case, whether as to its dismissal or the conviction or acquittal of the accused, rests on the sound discretion of the said court[26] is not absolute. Although a motion to dismiss the case or withdraw the Information is addressed to the court, its grant or denial must always be in the faithful exercise of judicial discretion and prerogative.[27] For **the judge's action must neither impair the substantial rights of the accused nor the right of the State and the offended party to due process**

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[23] *Baltazar v. People,* 582 Phil. 275, 290 (2008).
[24] *People of the Philippines v. Grey*, 639 Phil. 535, 549 (2010).
[25] *Poso* v. *Mijares,* 436 Phil. 295, 322 (2002).
[26] *Crespo v. Mogul*, 235 Phil. 465 (1987).
[27] *Auto Prominence Corporation v. Winterkorn* , 597 Phil. 47, 58 (2009); *Bago v. Judge Pagayatan,* 602 Phil. 459, 469 (2009).

of law.[28] In the case of *People v. Court of Appeals,*[29] the Court elucidated:

> We are simply saying that, as a general rule, if the information is valid on its face and there is no showing of manifest error, grave abuse of discretion or prejudice on the part of the public prosecutor, courts should not dismiss it for "want of evidence," because evidentiary matters should be presented and heard during the trial. The functions and duties of both the trial court and the public prosecutor in "the proper scheme of things" in our criminal justice system should be clearly understood.
>
> The rights of the people from what could sometimes be an "oppressive" exercise of government prosecutorial powers do need to be protected when circumstances so require. But just as we recognize this need, we also acknowledge that the State must likewise be accorded due process. Thus, when there is no showing of nefarious irregularity or manifest error in the performance of a public prosecutor's duties, courts ought to refrain from interfering with such lawfully and judicially mandated duties.[30]

In the present case, the Court agrees with the observation of the OCA that there was haste in the disposition of Criminal Case No. 11862-13. It must be noted that the Information for the said case was instituted by the OCP on May 10, 2013. Thereafter, on June 3, 2013, Judge Cabrera-Faller issued the order finding probable cause for the issuance of a warrant of arrest. Barely 10 days had lapsed, however, or on June 13, 2013, she recalled the warrants of arrest against three *(3)* accused due to oversight or inadvertence. And on August 15, 2013, in the Omnibus Order, she lifted the warrants of arrest she issued and dismissed the case for lack of probable cause.

Although no direct evidence was presented to show that Judge Cabrera-Faller was influenced by improper considerations, the Court cannot close its eyes in the manner by which Criminal Case No. 11862-13 was dismissed. Her actuations put in serious doubts her integrity and honesty, both as a person and a member of the Bench, qualities which every magistrate should possess.[31]

Judge Cabrera-Faller dismissed Criminal Case No. 11862-13 without taking into consideration the earlier resolution of the OCP and failed to evaluate the evidence in support thereof, which sustained a finding of probable cause against the accused.

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[28] *Dimatulac v. Judge Villon,* 358 Phil. 328, 365 (1998).
[29] 361 Phil. 401 (1999).
[30] Id. at 420.
[31] *The Officers and Members of the IBP Baguio-Benguet Chapter v. Fernando Vil Pamintuan,* Dissenting Opinion of Justice Romeo J. Callejo, Sr., 485 Phil. 473, 521 (2004).

A perusal of the records would show that the OCP resolution was based on the *Sinumpaang Salaysay*[32] and the *Karagdagang Sinumpaang Salaysay*[33] executed by Marcelo, who recounted in detail the initiation rites that transpired on July 29, 2012, and his participation as the designated "buddy or angel" of Marc Andrei, and enumerated the names of those who were present and participated in the said initiation rites. This testimony of Marcelo was corroborated by the two neophytes who were also present during the initiation rites, Cabansag[34] and Ragaza.[35] In their respective statements, they bravely narrated their harrowing experience on that fateful night. The sworn statements and affidavits of these prosecution witnesses all presented a consistent and coherent version of the events that took place on July 29, 2012.

Considering the strong evidence on hand presented by the OCP, it would have been more prudent for Judge Cabrera-Faller to conduct summary hearings in view of the conflicting statements of the prosecution and defense witnesses. Although this is not actually required by the rules, when the direct and circumstantial evidence are so detailed and corroborative of one another in every particular, it behooved upon her to make further inquiries. Precipitate dismissal of the case, in the face of overwhelming evidence, can only raise quizzical eyebrows.

