

THE OFFICERS AND MEMBERS OF THE IBP BAGUIO-BENGUET CHAPTER, CESAR G. ORACION, PRESIDENT, COMPLAINANT, VS. FERNANDO VIL PAMINTUAN, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH I...

A.M. No. RTJ-02-1691 (Formerly AM No. OCA IPI 99-808-RTJ). January 16, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before the Court is the Administrative Complaint filed by the officers and members[1] of the Integrated Bar of the Philippines (IBP), Baguio-Benguet Chapter against Judge Fernando Vil Pamintuan of the Regional Trial Court (RTC), Branch 3 of Baguio City, for gross ignorance of the law, gross violation of constitutional rights of the accused, arrogance, violations of the Code of Judicial Conduct, oppression and graft and corruption.

In their Complaint, the complainants charge the respondent judge of gross ignorance of law stating that:

- His decision in Criminal Case No. 14054-R . . . and in Criminal Cases Nos. 15776-R, 15777-R, 15778-R, 15779-R and 15780-R . . . show his complete ignorance of the Indeterminate Sentence Law;
- He continues to violate the provision of Section 3, Rule 71 of the Rules of Court by immediately imposing a fine of P500.00 on any lawyer who does not answer the first call, without giving the lawyer an opportunity to show cause why he should not be cited for contempt;
- He fined Atty. Miguel B. Licalalde P500.00 for allegedly being absent during a hearing when in fact he was present;
- He dismisses cases if the counsel or a litigant does not appear even for the first time, without giving the concerned party a chance to explain his absence;
- He limits the period of appeal in criminal cases. In a case handled by Atty. George Florendo, he rendered a decision convicting the accused. After the promulgation of the decision, he told the accused that he was giving him three (3) days only within which to file his notice of appeal to the Court of Appeals or to file an application for probation. He further declared that in case the accused files his notice of appeal, he will double his bail bond and immediately order his arrest;
- In the case of PEOPLE VS. ANGELINA MAMARIL, Criminal Case No. 16187-R for THEFT of the amount of Fourteen Thousand One Hundred Pesos (P14,100.00), the accused, who was seventeen (17) years old, pleaded GUILTY to FRUSTRATED THEFT with the consent of the Prosecution. In his decision, Judge Pamintuan imposed a penalty one degree lower than that which is imposed for Consummated Theft and ordered the accused to be recommitted to the DSWD Rehabilitation Center by virtue of her minority. However, he failed to reduce the penalty imposed by another degree by reason of said minority in accordance with the clear and explicit provision of Article 68 [2] of the Revised Penal Code. . . ;
- In the case of PEOPLE VS. BENJIE GOSE, MARK JOSEPH OCHARAN, ET AL., Criminal Case No.

14935-R for Robbery, the respondent did the same thing.[2]

The complainants likewise charge the respondent judge of gross violation of the constitutional rights of the accused alleging, as follows:

- In PEOPLE VS. CEFERINO BANIQUED, Criminal Case No. 13949-R, for alleged violation of Section 3 [e] of RA 3019 (Anti-Graft and Corrupt Practices Act) the respondent has yet to act on a motion for the preventive suspension of the accused filed way back in 1996 and which was reiterated after he took over the case in April 1998. The said incident was deemed submitted for resolution by then Acting Presiding Judge Joven F. Costales on December 2, 1997. When Judge Pamintuan took over, the prosecution reiterated the motion which, on August 18, 1998, he ordered as deemed submitted for the resolution of the court. For more than one (1) year, and as of date, Judge Pamintuan has not resolved the motion;
- In the case of SURLA VS. DIMLA, Civil Case No. 3322-R for Collection of Sum of Money, Judge Pamintuan dismissed the complaint because the plaintiff-witness arrived at about 8:32 in the morning or just two (2) minutes later, the counsel asked for reconsideration of the dismissal, manifesting that the witness was ready to testify. In the interest of justice and fair play, the adverse party even manifested his conformity to the reconsideration of the order of dismissal. However, Judge Pamintuan did not rule on the motion and simply considered the same submitted for resolution. For more than four (4) months, the respondent did not resolve the motion;
- He refused to furnish a copy of the decision to the accused, but when notice of appeal was filed, he directed the counsel for the accused to amend the notice to reflect receipt of the decision although no such decision was really received. This was done in, at least, two (2) instances, particularly, in People vs. Remedios Malapit, et al. (Criminal Cases Nos. 15320, 15323, 15327, 15570 and 15571) and in People vs. Alejandro Cas (Criminal Case No. 15306-R).[3]

The complainants also claim that the respondent judge is arrogant in that:

- He waves at lawyers and tells them to approach his bench; if, by chance, a lawyer touches a portion of his bench he shouts at him and berates him saying he has not given him permission to touch his bench;
- He tells lawyers appearing before him to give priority to his court at the expense of their other court duties;
- He insults lawyers by means of harsh and intemperate words in the presence of litigants and the public;
- He impresses to the lawyers and parties' litigants that he is a convicting judge. He boasts that since he sat as judge all his decisions in criminal cases except two (2) were convictions;
- He berates the lowly security guards in the Justice Hall of Baguio City every time they fail to salute him;
- He insults litigants who want to settle their cases for allegedly wasting his time;
- He insults doctors and other expert witnesses who cannot appear because of previous commitments;
- In one occasion, he interrupted Atty. Federico J. Mandapat, Jr., in the course of his cross-examination of a witness and told him: "that is not the way to cross-examine, ask questions only that are answerable by yes or no." Atty. Mandapat explained that he was laying the basis for his succeeding questions. The respondent curtly replied that he was giving him only ten (10) minutes to conduct his cross-examination, to which Atty. Mandapat countered by telling the respondent that it was tantamount to obstruction of justice and violation of the right of the accused to cross-examine a witness being presented against him.[4]

The respondent judge is also allegedly guilty of violating the Code of Judicial Conduct, as follows:

- He is discourteous to lawyers, especially the new and inexperienced;

- He tells the client in the presence of the lawyer to engage the services of another lawyer because his lawyer does not know anything or he does not deserve to be paid (Atty. Joris Karl Dacawi);
- He verbally assaults lawyers;
- He does not give even a little respect to old lawyers;
- He insulted in open court retired Court of Appeals Justice Sixto Domondon because he came to court late once. For such act, he was even admonished by the Honorable Supreme Court for his unbecoming conduct towards a former Justice of the Court of Appeals, yet, his arrogance continues unabated and is more manifest, apparently in defiance to the admonition he received.[5]

The respondent judge is allegedly guilty of oppressive conduct committed as follows:

- He unreasonably limits the presentation of evidence to the detriment of party-litigants;
- He scolds and insults lawyers who stand up and walk while propounding questions to witnesses. He pursues a strategy of assault and appeasement. He verbally assaults lawyers, and if they re-act, he tries to appease some of them in an effort to get them to his side;
- He directed Atty. Reynaldo U. Agranamendez (immediate past President of the IBP Baguio-Benguet Chapter) to stand up, in lieu of the accused who jumped bail, during the promulgation of the decision in absentia. Atty. Agranamendez acting as de officio counsel requested that he be allowed to sit down because the people in court might think that he was the accused but the judge in utter disregard of elementary courtesy that befits a lawyer did not budge. Instead, he berated Atty. Agranamendez and told him to “shut up and don’t argue with the court”. When Atty. Agranamendez got tired during the reading of the long decision, he slightly leaned to his side. When the Judge noticed this, he shouted at him and told him to stand up properly. This he did in the presence of lawyers and litigants who could only look at Atty. Agranamendez with sympathy and compassion;
- He cited Atty. Nicasio M. Aliping, Jr., for contempt for not appearing as a witness in one case before his sala. When Atty. Aliping learned about this, he explained to the judge that he was not notified of the date of hearing and presented records clearly showing that indeed he was not notified. Atty. Aliping prayed that the order be lifted and set aside. The judge refused and told Atty. Aliping that it was a different matter. To this day, the order citing him for contempt has not been lifted;
- In one case where Atty. Cirilo Cawed is the private complainant, the latter executed an affidavit of desistance praying, among others, for the dismissal of the case. The respondent did not act on it and instead issued an order threatening his arrest if he will not appear before him and explain.[6]

Finally, the respondent judge is allegedly guilty of corruption:

Respondent had a certain EUFEMIO M. GULA, his long-time “bodyguard”, appointed as driver assigned to his branch despite his knowledge that Mr. Gula has no driver’s license, and worse, he does not know how to drive. This supposed driver draws his salary from the City of Baguio. The driver fills up the required itinerary forms, which indicate that he supposedly drives for the respondent from Baguio City to Manila and back, but the truth is that they commute by bus. It is a certain WILLIAM DANNANG, personnel from the maintenance department of the Baguio City Justice Hall, who actually drives for the respondent.[7]

In his Comment, the respondent judge vehemently denies the charges hurled against him.

