

**PROVINCIAL PROSECUTOR MANUEL F. TORREVILLAS,
COMPLAINANT, VS. JUDGE ROBERTO A. NAVIDAD, REGIONAL TRIAL
COURT, BRANCH 32, CALBAYOG CITY, RESPONDENT.**

A.M. No. RTJ-06-1976 [Formerly OCA IPI No. 03-1857]. April 29, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

These two administrative cases at bar, A.M. No. RTJ-06-1976 and A.M. No. RTJ-06-1977, were originally consolidated with two other cases: A. M. No. RTJ-06-1978, Office of the Court Administrator v. Judge Roberto A. Navidad, RTC, Br. 32, Calbayog City, Samar, and A.M. No. RTJ-06-1980, Eric C. Isidoro and Atty. Anecio R. Guades v. Judge Roberto A. Navidad, RTC, Br. 32, Calbayog City.

By Resolution of January 31, 2007,[2] this Court dismissed the complaint in A.M. No. RTJ-06-1978, while that in A.M. No. RTJ-06-1980 was also dismissed, Judge Roberto A. Navidad (Judge Navidad or respondent) was reminded to be more circumspect in the performance of his duties. This leaves for disposition the first and second cases.

Re: A.M. No. RTJ-06-1976

On July 16, 2003, Provincial Prosecutor Manuel Torrevillas, Jr. brought to the attention of then Chief Justice Hilario G. Davide, Jr. the "inappropriate actuation" of Judge Roberto A. Navidad of Branch 32, the RTC of Calabayog City in the handling of cases before his sala. The Chief Justice thus instructed the Provincial Prosecutor to submit a written report thereon to which he complied by letter-complaint dated August 15, 2003,[3] attaching thereto the reports[4] of the trial prosecutor in the sala of Judge Navidad.

By 1[st] Indorsement dated August 25, 2003,[5] the above-said August 15, 2003 letter-complaint was referred by the Chief Justice to then Court Administrator and now a member of this Court, Presbitero J. Velasco, Jr., for comment and recommendation.

By Resolution of September 23, 2003,[6] this Court acting on the recommendations of Justice Velasco in his September 8, 2003 Memorandum[7] to the Chief Justice, required Judge Navidad to comment on the complaint and directed the Court Management Office of the Office of the Court Administrator (OCA) to: (1) conduct a judicial audit on "all undecided criminal cases, which include cases that are pending, submitted for decision, archived, etc. for the purpose of determining any inappropriate actuation with respect to the issuance of court orders especially on matters pertaining to the grant of bail in non-bailable offenses"; and (2) coordinate with Trial Prosecutor Cicero T. Lampasa as regards the other cases that needed to be investigated.

By Resolution of March 8, 2006, the Court referred the complaint to Justice Isaias P. Dicdican of the Court of Appeals for investigation, report and recommendation.

Covered by A.M. No. RTJ-06-1976 are: (1) Criminal Case No. 4037, "People of the Philippines v. Nestor Sandongan," for murder; (2) Criminal Cases No. 4023 and 4024, both entitled "People of the Philippines v.

Simproso Paghunasan," for frustrated murder and murder, respectively; and (3) Criminal Case No. 4147, "People of the Philippines v. Alfredo L. Tesoro, et al.," for murder.

Justice Diccican synthesized the version of complainant in his October 25, 2006 Report of Investigation and Recommendation[8] as follows:

Criminal Case No. 4037 - People of the Philippines v. Nestor Sandongan

In this case, respondent allegedly improperly cited a witness, SPO2 Rolando Rebotura, in contempt of court for not telling the truth or for violating his oath. Complainant, through (then) Prosecutor Lampasa, alleged that SPO2 Rebotura was testifying on the matter of whether or not he recovered a shotgun from the crime scene. When the said witness first stated that he did not recover any shotgun, he was reminded by defense counsel, Atty. Sisenando Fiel, that he had already revealed to him (Atty. Fiel) in a conference earlier held that he had recovered a shotgun. After the respondent sought a clarification on the matter, SPO2 Rebotura replied to the effect that he might have said that he recovered a shotgun to Atty. Fiel but, because of the lapse of time, he could not anymore recall.

The respondent then adjudged SPO2 Rebotura in contempt of court and allegedly ordered the witness to be detained under the custody of the Clerk fo Court for two (2) days. This order of detention was not, however, stated in the order issued by the respondent.