Indeed, in her Omnibus Order[36] dismissing the case, her reasoning that there was *no probable cause* was strained and taxed one's credulity. As earlier stated, Judge Cabrera-Faller wrote that the statement of Marcelo simply depicted the stages of initiation rites and failed to show that the accused conspired to inflict fatal injuries on Marc Andrei. Despite the admission on the part of the accused that initiation rites were indeed conducted on July 29, 2012 and that they were present in the different stages of the initiation rites, she brushed aside these admissions and the narrations of the prosecution witnesses and simply opted to believe the claim of the accused that it was Marcelo, and Marcelo alone, who inflicted the fatal blow on his recruit.

Judge Cabrera-Faller should know that the presence or absence of the elements of the crime is evidentiary in nature and is a matter of defense that may be passed upon after a full-blown trial on the merits.[37] A hearing is absolutely indispensable before a judge can properly determine whether the prosecution's evidence is strong or weak. Under Section 4 of R.A. No. 8049, if the person subjected to hazing or other forms of initiation rites suffers any physical injury or dies as a result thereof, the officers and

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[32] *Rollo*, pp. 56-65.
[33] Id. at 78-82.
[34] Sworn Statement, id. at 66-70.
[35] Sinumpaang Salaysay, id. at 73-77.
[36] Id. at 749-768.
[37] *Andres v. Justice Secretary Cuevas*, 499 Phil. 36, 50 (2005).

members of the fraternity, sorority or organization who actually participated in the infliction of physical harm shall be liable as principals, ***and the officers and members present*** during the hazing are ***prima facie*** presumed to have actually participated, unless it can be shown that he or she prevented the commission of the punishable acts.[38] This disputable presumption arises from the mere presence of the offender during the hazing.

Judge Cabrera-Faller must be reminded that a finding of probable cause does not require an inquiry into whether there is sufficient evidence to procure a conviction. It is enough that it is believed that the act or omission complained of constitutes the offense charged[39] for it would be unfair to require the prosecution to present all the evidence needed to secure the conviction of the accused upon the filing of the information against the latter.[40]

A judge may dismiss the case for lack of probable cause **only in clear-cut cases** when the evidence on record plainly fails to establish probable cause - that is when the records readily show uncontroverted, and thus, established facts which unmistakably negate the existence of the elements of the crime charged.[41]

Hazing is commonly characterized by secrecy and silence and to require the prosecution to indicate every step of the planned initiation rite in the information at the inception of the criminal case would be a strenuous task.[42] Although a speedy determination of an action or proceeding implies a speedy trial, it should be borne in mind that speed is not the chief objective of a trial. It must be stressed that a careful and deliberate consideration for the administration of justice is more important than a race to end the trial. [43]

Although judges are generally not accountable for erroneous judgments rendered in good faith, such defense in situations of infallible discretion adheres only within the parameters of tolerable judgment and does not apply where the basic issues are so simple and the applicable legal principle evident and basic as to be beyond permissible margins of error.[44]

Time and again, the Court has earnestly reminded judges to be extra prudent and circumspect in the performance of their duties. This exalted position entails a lot of responsibilities, foremost of which is proficiency in the law.[45] They are expected to exhibit more than just a cursory acquaintance

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[38] *Dungo v. People*, G.R. No. 209464, July 1, 2015.
[39] *Paredes v. Calilung*, 546 Phil. 198, 224 (2007).
[40] *People of the Philippines v. Court of Appeals*, 361 Phil. 401, 415 (1999).
[41] *Young v. People*, G.R. No. 213910 (Resolution), February 3, 2016, <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/february2016/213910.pdf> (last visited December 11, 2016).
[42] *Dungo v. People*, G.R. No. 209464, July 1, 2015.
[43] *State Prosecutors v. Judge Muro,* 321 Phil. 474, 481-482 (1995).
[44] *Poso v. Mijares*, 436 Phil. 295, 314 (2002).
[45] *Enriquez v. Judge Caminade*, 519 Phil. 781, 787 (2006).

with statutes and procedural rules and to apply them properly in all good faith.[46] **When the law is sufficiently basic, a judge owes it to his office to simply apply it; anything less than that would be constitutive of gross ignorance of the law**.[47]