On the charge of gross ignorance of the law, the respondent judge avers:

- Criminal Cases Nos. 15776-R to 15780-R, entitled “People of the Philippines vs. Danilo Dumez, et al.” are now pending appeal before the Court of Appeals. . . Whether or not the decision of the Respondent Judge in

the aforecited cases is correct will be a matter only the appellate [court] can decide. The perceived errors in the imposition of the penalty imposed should be addressed in the Accused-Appellants' brief. Assuming arguendo that the Respondent Judge erred in applying the [I]ndeterminate [S]entence [L]aw, which of course he denies, the proper remedy would have been Appeal, and not to file Administrative Case against the Judge;

- In Criminal Case No. 14054-R entitled "People vs. Policew," Respondent Judge submits the same argument . . . ;

- In Criminal Case No. 16187-R entitled "People vs. Mamaril" and Criminal Case No. 14935 entitled "People vs. Gose," the decisions of the Respondent Judge had become final and executory without the Counsels appealing. Had the Counsels appealed their cases, or at least Moved for Reconsideration, they could have properly raised the mitigating circumstances, which they claim were not appreciated by the Respondent Judge. Again the remedy is not the filing of administrative case against the Judge;

- The Administrative Case against the Respondent Judge in A.M. No. RTJ-99-1483 was resolved by the Supreme Court in a Decision dated September 17, 1999 and received by the Respondent Judge on October 4, 1999. Respondent Judge has FIFTEEN (15) DAYS to file a Motion for Reconsideration, which he will comply with. Suffice it to say that in this case, the Respondent Judge believed, as he believes in good faith that he had no cogent reason to inhibit himself from the case . . . ;

- The imposition of fines for tardiness or non-appearance in scheduled cases is inherent upon any court as part of its disciplining authority. The remedy would have been to seek reconsideration and not an Administrative Case. The Court has never collected on the fine, provided the reasons cited in the reconsideration are meritorious. The Complainants cite the case of Atty. Miguel Liceralde. Said lawyer was never fined by the Respondent Judge. The fact is, as of date, the Respondent Judge never issued a writ of execution for the collection of fines from lawyers. . . There were only four (4) instances when fines were paid by lawyers who volunteered to pay the fine on their own without filing a motion for reconsideration. . . ;

5. The dismissal of the case for failure of the parties or counsel to appear in their scheduled hearings is so provided by the Rules. Again the remedy is a motion for reconsideration and not an administrative case on petty grounds. . . ;

- Atty. George Florendo who is not even a signatory to this Petition is mentioned, albeitly [sic] without his consent regarding "People vs. Joseph Santos," Criminal Case No. 15171-R for Illegal Possession of Marijuana where he appears for the accused. Nowhere in the records does it show that he limited the fifteen (15) day period to appeal.[8]

On his alleged violation of the constitutional rights of the accused, the respondent judge counters:

- In Criminal Case No. 13949-R, "People vs. Baniqued" for Violation of Section 3(e) of R.A. 3019, which was inherited by the Respondent Judge, he submits that no violation was ever made as the complainants would want to imply. Complainants wanted the accused preventively suspended. The defense insisted that the entire prosecution evidence first be heard, as a pre-suspension hearing which was granted by the respondent judge's predecessor, Hon. Joven Costales, and by the respondent judge himself. Thereafter, despite the opposition of the Accused to the preventive suspension, an order was issued on September 2, 1999. The move for suspension was complicated by the incomplete prosecution evidence as well as the constant absence of the Manila-based private prosecutor. The Court has given wide latitude to the accused and he has no cause to complain;

- Civil Case No. 3322-R entitled "Surla vs. Dimla" for Sum of Money, is a continuing attempt by the Complainants to mislead the Supreme Court. This case had been dismissed and the dismissal has become final and executory. The case was earlier dismissed for failure to prosecute on the part of the Plaintiff for failure to appear during the scheduled hearings of the case, but a Motion for Reconsideration was filed and granted by the Respondent Judge. Several postponements at the instance of the plaintiff were tolerably allowed but then

again the plaintiff failed to appear during the scheduled hearing. The Respondent Judge dismissed the case on the same grounds. No motion for reconsideration was filed and the decision became final. Clearly no fault can be attributed to the Respondent Judge;

- Respondent Judge denies refusing to furnish copies of the decision to the accused in Criminal Cases Nos. 15321-R, 15323-R, 15327-R, 15770-R and 15771-R entitled “People vs. Malapit, et al.” as these are matters of public record available and accessible to the public. He could not and never will prevent or obstruct any litigant, much more a lawyer to access of records pertaining to a case;

- Respondent Judge denies directing the defense counsel to amend his Notice of Appeal to allegedly reflect receipt of the decision in Criminal Case No. 15306-R entitled “People vs. Alejandro Cas,” as such an action will gain him nothing. The Manifestation of Apology by the concerned defense counsel says it all.[9]

Anent the charge that he is arrogant, the respondent judge declares:

- The pettiness of the charges (3A to G) are completely wasteful of the Supreme Court’s precious time as they are bereft of the specifics and are mere general allegations;

- As to 3H involving Atty. Federico Mandapat, said defense counsel together with Atty. Juan Alberto and Prosecutor Raymond Tabangin were requested to approach the bench. Atty. Mandapat was advised by the respondent judge to ask questions answerable by yes or no as it was observed that he was repeating questions asked on direct examination. Certainly, the court can advise counsel on how to conduct proper cross-examination so as not to tax the time of both the court and the witnesses. When the Respondent Judge said ten minutes, he was referring to the time left for him to conduct the cross-examination on that trial day, as there were other ready cases. It was not limiting his time to cross-examine the witness, as the records would show that the next trial date, Atty. Mandapat was allowed to his heart’s content to continue the cross-examination.[10]

On the charge of violation of the Code of Judicial Conduct, the respondent judge states:

- Respondent Judge denies 4A to D on his non-support for new lawyers. The fact is he encourages old practitioners to help new lawyers and he announces this in open court as a matter of policy. . . ;

- Atty. Primitivo Jularbal, 72 years old, a former Professor in the College of Law of Saint Louis University and a long time distinguished practitioner in the City of Baguio, and Atty. Juan Valdez, 70 years old, former City Legal Officer of Mayors Luis L. Lardizabal and Mauricio G. Domogan can affirm the respect, deference and dignified treatment he habitually accord these senior lawyers;

- As to the case of former Justice Sixto Domondon for which the Respondent Judge was admonished by the Supreme Court, your Respondent Judge was barely one month in office when he asked the former justice, whom he did not know at that time to come on time for his hearings. Said justice was more than forty-five (45) minutes late for the pre-trial conference and Respondent Judge applied the rule on him, like he did to all lawyers.[11]

As to his alleged oppressive conduct, the respondent judge states as follows:

- Respondent Judge denies 5A and B as they are mere general statements without basis in fact and in law;

- In the case of Atty. Reynaldo U. Agranamendez, as defense counsel in Criminal Case No. 7304-R, entitled “People vs. Liwayway Cruz,” he required said counsel in the absence of the accused to rise as a matter of procedure during the promulgation of decisions. This is by way of proper decorum and discipline, which the Respondent Judge submits as part of the inherent power of the court. The allegation that the Respondent Judge berated Atty. Agranamendez and told him to “shut up” is a patent lie. The Respondent Judge recalls asking him politely not to argue with the Court, on matters like standing up to show decorum and respect to the

judicial processes . . .;

- Atty. Nicasio Aliping was never cited for contempt, contrary to what the complainants want to impress. No order was ever issued by the Court to the effect . . .;

- Atty. Cirilo Cawed, who is not a signatory to the complaint, is the private complainant in Criminal Cases No. 13535-R entitled "People vs. Licayayo" for Estafa. Despite several orders for him to appear in the scheduled hearings, he refused, ignored and neglected the same. He was warned that his continued defiance would constrain the court to order his arrest. The Respondent Judge submits that it is the rule and practice and even the responsibility, and duty of the court to summon the complaining witness who executed an Affidavit of Desistance to determine the authenticity or genuineness of the affidavit. The Respondent Judge should not be condemned for ensuring the integrity of affidavits submitted in court.[12]

Regarding the charge of corruption against him, the respondent judge asserts that:

- As a public officer, he is ready to face all kinds of charges as an inherent "risk" that comes with the territory. It hurts him; however, to be accused of the baseless charge of Graft and Corruption, for he values his honor and his name, presumably like the Complainants themselves;

It is a matter of public and judicial knowledge that courts have no employment item for drivers. On this point alone, how could Respondent Judge appoint a driver as alleged in the complaint? Had the Complainants asked or in the least conducted a thorough investigation, they would have discovered that in the RTC, Baguio City, Branch 3, there was a vacant item for City-paid Utility Worker. In 1988, the RTC Clerk of Court, Atty. Delilah G. Muñoz, made a project proposal to the City Government of Baguio for the revival of item. . .