After that session, SPO2 Rebotura allegedly pleaded with the respondent that he be not detained.[9]

Criminal Cases No. 4023 and 4024 - People of the Philippines v. Simproso Paghunasan

In these cases, the Office of the Provincial Prosecutor in Calbayog City, on July 1, 2002, a copy of a "Motion to Grant Accused Provisional Liberty" filed by the accused. On July 11, 2002, the prosecution then interposed its Opposition/Comments thereto, not knowing that, on July 2, 2002, the respondent had already issued an order granting the accused provisional liberty and approving the bonds filed by the accused.

Complainant claims that the accused had been charged with the capital offense of murder which is a non-bailable offense. The respondent granted bail without conducting a hearing and without affording the prosecution the opportunity to prove the strength of its evidence.[10]

Criminal Case No. 4147 - People of the Philippines v. Alfredo L. Tesoro, et al.

An Information was filed against the accused in June 2002. The accused later on filed, on August 13, 2002, a Motion to Quash Warrant of Arrest and For Judicial Determination of Probable Cause. The prosecution filed an opposition to said motion, contending that the accused should first submit to the jurisdiction of the court before he could ask for any positive relief.

During the scheduled hearing of the case on December 4, 2002, counsel for the accused filed a Motion to Recall Warrant of Arrest and for Accused Alfredo L. Tesoro To Be Allowed To Be Placed Under the Custody of Counsel Pending Resolution of Motion for Judicial Determination of Probable Cause. The prosecution vehemently opposed such motion but the respondent recalled the warrant of arrest previously issued and allowed the accused to be places under the temporary custody of his counsel.

The December 4, 2002 order issued by the respondent was received by the prosecution only on August 7, 2003. Moreover, the recall of the warrant of arrest was not stated therein.

On December 10, 2002, the prosecution filed its Comments/ Opposition to the Motion for Judicial Determination of Probable Cause with Motion to Reinstate the Recalled Warrant of Arrest. Since the accused had not filed any opposition to the motion to reinstate the recalled arrest warrant, the prosecution filed, on March 11, 2003, a Motion to Submit Incident for Resolution.

However, the respondent granted the motion for judicial determination of probable cause filed by the accused without acting on the motion to reinstate recalled warrant of arrest filed by the prosecution.[11]

Justice Dicdican summarized respondent's defense as follows:

Regarding the alleged irregularities in his handling of Criminal Case No. 4037, respondent contends that he cited SPO2 Rebotura in direct contempt of court because he found the said witness lying and telling untruths at the witness chair. Respondent further contends that it was very evident then that the said witness was the one masterminding the "manufacture" or filing of trumped-up cases. At the behest of (then) Prosecutor Lampasa, the witness asked for forgiveness and admitted his wrongdoings and misconduct. Upon a sincere promise by the said witness, the citation for contempt was lifted and he was released from his detention at the office of the Clerk of Court.

As for Criminal Cases Nos. 4023 and 4024, respondent denies that the prosecution was not given the opportunity to prove the strength of its evidence and that the petition for bail was granted without a hearing.

Respondent claims that an oral petition for bail had been presented in open court which was duly heard and partially argued. In fact, the prosecution had allegedly energetically argued and suggested that the defense reduce its petition into writing so the matter can be brought up to the Provincial Prosecutor. The proceedings even revealed that there was an error on the part of the prosecution in not applying Article 48 of the Revised Penal Code and the petition for bail was granted only after the prosecution refused to rectify the error.

Finally, as to Criminal Case No. 4147, respondent said that he quashed the warrant of arrest for failure of the prosecution to adduce evidence. Furthermore, the preliminary investigation was allegedly improperly conducted with a "tutored" alleged sole eyewitness.

As for the grant of custodial rights to the counsel for accused who were charged with heinous crimes, respondent contends that this grant is given only to the said counsel as officer of the court. Respondent further contends that he followed certain parameters before granting such custodial rights.[12]

Justice Dicdican thus came up with the following Evaluation:

From the totality of the evidence adduced by the parties, the undersigned investigator, after a judicious evaluation and scrutiny thereof, has come up with a finding that the respondent had indeed committed irregularities and procedural lapses in the handling of the cases pending before his sala.

Anent the charge that he granted the accused bail without a hearing in Criminal Cases Nos. 4023 and 4034, the record shows that, in reality, no hearing had been conducted by the respondent before he issued the order dated July 2, 2002 granting the accused provisional liberty and approving the bonds filed.