Moreover, judges are duty bound to render just, correct and impartial decisions at all times in a manner free of any suspicion as to his fairness, impartiality or integrity.[48] The records must be free from the slightest suspicion that the trial court seized upon an opportunity to either free itself from the usual burdens of presiding over a full-blown court battle or worse, to give undue advantage or favors to one of the litigants.[49] Public confidence in the Judiciary is eroded by irresponsible or improper conduct of judges.[50] The appearance of bias or prejudice can be as damaging to public confidence and the administration of justice as actual bias or prejudice.[51]

Thus, Rule 1.01 of the Code of Judicial Conduct requires a judge to be the embodiment of competence, integrity and independence. They are likewise mandated to be faithful to the law and to maintain professional competence at all times.[52] A judge owes the public and the court the duty to be proficient in the law. He is expected to keep abreast of the laws and prevailing jurisprudence.[53] Basic rules must be at the palms of their hands[54] for ignorance of the law by a judge can easily be the mainspring of injustice.[55]

Unfortunately, Judge Cabrera-Faller fell short of this basic canon. Her utter disregard of the laws and rules of procedure, to wit: the immediate archiving of Criminal Case No. 11862-13, the recall of the warrant of arrest which she claimed were issued inadvertently and the hasty dismissal of the case displayed her lack of competence and probity, and can only be considered as grave abuse of authority. All these constitute gross ignorance of the law and incompetence.[56]

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[46] *Re: Anonymous Letter dated August 12, 2010, complaining against Judge Ofelia T. Pinto, Regional Trial Court, Branch 60, Angeles City, Pampanga*, 696 Phil. 21, 26 (2012).
[47] *De Guzman, Jr. v. Judge Sison*, 407 Phil. 351, 368-369 (2001).
[48] *Angping v. Judge Ros*, A. 700 Phil. 503, 512 (2012).
[49] *Tabao v. Judge Espina*, 368 Phil. 579, 598 (1999).
[50] *Dela Cruz v. Judge Bersamira*, 402 Phil. 671, 681 (2001).
[51] *Borromeo-Garcia v. Pagayatan*, 588 Phil. 11, 21 (2008).
[52] Rule 3.01, Canon 3 of the Code of Judicial Conduct (1989).
[53] *Corpuz v. Judge Siapno*, 452 Phil. 104, 113 (2003).
[54] *Abbariao v. Judge Beltran*, 505 Phil. 510, 517 (2005).
[55] *Judge Español v. Judge Mupas*, 484 Phil. 636, 664 (2004).
[56] *Re: Anonymous Letter dated August 12, 2010, complaining against Judge Ofelia T. Pinto, Regional Trial Court, Branch 60,Angeles City, Pampanga*, supra note 46, at 28.

Under Section 8, Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC, gross ignorance of the law is a serious charge, punishable by dismissal from service, suspension from office without salary and other benefits for more than three *(3)* but not exceeding six *(6)* months, or a fine of more than ₱20,000.00 but not exceeding ₱40,000.00.[57] In the case of *Chua Keng Sin v. Judge Mangeten*,[58] the respondent judge was found guilty of gross ignorance of the law due to procedural lapses in disposing the motions in the criminal case pending before his sala. The Court stated that his careless disposition of the motions was a reflection of his incompetence as a judge in discharging his official duties, thus, he could not be relieved from the consequences of his actions simply because he was a newly appointed judge and his case load was heavy.

Accordingly, considering the blatant violation of the law and rules committed by Judge Cabrera-Faller and her grievous exercise of discretion, the appropriate penalty should be dismissal from the service, with forfeiture of retirement benefits, except leave credits, and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned and controlled corporations.

WHEREFORE, finding respondent Judge Perla V. Cabrera-Faller, Presiding Judge of Regional Trial Court, Branch 90, Dasmariñas City, Cavite, **GUILTY** of gross ignorance of the law and for violating Rule 1.01 and Rule 3.01, Canon 3 of the Code of Judicial Conduct, the Court imposes the penalty of **DISMISSAL** from the service, with **FORFEITURE** of retirement benefits, except leave credits, and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned and controlled corporations.

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice

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[57] Section 11, Rule 140, as amended by A.M. No. 01-8-10-SC (2001).
[58] A.M. No. MTJ-15-1851, February 11, 2015, 750 SCRA 262.

ANTONIO T. CARPIO
Associate Justice

(No Part)
PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
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BIENVENIDO L. REYES
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
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ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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SUPREME COURT