Almost a year later, the City Government approved the request, and it was Mayor Mauricio G. Domogan who appointed Mr. Eufemio Gula to the position and not the Respondent Judge. The item approved was for a driver and not as Utility Worker. A correction was sought and again Mayor Mauricio G. Domogan and the City Council of Baguio approved the amendment for the appointment of Utility Worker and not as Driver. . . Mr. Eufemio Gula is not a Court-paid Employee and performs his duty as a utility worker paid by the City Government of Baguio. He has no driver's license, as he did not apply as a driver. The respondent judge did not appoint Gula and no judiciary funds were used for his pay. Neither did the respondent judge screen his qualification as to whether or not it conforms to the minimum criteria set by the city for the item -utility worker.[13]

The respondent judge prays that the administrative complaint against him be dismissed for lack of merit.

In its Memorandum dated November 17, 1999, the Office of the Court Administrator revealed that since his appointment to the judiciary on February 23, 1998, four (4) administrative cases had been filed against the respondent judge:

- RTJ-99-1450 "Justice Sixto Domondon vs. Judge Fernando Vil Pamintuan" – Respondent was REPRIMANDED by the Court on June 14, 1999;

- RTJ-99-1483 "Lauro Gacayan vs. Judge Fernando Vil Pamintuan" – Respondent was FINED P10,000.00 and REPRIMANDED for Violation of Canon 2 of the Code of Judicial Conduct and Canon 3 of the Code of Judicial Ethics which amount to grave misconduct, conduct unbecoming an officer of the Judiciary and conduct prejudicial to the best interest of the service and WARNED that a repetition of the foregoing or similar transgressions shall be dealt with more severely;

- OCA IPI No. 99-808-RTJ – The instant case under consideration;

- OCA IPI No. 99-832-RTJ – "Mr. Galo R. Reyes vs. Judge Fernando Vil Pamintuan" for willful violation of the Rules of Court and incompetence. Awaiting comment of the respondent judge.[14]

Considering the seriousness of the charges against the respondent judge, the OCA recommended that an investigation be conducted thereon. In the Resolution of December 8, 1999, the Court referred the instant case, together with OCA IPI No. 99-832-RTJ (Mr. Galo R. Reyes vs. Judge Fernando Vil Pamintuan), to the Presiding Justice of the Court of Appeals for immediate raffle among the incumbent appellate court justices.[15]

The cases were raffled to Justice Mercedes Gozo-Dadole (Investigating Justice) who forthwith set the cases for preliminary conference in accordance with Section 1, Rule 58 of the Revised Rules of Court. Thereafter, hearings were held where the complainants and the respondent judge were allowed to present their witnesses in support of their respective allegations.

The Evidence of the Complainants

The complainants presented Lauro Gacayan, Jurgenson Lagdao, Federico Mandapat, Jr., Reynaldo Agranzamendez, Reynaldo Cortes, Joris Karl Dacawi, Maria Ligaya Rivera, Rogelio Daet and Edgardo Ancheta. Except for Ancheta, all the witnesses are lawyers and members of the IBP Baguio-Benguet Chapter.

Gross Ignorance of the Law and

Violation of the Constitutional

Rights of the Accused

Attorneys Lauro Gacayan and Jurgenson Lagdao were presented to substantiate the charges of gross ignorance of law and violation of the constitutional rights of the accused against the respondent judge.

Atty. Gacayan executed the Affidavit dated March 15, 2000[16] and during his testimony affirmed the truthfulness of its contents. Atty. Gacayan stated that he is a practicing lawyer based in Baguio City. He was the counsel for the accused in “People vs. Ceferino Baniqued” (Criminal Case No. 13949-R) for Violation of the Anti-Graft and Corrupt Practices Act and for the defendant in “Albert Surla vs. Nelson Dimla” (Civil Case No. 3322-R) for collection of sum of money. These two cases were pending before the RTC, Branch 3 of Baguio City, presided over by the respondent judge.

According to Atty. Gacayan, in “People vs. Ceferino Baniqued,” the prosecution filed a motion for the preventive suspension of the accused. The latter duly opposed said motion. In his Order dated August 18, 1998, the respondent judge submitted for resolution the aforesaid motion. However, it was only on September 29, 1999, or more than one (1) year after it’s submission for resolution, that Atty. Gacayan, as counsel for the accused, received an order resolving the motion. Upon further verification, Atty. Gacayan discovered that the said order was received by the RTC’s Office of the Clerk of Court only on September 23, 1999, after the instant administrative complaint had already been filed against the respondent judge. Incidentally, the respondent judge’s failure to act on the motion for preventive suspension in the Baniqued case is one of the infractions raised in this administrative complaint.[17]

Further, during the hearing of Surla vs. Dimla on May 18, 1998, the respondent judge dismissed the case on account of the fact that when the case was called at 8:30 in the morning, the plaintiff’s first witness was not around. When the witness arrived at 8:32 a.m., or barely two (2) minutes after, the plaintiff’s counsel manifested his readiness to present the witness. The respondent judge denied the same. On even date, the plaintiff’s counsel moved for a reconsideration of the said dismissal, which was not opposed by Atty. Gacayan as counsel for the defendant. The motion for reconsideration was submitted for resolution at the hearing on June 5, 1998. However, it took the respondent judge almost four (4) months to resolve this simple and unopposed motion.[18]

Atty. Gacayan likewise narrated that he was in the sala of the respondent judge during the promulgation of his decisions in People vs. Danilo Dumez et al (Criminal Cases Nos. 15776-R up to 15780-R), People vs. Bernardo

Policew (Criminal Case No. 14054-R), People vs. Angelina Mamaril (Criminal Case No. 16187-R), People vs. Benjie Gose et al. (Criminal Case No. 14935-R). The last case particularly caught Atty. Gacayan's attention because the penalty imposed on the accused, who was then a minor, was the same as that of all the other accused who were of legal age.

Atty. Lagdao, also one of the complainants in this case, executed an Affidavit dated August 27, 1999[19] and Reply-Affidavit dated March 17, 2000[20] and during his testimony, affirmed the truthfulness of the contents thereof. Atty. Lagdao is connected with the Public Attorneys' Office (PAO) in Baguio City and handled People vs. Remedios Malapit (Criminal Cases Nos. 15321-R, 15323-R, 15327-R, 15770-R and 15771-R) and People vs. Alejandro Cas (Criminal Case No. 15306-R) pending before the sala of the respondent judge.

In these two cases, the respondent judge failed to immediately furnish the accused copies of the decisions after their respective promulgation. In the Malapit case, a copy of the decision was served on the accused seventeen (17) days after the judgment was promulgated; in the Cas case, fifteen (15) days after promulgation of judgment. Moreover, in the latter case, one of the court personnel approached Atty. Lagdao and told him that the respondent judge wanted the tenor of the notice of appeal changed by deleting therein the phrase "copies of which [referring to the decision] the Honorable Court has yet to release." In order not to prejudice the accused, Atty. Lagdao did as instructed.

Atty. Lagdao admitted that, to support their charge of gross ignorance of law, he secured certified true copies of the following decisions of the respondent judge where he misapplied the Indeterminate Sentence Law:

Decision in Criminal Case No. 11363-R is marked as Exhibit "D";
Decision in Criminal Case No. 15108-R is marked as Exhibit "E";
Decision in Criminal Case No. 15544-R is marked as Exhibit "F";
Decision in Criminal Case No. 3200-R is marked as Exhibit "G";
Decision in Criminal Case No. 7703-R is marked as Exhibit "H";
Decision in Criminal Case No. 13646-R is marked as Exhibit "I";
Decision in Criminal Case No. 14054-R is marked as Exhibit "J";
Decision in Criminal Case No. 14524-R is marked as Exhibit "K";
Decision in Criminal Case No. 15600-R is marked as Exhibit "L";
Decision in Criminal Case No. 14776-R is marked as Exhibit "M";
Decision in Criminal Case No. 15932-R is marked as Exhibit "N";
Decision in Criminal Case No. 15653-R is marked as Exhibit "O";
Decision in Criminal Case No. 13379-R is marked as Exhibit "P";
Decision in Criminal Case No. 13367-R is marked as Exhibit "Q";
Decision in Criminal Case No. 14929-R is marked as Exhibit "R";
Decision in Criminal Case No. 7304-R is marked as Exhibit "S"; and,
Decision in Criminal Case No. 14925-R is marked as Exhibit "T".[21]

Arrogance, Oppression and Violations of the Code of Judicial Conduct

Atty. Federico Mandapat, Jr. was presented to support the complainants' charges of arrogance and violations of the Code of Judicial Conduct against the respondent judge.