Respondent's claim that there had been an oral petition for bail which was extensively heard and argued during the pre-trial of the cases on June 20, 2002 is not supported by the record .x x x x

While the respondent maintains that the stenographer failed to take down the discussion on the oral petition for bail, the undersigned finds this unsubstantiated and totally self-serving. The record speaks for itself and the transcript of the stenographic notes is wholly bereft of any reference to the oral petition for bail...

The motion filed by the accused for the grant of provisional liberty was dated June 27, 2002 and was received by the prosecution on July 1, 2002. On July 2, 2002 the respondent had issued an order granting said motion.

It was established by the undersigned that the July 2, 2002 order was based on the June 27, 2002 motion filed by the accused. Respondent contends that the motion filed by the accused was in compliance with an order by the court for the accused to file a formal petition for bail. However, no such order requiring the accused to file a formal petition for bail can be found in the record. The undersigned is thus convinced that the respondent did not conduct a hearing before he granted the motion filed by the accused for the grant of provisional liberty.

Jurisprudence is replete with decisions on the procedural necessity of a hearing, whether summary or otherwise, relative to the grant of bail, especially in cases involving offenses punishable by death, reclusion perpetua, or life imprisonment, whether bail is a matter of discretion. Under the present Rules, a hearing is mandatory in granting bail whether it is a matter of right or discretion. It must be stressed that the grant or the denial of bail, in cases where bail is a matter of discretion, hinges on the issue of whether or not the evidence of guilt of the accused is strong, and the determination of whether or not the evidence is strong is a matter of judicial discretion which remains with the judge. In order for the latter to properly exercise his discretion, he must first conduct a hearing to determine whether the evidence, he must first conduct a hearing to determine whether the evidence of guilt is strong. In fact, even in cases where there is no petition for bail, a hearing should still be held.

After the hearing, the court's order granting or refusing bail must contain a summary of the evidence of the prosecution and, based thereon, the judge should formulate his own conclusion as to whether the evidence so presented is strong enough to indicate the guilt of the accused. However, the July 2, 2002 order of the respondent judge does not contain such summary and conclusion.

Based on his investigation and on the evidence presented in this case, the undersigned concludes that the respondent did not conduct the requisite hearing before he granted bail to the accused, in violation of Sections 8 and 18, Rule 114 of the Revised Rules of Criminal Procedure...

x x x x

It has been held that such error cannot be characterized as mere deficiency in prudence, discretion and judgment but a patent disregard of well-known rules and, therefore, constitutive of gross ignorance of the law. In line with existing jurisprudence, the undersigned recommends that the respondent be fined P20,000.00 with a stern warning that the commission of the same or similar offense in the future will be dealt with more severely.

Similarly, in Criminal Case No. 4147, where accused Alfredo Tesoro is charged with murder, the respondent judge allowed the said accused to be placed in the custody of his counsel. The record shows that a warrant of arrest for the said accused had already been issued long before he filed a motion to quash warrant of arrest and for judicial determination of probable cause. Thus, at the time of the filing of the motion to place the said accused under the custody of counsel dated December 4, 2002, the accused was technically a fugitive in the eyes of the law. In granting the said motion on the same day when it was filed, the respondent acted prematurely and incongruously in allowing the accused to be placed under the custody of counsel when, in fact, the freedom of the accused had yet to be curtailed.

The basic rule is that the right to bail, or in this case to be released on recognizance, can only be availed of by a person who is in the custody of the law or otherwise deprived of his liberty. The respondent also deprived the prosecution of the opportunity to prove that the evidence of guilt of said accused is strong, considering that the accused was charged with murder.

Likewise, in granting the motion to recall the warrant of arrest, the respondent did not allow the prosecution sufficient time to oppose said motion. There is no showing that respondent conducted a hearing to determine whether or not there was probable cause which respondent contends was made the basis of his recall of the warrant of arrest previously issued.

For this irregularity in the recall of the warrant of arrest and for allowing the accused to be placed in the custody of his counsel, the undersigned recommends that the respondent be fined P20,000.00

Anent the charge in Criminal Case No. 4037, the undersigned did not find any impropriety in the respondent's act of citing the witness in contemot of court. There is no showing that the respondent acted with malice and bad faith.[13] (Emphasis and underscoring supplied)

Accordingly, Justice Dicdican recommended that respondent be fined in the total amount of P40,000.[14]
Re: A.M. No. RTJ-06-1977

Per his October 25, 2006 Manifestation,[15] Justice Dicdican manifested his incompetency in passing upon the findings made by the judicial team that conducted the audit in Branch 32 and thus prayed that the matter be referred to the OCA.