As one of the complainants in the instant case, Atty. Mandapat executed the Affidavit dated December 14, 1999[22] and affirmed the truthfulness of its contents. Atty. Mandapat, a councilor of Baguio City, is also engaged in the practice of law. He appears in various courts in Baguio City, including that presided by the

respondent judge.

He recalled that during the hearing of *People vs. Andrade* presided by the respondent judge, his (Atty. Mandapat's) cross-examination of the witness was interrupted by the respondent judge. Atty. Mandapat, the other defense counsel and the prosecutor, were instructed to approach the bench. In a loud voice, the respondent judge directed Atty. Mandapat to refrain from asking questions that were already asked in the direct-examination. Atty. Mandapat explained that he was just trying to test the credibility of the witness and in fact, the witness gave different answers on cross-examination. The respondent judge then limited Atty. Mandapat's time to cross-examine the witness to ten (10) minutes. When Atty. Mandapat inquired from the respondent judge whether he was limiting the right of the accused to cross-examine the witness, the respondent judge replied that he did not want to argue.

Atty. Mandapat opined that in Baguio City, the respondent judge had the reputation of being arrogant, and is known for treating litigants in an arrogant and rude manner.

To further substantiate the charges of violations of the Code of Judicial Conduct and oppression against the respondent judge, the complainants presented Atty. Reynaldo Agran zamendez. He executed the Affidavit dated March 20, 2000[23] and during his testimony affirmed the truthfulness of its contents.

Atty. Agran zamendez, also one of the complainants in this case, was the Past President of the IBP Baguio-Benguet Chapter. He narrated that he appeared as defense counsel for accused Liwayway Cruz in an estafa case pending before the sala of the respondent judge. During the promulgation of judgment on July 29, 1999, Atty. Agran zamendez manifested that the accused was not in court. The respondent judge ordered Atty. Agran zamendez to stand up in place of the accused during the reading of the decision. Atty. Agran zamendez requested that he be allowed to sit down because if he stood up, it would seem that he was the accused. The respondent judge curtly told him not to argue with the court.

During the reading of the decision, every time the clerk of court mentioned the word "estafa", Atty. Agran zamendez would cringe in embarrassment. Since the decision was quite long, Atty. Agran zamendez leaned on his side at one point. The respondent judge immediately banged his gavel and sternly told Atty. Agran zamendez to stand up properly. Several lawyers witnessed the incident. In fact, Atty. Jose Molintas playfully stood beside Atty. Agran zamendez and pretended to be his counsel.

Atty. Agran zamendez felt so humiliated at the time. Even after the incident, several people, including his students at the Baguio Colleges Foundation where he was Dean of the College of Law, approached Atty. Agran zamendez and asked him why he was convicted for estafa.

Atty. Joris Karl Dacawi was likewise presented, also to substantiate the charge of violations of the Code of Judicial Conduct by the respondent judge. He executed the Affidavit dated March 23, 2000[24] and during his testimony, affirmed the truthfulness thereof. He worked as an associate at the Sanidad and Villanueva Law Offices in Baguio City. One of the cases assigned to him was *Alejo Cabreros vs. Sussie Edralin* which was pending before the sala of the respondent judge. During one of the hearings of the said case, Atty. Dacawi manifested to the respondent judge that although he was ready to present the plaintiff Mr. Cabreros as first witness, the latter was not feeling well. Atty. Dacawi thus moved that the hearing be reset to another day. The respondent judge angrily remarked that Atty. Dacawi was just not ready to present his case and suggested that Mrs. Cabreros, who was also in the court, be presented as witness instead. Atty. Dacawi explained that he could not do as suggested because it would destroy his manner of presenting the evidence.

The respondent judge eventually cancelled the hearing that day but stated that the same be deducted from the

number of trial dates allotted for the plaintiff. The respondent judge further ordered Mr. Cabreros to stand up and told the latter not to pay Atty. Dacawi as no service was rendered by him as counsel that day; hence, did not deserve to be paid.

Violation of the Anti-Graft and Corrupt Practices Act

The complainants likewise charge the respondent judge with graft and corruption. In support thereof, they presented Atty. Reynaldo Cortes who executed the Affidavit dated July 14, 2000.[25]

Atty. Cortes is a practicing lawyer in Baguio City and also one of the complainants in this case. He averred that on July 1, 1999, a certain Eufemio Dula was appointed as “driver” by the City Government of Baguio City and was assigned to the respondent judge. According to Atty. Cortes, he had observed that Dula accompanied the respondent judge everywhere he went. Despite his designation as driver, Dula never drove the car of the respondent judge. Upon verification by the complainants, it was discovered that Dula had no license to drive. In September 1999, the RTC of Baguio City, through its clerk of court, requested that the item of Dula be amended from “driver” to “utility worker”.

Other Corroborative Evidence

Atty. Maria Ligaya Rivera, Branch Clerk of Court of the RTC, Branch 3 of Baguio City, was also presented as one of the witnesses of the complainants. She testified that she received the notice of appeal filed in the case of People of the Philippines vs. Alejandro Cas and, following the standard procedure, forwarded it to Edgardo Ancheta, the clerk-in-charge of the criminal docket, for submission to the respondent judge for his action. However, the respondent judge did not then act on the matter. Instead, he called Atty. Rivera to his chamber and instructed her to tell Atty. Lagdao, the PAO lawyer handling the case, to change the notice of appeal; otherwise, he would not act on it. Atty. Rivera took the notice of appeal and talked to Ancheta regarding the respondent judge’s instructions.

Thereafter, Atty. Lagdao told Atty. Rivera that he could no longer change the notice of appeal as the same already formed part of the records. The respondent judge insisted that the notice of appeal be changed. Atty. Lagdao maintained that he could no longer do so because a later date would be reflected as the date of its receipt. In such a case, it would appear as if the same was filed out of time. Atty. Lagdao was eventually constrained to change the notice of appeal by deleting the phrase “copies of which [referring to the decision] the Honorable Court has yet to release.” According to Atty. Rivera, the decision on People of the Philippines vs. Alejandro Cas was released fifteen (15) days after its promulgation.

Atty. Rivera also confirmed that Dula was a part of the respondent judge’s staff. Dula’s designation was originally as “driver” of the respondent judge but was later on changed to “utility worker.” Per the respondent judge’s instruction, Atty. Rivera signed Dula’s accomplishment report. This report falsely stated that he drove for the respondent judge. Atty. Rivera admitted that, by signing Dula’s accomplishment report, she was abetting the crime of falsification of public document. However, she maintained that she could not go against the instruction of the respondent judge on the matter.

Atty. Rivera was the one who read the decision in People v. Liwayway Cruz during its promulgation. She corroborated Atty. Agranzamendez’ allegation that he was made to stand up to take the place of the accused during the promulgation of the judgment. She confirmed that Atty. Agranzamendez expressed his objection to this procedure but the respondent judge merely told him to “shut up.”

Atty. Rogelio Daet, the Regional Director of the Public Attorneys’ Office of the Cordillera Administrative

Region including Baguio City, was presented to corroborate the testimony of Atty. Lagdao regarding the changing of the notice of appeal in *People vs. Remedios Malapit*.

Atty. Daet testified that as the immediate superior of Atty. Lagdao, he assigned the latter to handle the PAO cases before the sala of the respondent judge. At one time, Atty. Lagdao approached Atty. Daet to express his apprehension that they had not yet received the decision in the Malapit case despite the fact that almost fifteen (15) days had already passed since its promulgation. Atty. Lagdao informed Atty. Daet that he would file a notice of appeal even without receiving a copy of the decision. Atty. Lagdao showed to Atty. Daet the notice of appeal and manifestation that were subsequently filed in connection with the Malapit case.

Some time in July 1999, the respondent judge called Atty. Daet to his chamber and informed the latter that he disliked the tone of Atty. Lagdao's notice of appeal and manifestation. The respondent judge returned the said pleadings to Atty. Daet and instructed him to direct Atty. Lagdao to change them. Atty. Daet did as he was told and later on learned that Atty. Lagdao had complied with the respondent judge's directive and deleted the phrase that he found objectionable so as not to prejudice the accused.

Thereafter, upon the instance of the respondent judge, Atty. Daet transferred Atty. Lagdao to another sala. Atty. Daet did not assign another lawyer to take Atty. Lagdao's place because the respondent judge insinuated that his approval should first be sought regarding the assignment of the PAO lawyer to his sala. Atty. Daet felt that this was an encroachment on his prerogative as regional director of the PAO.

Edgardo Ancheta, clerk-in-charge of the criminal docket in the sala of the respondent judge, testified to corroborate Atty. Lagdao's testimony. He recalled that at one time, Atty. Ma. Ligaya Rivera, his immediate superior, directed him to talk to Atty. Lagdao regarding the notice of appeal and manifestation that he filed in the Cas case. Atty. Rivera instructed Ancheta to tell Atty. Lagdao to delete the phrase "copies of which the Honorable Court has yet to release" in the notice of appeal in order that the respondent judge would act on it. Atty. Lagdao initially refused to change the notice of appeal but when he was told that the respondent judge would not act on the same unless the "objectionable" phrase was deleted, Atty. Lagdao was constrained to obey the respondent judge's directive.

In order that the second notice of appeal would not be considered as filed out of time, it was the date of receipt of the first notice of appeal that was stamped on the second notice of appeal. This was done presumably with the respondent judge's knowledge and consent, since it was him who ordered the alteration.

The Evidence of the Respondent Judge

On the other hand, to refute the charges against him, the respondent judge presented thirteen (13) witnesses: Atty. Victoria C.M. Sturch, Atty. Primitivo C. Jularbal, Atty. Ma. Inglay Capuyon-Fokno, Justice Sixto Domondon, Atty. Lourdes Maita Andres, Atty. Juan B. Valdez, Lina de Guzman Dalusong, Prosecutor Lilian Dris S. Alejo, Sister Mercedes del Rosario Nicolas, Atty. Johnico Alim, Prosecutor Raymond Tabangin, Ret. RTC Judge Concepcion B. Buencamino and Atty. Lyssa G.S. Pagano-Calde.

Atty. Victoria C.M. Sturch, a member of the IBP Baguio-Benguet Chapter, executed the Affidavit dated January 18, 2001.[26] As a practicing lawyer, Atty. Sturch has appeared before the sala of the respondent judge. She averred that the respondent consistently starts the hearings at exactly 8:30 in the morning and that he is strict in the observance of decorum inside the courtroom. She has not witnessed any instance when the respondent acted in an arrogant or offensive manner. She was of the opinion that the respondent judge could not be influenced or bribed by anyone.

Atty. Primitivo C. Jularbal also a member of the IBP Baguio-Benguet Chapter, executed an Affidavit dated

January 22, 2001.[27] He is seventy-one (71) years old and has been in the practice of law for over thirty-four (34) years and in the course thereof has appeared before the respondent judge.

Atty. Jularbal revealed that he was asked to sign the complaint against the respondent judge but that he declined. He believed that filing an administrative charge against a judge whenever he committed an error would set a bad precedent. He dismissed the charge of gross ignorance of the law against the respondent judge as very easy to make, but whether it can be proven is another matter.

He knew of only one instance when the respondent judge imposed a fine of P500 on the counsel for tardiness. But, according to Atty. Jularbal, the respondent judge did not make any effort to enforce the payment of the fine. He has not witnessed any arrogant or oppressive conduct by the respondent judge. Neither has he seen the respondent judge act discourteously or disrespectfully towards senior lawyers like him (Atty. Jularbal).

Atty. Ma. Inglay Capuyan-Fokno another member of the IBP Baguio-Benguet Chapter, executed the Affidavit dated January 22, 2001.[28]

Atty. Fokno admitted that in 1998, the respondent judge, when newly-appointed, intimidated the lawyers who appeared before his sala, including herself. She noticed, however, that over the lapse of time, the respondent judge had become more considerate towards the lawyers. Atty. Fokno maintained that the respondent judge is diligent and serious in the performance of his job as he starts the hearings at promptly 8:30 in the morning.

Retired Justice Sixto Domondon, a member of the IBP Baguio-Benguet Chapter, executed the Affidavit dated May 24, 2000[29] in the respondent's brief. Justice Domondon manifested that as a practicing lawyer, he has three (3) civil cases pending before the sala of the respondent judge. He confirmed that while he filed an administrative case against the respondent judge for which the latter was sanctioned by this Court, he could vouch for the respondent's integrity, capacity and moral will to dispense justice fairly.

Atty. Lourdes Maita Andres executed her Affidavit in January 2001.[30] As a practicing lawyer, she has appeared several times before the respondent judge. Atty. Andres considered the respondent judge to be fair and even-handed in dealing with the litigants. On one occasion, Atty. Andres approached the respondent ex-parte to ask for a resetting of a case. The respondent judge refused, explaining that the other party should be present "para walang masabi." Atty. Andres realized that the respondent judge could not be easily approached for any favor.

Atty. Juan Valdez also a member of the IBP Baguio-Benguet Chapter, executed the Affidavit dated January 11, 2001.[31] Atty. Valdez has been in the practice of law for over thirty (30) years and has appeared before the respondent judge. According to him, the respondent judge strictly requires the observance of proper decorum inside the courtroom. For example, the lawyers are enjoined to arrive at the hearings on time; otherwise, a fine is imposed on them for tardiness. Upon proper motion and explanation, however, the respondent judge would lift the fine. Further, the respondent judge requires that lawyers (1) wear the proper attire; and (2) refrain from making unnecessary noises when the court is in session. In Atty. Valdez' view, the strictness of the respondent judge is necessary for orderly court proceedings.

Aside from handling cases, Atty. Valdez acted as the City Legal Officer of Baguio City from 1992 up to 1996. As such, he confirmed the practice of the local government of Baguio City of hiring contractual employees and assigning them to the various courts in the city.

Lina de Guzman Dalusong was one of the parties in a civil case that was pending in the sala of the respondent judge. She executed the Affidavit dated April 2, 2001.[32] She testified that prior to the respondent judge's appointment to the court, the civil case where she was one of the parties had been pending for almost twelve (12) years. When the respondent judge took over the said sala, Dalusong noticed that he closely monitored the status of

the cases pending therein. He enforced a strict system where the litigants, as well as their counsel, were enjoined to come on time. Consequently, the pending cases, including that of Dalusong, were resolved with dispatch. Dalusong also attested to the respondent judge's fairness in dealing with the parties and deciding the cases assigned to him.

Lilian Doris Alejo is a State Prosecutor in the Department of Justice. She executed the Affidavit dated February 23, 2001.[33] She has appeared before the respondent judge and found him to be accommodating. She noted that the respondent judge would see to it that both parties are present before he talked to either of them. Since Alejo and her opposing counsel were based in Manila, they often requested for cancellation of hearings and the respondent judge invariably granted the same.

Sister Mercedes Nicolas is a nun belonging to the Franciscan Sisters, Immaculate Conception Congregation and resides at the Little Flower Convent in Baguio City. She executed the Affidavit dated February 26, 2001.[34] Sister Nicolas knows the respondent judge because he used to visit their convent to pray and attend their retreats. There was likewise an occasion when Sister Nicolas appeared as witness in a case pending before the respondent judge. During the hearing, Sister Nicolas saw that the respondent judge treated the people with patience and kindness.

Atty. Johnico Alim, a member of the IBP Baguio-Benguet Chapter, executed the Affidavit dated December 18, 2000.[35] As a practicing lawyer, he has also appeared before the respondent judge. Atty. Alim claimed that he has personally observed the respondent judge's deportment in and out of the courtroom, and that he could vouch for the latter's neutrality, competence and integrity.

Prosecutor Raymond Tabangin, a trial prosecutor assigned to the sala of the respondent judge, executed the Affidavit dated October 15, 1999.[36] Prosecutor Tabangin asserted that the respondent judge is a strict and idealistic judge, who starts the hearings promptly at 8:30 in the morning and ends them at 12:00. He requires the lawyers to be punctual and imposes a fine on them if they are late. The orders and processes issued by the respondent judge are carried out promptly. The respondent judge's strictness has resulted in the unclogging of the court docket as he reduced the same from over 300 cases to a manageable level. Civil cases that were pending for several years had been disposed of and in criminal cases, the accused would opt to enter into plea bargaining because the respondent judge has a reputation of being honest and incorruptible. According to Prosecutor Tabangin, the respondent judge, for all his strictness, has a soft spot for young lawyers as he patiently teaches them what to do. He takes great care not to arouse suspicion of partiality and bias in dealing with the parties. He carefully uses his words when admonishing lawyers and, contrary to the complainants' allegation, telling a lawyer to "shut up" is definitely not his style. Despite his stern and uncompromising countenance, the respondent judge is a God-fearing and deeply religious man.