As recommended and prayed for, the results of the judicial audit were referred to the OCA which, by Memorandum dated September 12, 2007,[16] came up with the following findings:

The audit team found that Judge Navidad failed to decide Criminal Cases Nos. 3440, 3043 and 3274 within the reglementary periods. Instead of deciding these cases after the expiration of the period to file memorandum, respondent judge issued Orders similarly dated July 3, 2003 directing the parties to "study their cases and submit the necessary pleadings so that the cases can be disposed of accordingly."

There were eleven (11) cases with pending motions/incidents which Judge Navidad failed to resolve within the reglementary period. These are Criminal Cases Nos. 3585, 3586[,] 4248, 4312, 4373, 4350 and 4101; and Civil Cases Nos. 809, 846, 747 and 712. Moreover, fifty-one (51) cases had not been acted upon by Judge Navidad for a considerable length of time which have not moved since then, to wit: 3631, 4143, 4098, 4082, 4179, 4180, 4097, 4098, 4036, 4084, 4125, 4126, 4226, 3783, 4122, 3724, 3869, 3902, 3914, 3943, 3975, 4001, 4022, 4080, 4069, 4094, 4121, 4124, 4130, 4205, 4298, 3847, 4231 and 4214; and Civil Cases Nos. 845, SCA 050, SP 189, 394, 546, 722, 721, 527, 293, 209, 675, 755, 758, 766, SCA 051 and SP 171.

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Aside from [the] four (4) cases mentioned in the complaint of Prosecutor Torrevillas, irregularities in other cases were also uncovered. Judge Navidad released the accused under the custody of Atty. Fiel in Criminal Cases Nos. 3701, 4101, 4109 and 4110, despite the fact that they were all facing charges for murder and homicide. Respondent judge also granted bail to the accused in Criminal Cases Nos. 4109 for Murder, and 4110 for Murder, without conducting hearing. In Criminal Case No. 4350, Judge Navidad ruled that the offense committed was only homicide allegedly because the qualifying circumstances stated in the information were not supported by evidence, despite the findings of Judge Salvador P. Jakosalem, Acting Presiding Judge, MCTC, Sta. Margarita, Samar of probable cause for the crime of murder. In Criminal Case No. 3718, the information for murder was downgraded by Judge Navidad to homicide. Similarly, he dismissed Criminal Case No. 4373 on the ground that the qualifying circumstance of abuse of superior strength was not supported by any credible evidence, despite the contrary.

... On March 22, 2004, Judge Navidad was also directed to explain (a) his failure to decide Criminal Cases Nos. 3440, 3093 and 3274 within the reglementary period, (b) his inaction in fifty-one (51) cases, (c) why he allowed the accused in Criminal Cases Nos. 3701, 4101, 4109 and 4110 to be placed under the custody of Atty. Fiel, and (d) to inform the Court whether the pending incidents in Criminal Cases Nos. 3585, 3586, 4248, 4312, 4373, 4350 and 4101 and Civil Cases Nos. 850, 809, 846, 747 and 792 had already been resolved.

In his Comments, Judge Navidad claimed that Criminal Cases Nos. 3440, 3093 and 3274 were not yet submitted for decision when the audit was conducted. He said that the prosecution in Criminal Cases Nos. 3440 and 3093 had not yet formally offered evidence, while the parties in Criminal Case No. 3274 had not yet filed their respective memoranda. He also informed the Court that the incidents in Criminal Cases Nos. 3585, 3586, 4248, 4312, 4350, 4373 and 4101 and Civil Cases Nos. 850, 809, 846, 747 and 792 were already resolved.

Judge Navidad contended that some cases were left unacted upon because his court personnel failed to archive ten (10) cases, the police officers failed to make return of the warrants of arrest issued in eighteen (18) cases, and in other cases, the parties failed to submit the pleadings he required them to file.

Respondent judge explained that he released on recognizance to Atty. Fiel all the accused in four (4) criminal cases because the charges were mere fabrications and no preliminary investigation was conducted or if conducted, was improperly done...[17](Italics in the original; emphasis supplied)

The OCA came up with the following Evaluation:

Judge Roberto A. Navidad should be held administratively liable for gross inefficiency. He failed to decide Criminal Cases Nos. 3440, 3093 and 3274 within the 90-day reglementary period. Judge Navidad's contention that the cases were not yet submitted for decision when the audit was conducted is an outright falsehood meant to mislead this Court. The audit was conducted on October 14-17, 2003, but Criminal Cases Nos. 3440, 3093 and 3274 were already submitted for decision on February 28, 2003, June 2, 2002 and April 30, 2002, respectively. The failure of the parties to file their memoranda within the period given them is not a valid reason for Judge Navidad not to decide the cases. A case is considered submitted for decision upon the admission of the parties' evidence at the termination of the trial and respondent is well aware of this. Should the court allow or require the submission of memorandum, the case is considered submitted for decision upon the filing of the last memorandum or the expiration of the period to do so, whichever is earlier.

The issuance of respondent judge of an Order in these cases requiring the parties "to file the necessary pleading so that the cases can be disposed of accordingly" was purposely done to subvert the 90-day mandatory period to decide cases. Respondent judge could have asked the Court for an extension of time to decide these cases instead of issuing this Order. If he honestly believed that he could not decide the cases within the reglementary period, all he had to do was to ask for an extension of time. The Court, cognizant of the caseload of judges and mindful of the difficulty encountered by them in the disposition of cases, usually grants the request.

Judge Navidad also failed to promptly resolve the incidents in Criminal Cases Nos. 3585, 3586, 4248, 4312, 4373, 4350 and 4101 and Civil Cases Nos. 809, 846, 747 and 792. The resolution of the petition for bail in Criminal Cases Nos. 3585 and 3586 was due on February 22, 2000, yet it remained pending in October 2003 (three years and eighth months since then) when the audit was conducted. In Civil Case No. 792, the Motion for Special Raffle was due for resolution on May 16, 2001 but was likewise not yet resolved as of audit date.

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Respondent judge ascribes his inaction in fifty-one (51) cases to the inadvertence of his court personnel and the failure of the police officers to make a return of the warrants of arrest. This is totally unacceptable. A judge cannot take refuge behind the inefficiency of his court personnel, for the latter are not guardians of the judge's responsibilities. Efficient court management is primarily the duty of the presiding judge. In this, he is found wanting. As regards the cases where there were no return of the warrants of arrest, Section 4, Rule 113, Revised Rules of Criminal Procedure requires the head of the office to whom the warrant of arrest was delivered for execution to cause the warrant to be executed within ten (10) days from its receipt. Within ten (10) days after the expiration of the period, the officer to whom it was assigned for execution shall make a report to the judge who issued the warrant. Thus, it is the duty of respondent judge to see to it that this is strictly complied with by the police officers assigned to serve the warrants. His failure to faithfully comply with this duty has contributed to the delay in the disposition of cases in his court.

Judge Navidad should also [be] held liable for gross ignorance of the law. In granting bail without conducting any hearing to the accused in Criminal Cases Nos. 4023, 4024, 3701, 4109 and 4110 who were charged with murder and frustrated murder, respondent judge knowingly disregarded the well-established rule that no person charged with a capital offense, or an offense punishable by reclusion perpetua or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution. Under the present rule, a hearing on application for bail is mandatory. Whether bail is a matter of right or discretion, the prosecutor should be given reasonable notice of hearing, or at least his recommendation on the matter must be sought. These tasks were ignored by the judge.

Judge Navidad also erred in allowing the accused in Criminal Case No. 4147 through his counsel, to post bail notwithstanding that the accused was not yet in custody of the law. The right to bail or to be released on recognizance can only be availed of by a person who is in custody of the law or otherwise deprived of his liberty. An application for admission to bail of a person against whom a criminal action has been filed, but who is still at large is premature.

The judge likewise has no authority to conduct his own determination of probable cause and downgrade the offense charged or dismiss the complaint for insufficiency of evidence. Judges of the Regional Trial Courts no longer have the authority to conduct preliminary investigations. This authority was removed from them under the 1985 Rules on Criminal Procedure effective January 1, 1985. The determination of probable cause during a preliminary investigation is a function that belongs to the public prosecutor. Whether that function has been correctly discharged by the existence of probable cause in a case, is a matter the trial court itself cannot and may not be compelled to pass upon. 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, the courts should not dismiss the case for want of evidence.

Judge Navidad should also be sanctioned for placing the accused in Criminal Cases Nos. 3701, 4101, 4109 and 4110 who were charged with heinous crimes under the custody of Atty. Sisenando Y. Fiel, Jr. pending re-investigation of the cases. The grant of bail based on recognizance in these cases are not among the instance the accused may be released on recognizance.