Retired Judge Concepcion Buencamino is eighty-three (83) years old and, upon her retirement from the judiciary, has engaged in the practice of law, albeit on a limited basis. She executed the Affidavit dated February 24, 2000.[37] She averred that she has appeared before the respondent judge in connection with a case involving a property dispute among siblings. Through the efforts of the respondent judge, the parties reached an amicable settlement sparing them from what could have been an expensive and long litigation.

Judge Buencamino stated that the respondent judge possesses a good knowledge of the law. She observed that the respondent judge is never arrogant or overbearing. He listens to the witnesses and asks clarificatory questions in a polite manner. Judge Buencamino confirmed that the respondent judge is strict about the attendance of the lawyers during hearings.

Through Atty. Lyssa G.S. Pagano-Calde, the respondent judge presented several documentary evidence[38] to

further refute the charges against him.

The Investigating Justice's Report and Recommendation

Upon careful evaluation of the evidence presented by the complainants and the respondent judge, the Investigating Justice found that the charges against the respondent judge for gross ignorance of the law, violation of the constitutional rights of the accused, arrogance, oppression, impropriety and violations of the Code of Judicial Conduct are well-grounded, while the charge of graft and corruption was unsubstantiated. The Investigating Justice made the following recommendation:

On the basis of the foregoing evaluation on the evidence presented by both the complainants and the respondent, undersigned Investigating Justice recommends, for Gross Ignorance of the Law, Gross Violation of the Constitutional Rights of the Accused, Arrogance, Oppressive Conduct and Violations of the Canons of Judicial Ethics that respondent Judge Fernando Vil Pamintuan be meted the severest of administrative penalties, that is, he should be stripped of his robe.

IN VIEW THEREOF, recommendation is hereby made that respondent Judge Fernando Vil Pamintuan be dismissed from the service with forfeiture of all retirement benefits and privileges with prejudice to reinstatement to re-employment in any branch of the government or its corporation for Gross Ignorance of the Law, Gross Violation of the Constitutional Rights of the Accused, Arrogance, Oppressive Conduct, and Violations of the Canons of Judicial Ethics.[39]

The Ruling of the Court

The Court finds the Report and Recommendation of the Investigating Justice well-taken.

On Gross Ignorance of the Law

The respondent judge's ignorance of the Indeterminate Sentence Law is palpable. In *People vs. Dumez, et al.* (Criminal Cases Nos. 15776-R up to 15779-R), the respondent judge sentenced the accused who were found guilty of theft to suffer imprisonment "from seven (7) years, four (4) months and one (1) day as minimum to eight (8) years and eight (8) months as maximum of prision mayor for each case." The penalty imposed by the respondent judge was contrary to the Indeterminate Sentence Law which prescribes that the minimum of the imposable penalty shall be within the range of the penalty next lower to that prescribed by the Revised Penal Code. Since the penalty for theft is prision mayor, the minimum of the penalty imposable on the accused should have been within the range of prision correccional, the penalty next lower to prision mayor.

A perusal of the other decisions rendered by the respondent judge shows that his erroneous application of the Indeterminate Sentence Law in imposing the penalties was committed in not just one or two instances. Rather, as correctly raised by the complainants, the respondent judge had repeatedly misapplied the Indeterminate Sentence Law in at least seventeen (17) other cases, to wit:

- *People vs. Rose Dalmacio, et. al.*
Crim. Case No. 11363-R, for
Theft (Exhibit "D")

The amount stolen was P10,000.00. Under Art. 309, Par. 2 of the Revised Penal Code, the penalty imposable is prision correccional in its medium and maximum period. However, the sentence imposed by Respondent Judge was from four (4) years, nine (9) months and eleven (11) days as minimum, to six (6) years, as maximum. Worse, he imposed subsidiary imprisonment in case of insolvency when no fine was imposed as penalty.

- *People vs. Joel Ramos, et al.*
Crim. Case No. 15108-R,

for Robbery With Violence
(Exhibit “E”)

As found by respondent, the provision applicable is Article 294, Par. 5 of the Revised Penal Code which provides a penalty of prision correccional in its maximum period to prision mayor in its medium period. However, he imposed upon the accused imprisonment from six (6) years and one (1) day, as minimum, to eight (8) years, as maximum. Again, he disregarded Article 39 of the Revised Penal Code and imposed subsidiary imprisonment in case of insolvency.

- People vs. Manuel Carino
Crim. Case No. 15544-R, for
Frustrated Homicide (Exhibit “F”)

The accused pleaded guilty to Attempted Homicide and thus, the imposable penalty is prision correccional (Art. 51 in rel. to Art. 249, RPC). Respondent, however, imposed the penalty of four (4) years, two (2) months and one (1) day, as minimum, to six (6) years, as maximum. Notably, it was imposed in its maximum period without any finding of aggravating circumstance.

- People vs. German Abarquez,
et al. Crim. Case No. 3200,
for Robbery (Exhibit “G”)

As found by respondent, the penalty imposable is prision mayor. However, what he imposed was imprisonment from ten (10) years and one (1) day, as minimum, to twelve (12) years, as maximum. Again, the penalty imposed is in its maximum period without any express finding of aggravating circumstance.

- People vs. Rolando Tawanna, et. al.
Crim. Case No. 7703-R, for Frustrated
Homicide (Exhibit “H”)

The penalty imposed is prision correccional (Art. 50 in rel. to Art. 249, RPC) but respondent sentenced all accused to ten (10) years and one (1) day, as minimum, to twelve (12) years, as maximum, without any express finding of aggravating circumstance.

- People vs. Jose Tamo, et. al.
Crim. Case No. 13646-R, for
Frustrated Murder (Exhibit “I”)

The imposable penalty is prision mayor in its maximum period to reclusion temporal in its medium period (Art. 50 in rel. to Art. 248, RPC) but the penalty imposed by respondent was fourteen (14) years, eight (8) months and one (1) day, as minimum, to seventeen (17) years and four (4) months, as maximum.

- People vs. Bernardo Polic-ew
Crim. Case No. 14054-R, for
Frustrated Murder (Exhibit “J”)

The penalty imposable is prision mayor (Art. 50 in rel. to Art. 249, RPC) but respondent fixed the sentence at eleven (11) years, four (4) months and one (1) day, as minimum, to twelve (12) years, as maximum. Note that the penalty is in the maximum period without any express finding of aggravating circumstance.

- People vs. Johnson Simsim
Crim. Case No. 14524-R, for
Attempted Rape (Exhibit “K”)

It being in its attempted stage, the penalty imposable is prision mayor. However, the penalty imposed by

respondent was ten (10) years and one (1) (sic), as minimum, to twelve (12) years, as maximum.

- People vs. Moses Polic-ew
Crim. Case No. 15600-R, for
Malversation of Public
Property (Exhibit “L”)

As found by respondent, accused violated Par. 2 of Art. 217, RPC, which provides a penalty of prision mayor in its minimum and medium periods. However, what he imposed was seven (7) years, four (4) months and one (1) day, as minimum, to eight (8) years, as maximum.

- People vs. Renato Bernal
Crim. Case No. 14776-R, for
Homicide (Exhibit “M”)

The impossible penalty for Homicide is reclusion temporal. Again, in complete disregard of the Indeterminate Sentence Law, respondent imposed fourteen (14) years, eight (8) months and one (1) day, as minimum, to seventeen (17) years and four (4) months, as maximum.

- People vs. John Baliling
Crim. Case No. 15932-R,
for Frustrated Homicide
(Exhibit “N”)

The offense charged is punishable by prision mayor. However, respondent imposed eight (8) years and one (1) day, as minimum, to ten (10) years, as maximum.

- People vs. Melchor Bawalan, et al.
Crim. Case No. 15653-R, for
Robbery with Violence (Exhibit “O”)

The offense charged is punishable under Par. 5, Art. 294, RPC, which provides a penalty of prision correccional in its maximum period to prision mayor in its medium period. However, respondent imposed eight (8) years and one (1) (sic) as minimum, to ten years, as maximum.

- People vs. Paul Afiagan
Crim. Case No. 13379-R, for
Frustrated Homicide (Exhibit “P”)

Accused pleaded guilty to Attempted Homicide punishable with imprisonment of prision correccional, but respondent fixed the penalty at four (4) years, two (2) months, and one (1) day, as minimum, to six (6) years, as maximum.

- People vs. Edwin Longaquit, et. al.
Crim. Case No. 13367-R, for
Frustrated Homicide (Exhibit “Q”)

The offense charged is punishable by imprisonment of prision mayor. Respondent imposed eight (8) years and one (1) day, as minimum, to ten (10) years, maximum.

- People vs. Joseph Samir Kairuz, et al.
Crim. Case No. 14929-R, for Estafa
(Exhibit “R”)

The amount involved was P90,000.00. Under the first paragraph of Art. 315 of the Revised Penal Code, the

imposable penalty is prision correccional in its maximum period to prision mayor in its minimum period, plus one year for every P10,000.00 since the amount involved exceeds P22,000.00. The sentence imposed by respondent, however, is twelve (12) years, eight (8) months, and twenty (21) days, as minimum, to fourteen (14) years, as maximum. Note that aside from not applying the Indeterminate Sentence Law, the minimum of the penalty he imposed is beyond the penalty imposable under the law.

- People vs. Liwayway Cruz
Crim. Case No. 7304-R,
for Estafa (Exhibit “S”)

The amount involved is P29,470.00. Hence, pursuant to Art. 315, Par. 1, Revised Penal Code, the imposable penalty is prision correccional in its maximum period to prision mayor in its minimum period. The penalty imposed by respondent was six (6) years, eight (8) months and twenty (21) days, as minimum, to eight (8) years, as maximum.

- People vs. Benjie Gose, et al.;
Crim. Case No. 149935-R, for
Robbery (Exhibit T”)

The penalty imposable is prision mayor there being no evidence that accused carried arms during the robbery (Art. 299, RPC). Respondent, however, imposed a sentence of six (6) years and one (1) day, as minimum, to eight (8) years, as maximum. Note, too, that he imposed the same penalty upon accused Mark Joseph Ocharan despite his findings that he was a minor during the commission of the crime. Minority is a privilege mitigating circumstance and thus, accused Ocharan’s penalty should have been lowered by one degree.[40]

The application of the Indeterminate Sentence Law in the imposition of penalties in crimes punishable by the Revised Penal Code is a basic precept. The respondent judge’s repeated misapplication thereof in quite a number of criminal cases he had rendered constitutes gross ignorance of the law. As this Court has consistently ruled, “a judge is presumed to know the law and when the law is so elementary, not to be aware of it constitutes gross ignorance of the law.”[41] Indeed, judges are duty bound to have more than a cursory acquaintance with laws and jurisprudence. Failure to follow basic legal commands constitutes gross ignorance of the law from which no one may be excused, not even a judge.[42]

The Code of Judicial Conduct mandates that “a judge shall be faithful to the law and maintain professional competence.”[43] It bears stressing that –

. . . Competence is a mark of a good judge. When a judge displays an utter lack of familiarity with the rules, he erodes the public’s confidence in the competence of our courts. Such is gross ignorance of the law. Having accepted the exalted position of a judge, he owes the public and the court the duty to be proficient in the law.[44]

The respondent judge has utterly failed to live up to the standard of competence required of him. His erroneous application of the Indeterminate Sentence Law committed not just once or twice but in at least seventeen (17) instances is a compelling evidence of his gross ignorance of the law.

On Gross Violation of the Constitutional Rights of the Accused

In *People vs. Ceferino Baniqued* (Criminal Case No. 13949-R) for violation of the Anti-Graft and Corrupt Practices Act, the prosecution filed a motion for preventive suspension and the accused filed his opposition thereto. In his Order of August 18, 1998, the respondent judge submitted the said motion for resolution. However,

it took the respondent judge more than one (1) year to resolve the same. As correctly found by the Investigating Justice, the delay in resolving this motion constituted violation of the right of the accused to a speedy trial.

In *Surla vs. Dimla* (Civil Case No. 3322-R), the respondent judge resolved an unopposed motion for reconsideration after almost four (4) months. Again, this contravened the mandate of the Constitution that "all persons shall have the right to a speedy disposition of cases."

Rule 1.02 of Canon 1 and Rule 3.05 of Canon 3 of the Code of Judicial Conduct provide:

Rule 1.02. – A judge should administer justice impartially and without delay.

Rule 3.05. – A judge shall dispose of the court's business promptly and decide cases within the required periods.

SC Administrative Circular No. 13-87 enjoins that:

- Judges shall observe scrupulously the periods prescribed by Article VIII, Section 15 of the Constitution for the adjudication and resolution of all cases or matters submitted in their courts. Thus, all cases or matters must be decided or resolved within twelve months from dates of submission by all lower collegiate courts while all other lower courts are given a period of three months to do so. . .

Further, SC Administrative Circular No. 1-88 reads:

6.1. All Presiding Judges must endeavor to act promptly on all motions and interlocutory matters pending before their courts . . .

Conformably with the foregoing mandate, this Court has pronounced –

The office of a judge exists for one solemn end – to promote the ends of justice by administering it speedily and impartially. The judge as the person presiding over that court is the visible representation of the law and justice. Failure to resolve cases submitted for decision within the period fixed by law constitutes violation of the constitutional right of the parties to a speedy disposition of their cases.[45]

The unreasonable delay of the respondent judge in resolving the motions submitted for his resolution clearly constituted a violation of the parties' constitutional right to a speedy disposition of their cases.

On Arrogant, Oppressive
and Improper Conduct and
Violations of the Code of
Judicial Conduct

As correctly enumerated by the Investigating Justice, the following incidents establish the respondent judge's arrogant and oppressive conduct:

- Arrogance

When he tried to limit the cross examination by Atty. Fernando Manapat Jr., who was representing the accused in *People vs. Andrada*, of the prosecution witness to ten (10) minutes with an advice of not repeating questions that were already asked during the direct examination;

- Arrogance and Oppression

Atty. J[o]ris Karl B. Dacaw[i], a young lawyer, who became the beneficiary of respondent's arrogance and oppressive conduct on 11 March 1999. On said date, Atty. Dacaw[i], as plaintiff's lawyer, moved for the cancellation of the hearing of the case entitled "*Alejo Cabre[r]os vs. Susie Edralin*" alleging although his witness Alejo Cabre[r]os was present, said witness however was not feeling well. This simple manifestation

caught the ire of respondent judge who instantaneously ordered Alejo Cabre[r]os to stand and told him not to pay his lawyer his attorneys fees because he did not do anything for that day;

- Oppression and Violation of the Code of Judicial Conduct

- Atty. Reynaldo U. Agravamendez, while appearing as counsel de oficio for Liwayway Cruz in Criminal Case No. 7304-R, for estafa last 29 July 1999, was extremely embarrassed when he was ordered by respondent judge to stand in behalf of accused, who was then absent despite due notice, and face the Clerk of Court during the reading of the full text of the decision when said case was called for promulgation. Accordingly, Atty. Agravamendez asked respondent judge to allow him to take his seat as there were several people inside the courtroom who, being unmindful of the rules might think that he was the accused. But his pleas, however, got respondent mad, for instead of allowing him to sit down, respondent instead banged his gavel and told Atty. Agravamendez not to argue with the court and to stand straight as he leaned over avoid the glances of the Clerk of Court.

..

- Evidence on hand also reveals respondent's casual disregard of procedural rules, that is, when he promulgated a decision that has yet to be released as shown in the case of People vs. Malapit, et al., docketed as Criminal Case Nos. 15320-R, 15323-R, 15[327]-R and 15571-R and in People vs. Cas, docketed as Criminal Case No. 15306-R.[46]

The behavior of the respondent judge towards Atty. Mandapat, i.e. berating the latter in his cross-examination for repeating the questions already asked during the direct examination, betrayed his impatience in the conduct of the hearing. A display of petulance and impatience in the conduct of trial is a norm of behavior incompatible with the needful attitude and sobriety of a good judge.[47]

The respondent's statement to the client that Atty. Dacawi did not deserve to be paid as he did not do anything during the trial was uncalled for. Further, his act of requiring Atty. Agravamendez to take the place of the accused during the reading of the decision at the promulgation thereof was improper. These actuations of the respondent judge cannot be countenanced as they clearly violated Rule 3.04 of Canon 3 of the Code of Judicial Conduct:

Rule 3.04. – A judge should be patient, attentive, and courteous to lawyers, especially the inexperienced, to litigants, witnesses, and others appearing before the court. A judge should avoid unconsciously falling into the attitude of mind that the litigants are made for the courts, instead of the courts for the litigants.

Apropos, this Court has held:

. . . A judge should be courteous both in his conduct and in his language especially to those appearing before him. He can hold counsels to a proper appreciation of their duties to the court, their clients, and the public without being petty, arbitrary, overbearing, or tyrannical. He should refrain from conduct that demeans his office and remember always that courtesy begets courtesy. Above all, he must conduct himself in such a manner that he gives no reason for reproach.[48]

Clearly, the respondent judge has failed to observe courtesy and civility to the lawyers as well as to the litigants who appeared before him.