Section 15, Rule 114 of the Revised Rules of Criminal Procedure provides that "Whenever allowed by law or these Rules, the Court may release a person in custody on his own recognizance or that of a responsible person." The accused may be released on recognizance under Republic Act No. 6036[,] P.D. No. 603[,] and P.D. 968, as amended. Also, Section 16 of Rule 114, Revised Rules of Criminal Procedure explicitly provides, "A person in custody for a period equal to or more than the minimum of the principal penalty prescribed for the offense charged, without application of the Indeterminate Sentence Law or any modifying circumstance, shall be released on a reduced bail or on his own recognizance, at the discretion of the court."

It is clear that Judge Navidad not only failed to perform his duties in accordance with the Rules, but he has also been acting willfully, and grossly disregarding and defying the law and controlling jurisprudence. Verily, his actions indicate a blatant contempt for the law and the rules of procedure. This cannot be countenanced especially because the laws involved are simple and elementary for which he cannot claim ignorance. It is imperative that a judge be conversant with basic legal principles and be aware of well-settled authoritative doctrines. When the inefficiency springs from a failure to consider a basic and elemental rule, law or principle in the discharge of his duties, a judge is either incompetent and undeserving of the position and title he holds or is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority.

This is not the first time Judge Navidad has been charged administratively. Verification with the the Statistical Reports Division, CMO-OCA shows that from the time Judge Navidad was appointed to the judiciary (January 30, 1987), several cases had been filed against him[.]

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While several of the charges were dismissed, this however is not at all reflective of his innocence, because the issues raised in these cases were judicial in nature, hence, improper for an administrative charge, or respondent had already inhibited from the case, or complainants failed to attend the investigation conducted by investigating justices/judges and failed to substantiate their charges. There were complaints though which even if dismissed, the Court nevertheless rebuked respondent judge and reminded him to be more circumspect in the performance of his duties, reprimanded him for improper conduct, advised him to refrain from the use of intemperate language or the use of the words "Supreme Court" in any of his judgments, orders, letters and correspondence presumably to show that these acts were authorized by or had the imprimatur of the Court, to

avoid any misinterpretation and confusion by the public and directed him to couch his inhibition orders in clear and specific language.

Respondent judge's outrageous conduct was again exhibited recently when he stubbornly refused to inhibit himself in Civil Case No. 586 (Ciriaco Tan vs. Emmanuel Lao), despite the fact that he is residing in a building owned by plaintiff, in that case, a fact he has not denied, and which is of public knowledge in Calbayog City. Judges must maintain and preserve the trust and faith of the parties-litigants. They must hold themselves above reproach and suspicion. At the very first sign of lack of faith and trust in his actions, whether well-grounded or not, the judge has no alternative but to inhibit himself from the case. Judge Navidad's persistent refusal to recuse himself from the case has impaired the people's faith in the court and destroyed the ideal of impartial administration of justice.

Respondent judge's comportment shows that he is not an upright man of the law who deserves to sit on the bench. That an NGO, the Samarenos for Equity, Justice and Reform, saw it fit to file a case against him, shows how badly he has performed as member of the bench. Such reputation by itself has besmirched the integrity not only of his court but more importantly of the entire judicial system which he represents. Respondent does not deserve to remain any further in the bench.

Informatively, Judge Navidad was absent for the whole month of May 2007 as reported to OCA by Executive Judge Reynaldo B. Clemens, RTC, Calbayog City, Samar., However, on July 30, 2007, the Leave Division, Office of the Administrative Services, OCA received a Certificate of Service of Judge Navidad for May 2007 stating that he had rendered the services required of him by the law for the period May 1, 2007 to May 31, 2007 except on May 16, 17, 18 and 21 when he was on sick leave and on May 22, 23, 24 and 25 when he was on vacation leave. He did not indicate therein that he was also absent from May 2-15, 2007....He was also absent on June 1, 4, 5, 6, 7, 8, 12, 13, 14, 15, 18, 25, 27, 28, and 29, 2007, but he declares in his Certificate of Service for that month that he was absent only on June 6, 7, 8, 28 and 29. Likewise, his Certificate of Service for July 2007 showed that he was absent only on July 4, 5, 6, 9 and 10 but Judge Clemens reported that Judge Navidad did not render service on July 2, 3, 4, 5, 6, 9, 10, 11, 16, 19, 20, 23, 24, 25, 26, 27 and 30. Attached to Judge Navidad's Certificates of Service for June and July 4, 5, 6, 9 and 10, 2007. All his leave applications did not bear the signature and approval of his Executive Judge, Judge Clemens. Simply put, he was absent without leave.

Integrity is essential not only to the proper discharge of the judicial office but also to the personal demeanor of judges. In the case at bar, respondent judge violated Sections 1 and 2 of Canon 2 of the New Code of Judicial Conduct for the Philippine Judiciary[.]

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Judge Navidad also violated Sections 1 and 2, Canon 4 of the same Code, which provides that "Judges shall avoid impropriety and the appearance of impropriety in all of their activities. As a subject of constant public scrutiny, judges must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, judges shall conduct themselves in a way that is consistent with the dignity of the judicial office."

Respondent judge likewise transgressed the Judge's Oath wherein he swore that he shall perform his judicial duties efficiently, fairly and to the best of his knowledge and ability.[18] (*Italics in the original; Emphasis and underscoring supplied*))

The OCA thereupon recommended respondent's dismissal from the service for gross ignorance of and contempt for the law, gross inefficiency and negligence and violations of the New Code of Judicial Conduct for the Philippine Judiciary and the Judge's Oath.[19]

The Court finds the respective recommendations of the Investigating Justice and the OCA well-taken.

Rule 114, on bail, of the Rules of Court reads

Sec. 8. Burden of proof in bail application. - At the hearing of an application for bail filed by a person who is in custody for the commission of an offense punishable by death, reclusion perpetua, or life imprisonment, the prosecution has the burden of showing that evidence of guilt is strong. The evidence presented during the bail hearing shall be considered automatically reproduced at the trial but, upon motion of either party, the court may recall any witness for additional examination unless the latter is dead, outside the Philippines, or otherwise unable to testify.

x x x x

Sec. 18. Notice of application to prosecutor. - In the application for bail under section 8 of this Rule, the court must give reasonable notice of the hearing to the prosecutor or require him to submit his recommendation. (Italics in the original; underscoring supplied)

While it is well-settled that the courts cannot interfere with the discretion of the public prosecutor to determine the specificity and adequacy of the offense charged, the judge may dismiss a complaint if he finds it to be insufficient in form or substance or without any ground; otherwise, he may proceed with the case if in his view it is sufficient and proper in form.[20]

In the discharge of a judge's duties, however, when the inefficiency springs from a failure to consider so basic and elemental a rule, a law or a principle, the judge is either too incompetent and undeserving of the position and title he holds, or is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority. If the rule or law is so elementary, as the above-quoted sections of Rule 114 are, not to know it or to act as if he does not know it constitutes gross ignorance of the law, without even the complainant having to prove malice or bad faith on the part of the judge, as it can be clearly inferred from the error committed.[21] On this score, as reflected in the Investigating Justice's and the OCA's separate reports, the Court finds respondent guilty of gross ignorance of the law.

Respondent also committed undue delay in disposing of the cases assigned to him. Judges have the sworn duty to administer justice without undue delay. A judge who fails to do so has to suffer the consequences of his omission, as any delay in the disposition of cases undermines the people's faith in the Judiciary.[22]

Inability to decide a case within the required period is not excusable and constitutes gross inefficiency. The Court has constantly reminded judges to decide cases promptly. Delay not only results in undermining the people's faith in the judiciary from whom the prompt hearing of their applications is anticipated and expected; it also reinforces in the mind of the litigants the impression that the wheels of justice grind ever so slowly, and worse, it invites suspicion of ulterior motives on the part of the judge.

Likewise, delay in resolving motions and incidents pending before a judge within the reglementary period of 90-days fixed by the constitution and the law is not excusable and constitutes gross inefficiency. We cannot countenance such undue delay by a judge, especially at a time when clogging of court dockets is still the bane of the judiciary, whose present leadership has launched an all out program to minimize, if not totally eradicate, docket congestion and undue delay in the disposition of cases. Prompt disposition of cases is attained basically through the efficiency and dedication to duty of judges. If they do not possess these traits, delay in the disposition of cases is inevitable, to the prejudice of litigants. Accordingly, judges should be imbued with a high sense of duty and responsibility in the discharge of their obligation to promptly administer justice.[23]

In the course of exculpating himself, respondent committed dishonesty, by falsely claiming, for instance, that Criminal Case Nos. 3440, 3093 and 3274 were not yet submitted for decision when the judicial audit was conducted, and that he conducted bail hearings, albeit the records do not show so.