Finally, the Court frowns upon the highly irregular practice of the respondent judge of promulgating a decision, copies of which were not then ready for release to the parties. Consequently, Atty. Lagdao of the PAO, who represented the accused, filed the notices of appeal stating as follows:

In the Malapit case:

. . . hereby gives notice that she is appealing to the Supreme Court decision of the honorable Court promulgated on 18 September 1999, copies of which the honorable Court has yet to release despite the fact that the reglementary period for filing a motion for reconsideration or a notice of appeal is about to expire. . .

In the Cas case:

. . . hereby gives notice that she is appealing to the court of appeals the decision of the honorable Court promulgated on 22 June 1999, a copy of which the Honorable Court has yet to release.. [49]

What is even more reprehensible were the respondent judge's directives to Atty. Lagdao to delete the phrase "copies of which the Honorable Court has yet to release" from the notices of appeal otherwise he (the respondent judge) would not act thereon. This conduct of the respondent judge was utterly unbecoming a magistrate and violated the following canons of the Code of Judicial Conduct:

CANON 1 - A JUDGE SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

Rule 1.01. – A judge should be the embodiment of competence, integrity, and independence.

CANON 2 - A JUDGE SHOULD AVOID IMPROPRIETY AND APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES

Rule 2.01. - A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.

CANON 3 - A JUDGE SHOULD PERFORM OFFICIAL DUTIES HONESTLY, AND WITH IMPARTIALITY AND DILIGENCE

Rule 3.01. - A judge shall be faithful to the law and maintain professional competence.

On Graft and Corruption

While the Investigating Justice absolved, for insufficiency of evidence, the respondent judge of the charge of graft and corruption in connection with the appointment of Mr. Gula as driver, nonetheless, she found the respondent judge guilty of impropriety. As found by the Investigating Justice, the respondent judge's recommendation of Mr. Gula to be his driver "despite the latter's lack of driver's license and inability to drive not only casts doubt in his integrity but also his honesty as a judge." [50] Indeed, the personal behavior of the judge, not only while in the performance of his duties but also outside the court must be beyond reproach for he is the visible representation of the law and of justice. [51]

The Court also notes that this is not the respondent's first administrative case. In *Gacayan vs. Pamintuan*, [52] the Court found him guilty of violating Canon 2 of the Code of Judicial Conduct and Canon 3 of the Code of Judicial Ethics which amount to grave misconduct, conduct unbecoming an officer of the judiciary and conduct prejudicial to the best interests of the service. Despite the fact that the accused already filed a Demurer to Evidence, the respondent, without resolving the same and in blatant disregard for the rules of criminal procedure, still called witnesses who were not listed in the information as well as those who had already testified to appear before him, resulting in the re-opening of the case with respect to the presentation of evidence for the prosecution. When the accused filed a motion for inhibition and a motion to suspend further proceedings, the respondent judge denied the same. He was also seen conferring with the witnesses for the prosecution, and later set the case for hearing without notice to the counsel of the accused. The respondent was meted a fine of P10,000 and sternly warned that a repetition of similar transgressions would be dealt with more severely. [53]

Considering all the foregoing, we find that the penalty of suspension for a period of one (1) year is appropriate.

WHEREFORE, Respondent Judge Fernando Vil Pamintuan of the Regional Trial Court (RTC), Branch 3 of Baguio City, is SUSPENDED for a period of one (1) year effective immediately. He is sternly WARNED that a repetition of the same or similar acts shall be dealt with more severely.

The respondent is DIRECTED to report the date of his receipt of this Decision to the Court to enable it to determine when his suspension shall have taken effect.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, and Tinga, JJ., concur.

[1] The following signed as complainants: Cesar G. Oracion (President), Jose M. Molintas (Vice-President), Rosemarie Pia L. Sagsago (Secretary), Cristeta B. Leung (Treasurer), Nelson V. Gayo (Director), Rodolfo A. Lockey (Director), Rocky Thomas A. Balisong (Director), Roney Jone P. Gandeza (Director), Miguel B. Licalalde, Sr. (Director), Galo R. Reyes, Reynaldo A. Cortes, Reynaldo U. Agran zamendez, Pablito V. Sanidad, Abelardo C. Estrada, Thomas S. Tayengco, Lauro D. Gacayan, Peter C. Fianza, Reynaldo B. Cajucom, Teopisto A. Rondez, Renato S. Rondez, Richard A. Carino, Elmer O. Datuin, Marvin C. Yang-ed, Franklin B. Calpito, Rigoberto D. Gallardo, Juan Antonio R. Alberto III, Ramon M. Bayan, Guillermo R. Bandonill, Jr., Jimmy R. Pablito, Nicasio M. Aliping, Jr., Patrick Henry M. Villanueva, Cirilo T. Cawed, Jurgenson W. Lagdao, Manuel W. Komicho, Artemio M. Bustamante, Federico M. Mandapat, Jr., Fernando E. Baltazar, Sebastian C. Badongen, Abelardo B. Dumaguing, Joris Karl B. Dacawi, Juanito A. Orallo, Benny O. Bomogao, Noel G. Ngolob, Delmar O. Carino, Panfilo U. Salango, Jr., Enrique A. Palsiw, Jr., Zosimo M. Abratique, George M. Dumawing, Jr., Mathew P. Kollin, Bernard D. Padang, Anacleto C. Claro, Tomas B. Gorospe, Fonda B. Laking, Reynaldo A. Paredes, Noe E. Villanueva, Gerardo V. Galpo, Reenan R. Orate, Ologen D. Dao-ayan, Jerson H. Angog, Conrado V. Catral, Jr., Benjamin L. Gaab, Benedict G. Kato, Anthony M. Wooden, Jorge M. Manalo, Mia Joy Oallares-Cawed, Joylyn V. Calde, Francisca M. Claver, Marissa M. Dacayanan, Nestor P. Mondok and Dick G. Bal-o.

[2] Complaint, pp. 1-4.

[3] Id. at 4-5.

[4] Id. at 5-6.

[5] Id. at 6.

[6] Id. at 6-7.

[7] Id. at 7-8.

[8] Comment, pp. 2-5.

[9] Id., at 5-7.

[10] Id., at 7-8.

[11] Id. at 8-9.

[12] Id. at 9-10.

[13] Id. at 12-13.

- [14] Rollo, pp. 122-123.
- [15] Id. at 126.
- [16] Exhibit “A”.
- [17] Rollo, pp. 183-185.
- [18] Ibid.
- [19] Exhibit “B”.
- [20] Exhibit “C”.
- [21] TSN, 23 June 2000, p. 80.
- [22] Exhibit “U”.
- [23] Exhibit “V”.
- [24] Exhibit “Y”.
- [25] Exhibit “X”.
- [26] Exhibit “8”.
- [27] Exhibit “9”.
- [28] Exhibit “10”.
- [29] Exhibit “11”.
- [30] Exhibit “12”.
- [31] Exhibit “13”.
- [32] Exhibit “14”.
- [33] Exhibit “15”.
- [34] Exhibit “16”.
- [35] Exhibit “17”.
- [36] Exhibit “18”.
- [37] Exhibit “19”.
- [38] Exhibit “21” up to “60”.
- [39] Report and Recommendation of Investigating Justice Mercedes Gozo-Dadole, p. 60.
- [40] Rollo, pp. 142-147.
- [41] Guillen vs. Cañon, 373 SCRA 70 (2002).
- [42] Tabao vs. Lilagan, 364 SCRA 322 (2001).

[43] RULE 3.01, CANON 3.

[44] Oporto, Jr. vs. Judge Monserate, 356 SCRA 443 (2001).

[45] Palma Gil vs. Lopez, Jr., A.M. No. MTJ-02-1453, April 29, 2003.

[46] Report and Recommendation of Investigating Justice Mercedes Gozo-Dadole, pp. 55-57.

[47] Torres vs. Villanueva, 331 SCRA 496 (2000).

[48] Ruiz vs. Bringas, 330 SCRA 62 (2000).

[49] Report and Recommendation of Investigating Justice Mercedes Gozo-Dadole, p. 57.

[50] Report and Recommendation of Investigating Justice Mercedes Gozo-Dadole, p. 59.

[51] Punzalan vs. Plata, 372 SCRA 534 (2001).

[52] A.M. No. RTJ-99-1483, September 17, 1999 (314 SCRA 682).

[53] Id. at 704.

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