Likewise, among other things, in his Certificates of Service for May, 2007, respondent declared that he was on sick leave on May 16, 17, 18 and 21, and on vacation leave from May 22, 23, 24 and 25. Executive Judge Reynaldo Clemens declared, however, that respondent was absent for the entire month of May 2007.

Dishonesty, especially when committed by judges who are supposedly the visible representation of the law, not only tends to mislead the Court; it also tarnishes the image of the judiciary.

Dishonesty is defined as the disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray. This is a grave offense that carries the extreme penalty of dismissal from the service, even for the first offense, with forfeiture of retirement benefits except accrued leave credits and perpetual disqualification from re-employment in government service.[24]

Respondent, on his inaction in 51 cases, ascribes it to the inefficiency of his staff and the failure of the police officers to make a return of the warrants of arrest.

Judges cannot, however, take refuge in the inefficiency or mismanagement of his court personnel since proper and efficient court management is their responsibility. Court personnel are not the guardians of judges' responsibilities. It is the duty of judges to devise an efficient recording and filing system in their courts to enable them to monitor the flow of cases and to manage their speedy and timely disposition.[25] And as correctly pointed out by the OCA, it is the judge's duty to see to it that the police officers assigned to execute the warrants comply with Section 4, Rule 113, requiring them to make a report to the judge who issued the warrant within ten days after the expiration of the period within which to execute the warrant.

Respondent was felled by a bullet of an assassin on January 14, 2008, however, in view of which the penalty of dismissal that the proven charges against him call for can no longer be imposed. He could still be fined, however, in the amount of P40,000 each in A.M. No. RTJ-06-1976 and A.M. No. RTJ-06-1977, to be deducted from the benefits due him.

WHEREFORE, for Dishonesty, Gross Ignorance of and Contempt for the Law, Gross Inefficiency and Negligence, and Violations of the New Code of Judicial Conduct for the Philippine Judiciary and the Judge's Oath, respondent, Judge Roberto A. Navidad, who has, in the meantime died, is in each of these cases subject of this Decision FINED the amount of Forty Thousand (P40,000) Pesos. The Financial Management Office, Office of the Court Administrator is authorized to deduct the total sum of Eighty Thousand (P80,000) Pesos from the benefits due respondent and to release the remaining amount to his heirs unless there exists another lawful cause for withholding the same.

SO ORDERED.

Puno, C.J., Ynares-Santiago, Carpio, Austria-Martinez, Corona, Tinga, Chico-Nazario, Nachura, Leonardo-De Castro, Brion, Peralta, and Bersamin, JJ., concur.

Quisumbing, J., on official leave.

Velasco, Jr., J., no part.

[1] By Memorandum of December 11, 2008, the Office of the Court Administrator informed the Court that Judge Roberto A. Navidad was shot dead by an unidentified assailant on January 14, 2008.

[2] Rollo, A.M. No. RTJ-06-1977, pp. 60-61.

[3] Rollo, A.M. No. RTJ-06-1976, pp. 7-8.

- [4] Annexes "A," "B" and "C" and series, id. at 9-50.
- [5] Id. at 6.
- [6] Id. at 51-52.
- [7] Id. at 1-5.
- [8] Id. at 97-106.
- [9] Id. at 98-99.
- [10] Id. at 99.
- [11] Id. at 100-101.
- [12] Id. at 101-102.
- [13] Id. at 102-106.
- [14] Id. at 106.
- [15] Rollo, A.M. No. RTJ-06-1977, pp. 50-51.
- [16] Rollo, A.M. No. RTJ-06-1976, pp. 151-164.
- [17] Id. at 152-155.
- [18] Id. at 155-163.
- [19] Id. at 163-164.
- [20] Santos v. Go, G.R. No. 156081, October 19, 2005, 473 SCRA 350, 362.
- [21] Janda v. Rojas, A.M. No. RTJ-07-2054, August 23, 2007, 530 SCRA 796, 808.
- [22] Galanza v. Trocino, A.M. No. RTJ-07-2057, August 7, 2007, 529 SCRA 200, 212.
- [23] Office of the Court Administrator v. Go, A.M. No. MTJ-07-1667, September 27, 2007, 534 SCRA 156, 165-166 citing De la Cruz v. Vallarta, A.M. No. MTJ-04-1531, March 6, 2007, 517 SCRA 465.
- [24] Cañada v. Suerte, A.M. No. RTJ-04-1884, February 22, 2008, 546 SCRA 414, 424-425.
- [25] Supra note 22 at 210-211.

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