

## REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE RTC-BR. 47, URDANETA CITY,

*A.M. NO. RTJ-05-1968. January 31, 2006*

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### YNARES-SANTIAGO, J:

In connection with a judicial audit and inventory of cases conducted in the Regional Trial Court of Urdaneta City, Pangasinan, Branch 47, the Office of the Court Administrator (OCA), in a Memorandum dated July 2004, directed Presiding Judge Meliton G. Emuslan:

(a)

to EXPLAIN, within ten (10) days from notice, your failure to decide the following cases submitted for decision which are already beyond the reglementary period to decide, to wit: Criminal Case Nos. U-9639; U-10196 and Civil Cases Nos. U-1709, U-4022, U-4051, U-4235, U-4353, U-4496, U-4567, U-5262, U-5368, U-5465, U-5766, U-5890, U-6023, U-6097, U-6203, U-6475, U-6513, U-6540, U-6643, U-6899, U-7047, U-7202, U-7205, U-7232, U-7246, U-7365, U-7386, U-7458, U-7489, U-7496, U-7536, U-7555, U-7612, U-7631, U-7638, U-7653, U-7662, U-7721, U-7762, U-7767, U-7922; as well as to RESOLVE the motion or incidents in the following cases, to wit: Criminal Cases Nos. U-12221, U-13068; Civil Cases Nos. U-6821, U-6915, U-7184, U-7370 and U-7825; and to decide/resolve the above cases within ninety (90) days from notice.

(b)

to TAKE APPROPRIATE ACTION on the following cases with no further action, to wit: Criminal Cases Nos. U-10020, U-11352, U-11351, U-11362, U-11460; and Civil Case No. U-7674; or with no further settings, to wit: Civil Cases Nos. U-6709, U-6872; as well as the following case, to wit: Criminal Case No. U-10354, with a motion pending action; including the following cases, to wit: Criminal Cases Nos. U-12341 and U-12987, which have not yet been acted upon since the filing thereof; and Criminal Cases Nos. U-12132, U-12549, U-12807 and U-12811, in accordance with Administrative Circular No. 7-A-92, dated 21 June 1993, within ten (10) days from notice.

(c)

to INFORM this Office, thru the Court Management Office whether the decisions in the following cases were promulgated as scheduled, to wit: Criminal Cases Nos. U-11398, U-11629, U-12279, U-8382 and U-8384 and whether the following cases were decided/resolved within the reglementary period, to wit: Civil Cases Nos. U-7036, U-6293, U-6716, U-6880, U-6773, U-7481, U-7915, U-7953, U-13068. If not, to decide/resolve the same within thirty (30) days from notice.

- Compliance with the above directives together with copies of the resolutions/orders, etc. in the aforecited cases shall be submitted to the Court, through the Court Management Office, Office of the Court Administrator, within five (5) days from rendition, issuance or action taken thereon. [1]

After requesting for an extension of 10 days, [2] Judge Emuslan informed the OCA on September 2, 2004 that as to items in paragraph (a) of the July 2004 Memorandum:

#### Criminal Cases

- Criminal Case No. U-9639 - Decision already drafted and for promulgation this September.
- Criminal Case No. U-10196 – Decision promulgated last 31 August 2004.

#### Civil Cases

Drafts of the decisions of many of the civil cases, vintage 1980's yet, had been encoded in the computer x x x however, x x x when the drafts of the decisions were being printed out, the drafts encoded were damaged by unknown virus.

Transcripts of stenographic notes in some of the cases that came from other branches are being collected.

U-4051, CANTILLO V. PADILLA, no TSN.

The following civil cases are still pending:

- U-7767, LANTANO vs. REGACHO
- U-6915, SAGAONIT vs. SAGAOINIT
- U-6709, FAJARDO vs. BENOSA, this case has long been decided, the incident is with respect to contempt of court for failure of the defendants to surrender possession of the property under litigation.
- U-6293, NPC vs. PAGUYO, partial decision rendered, with respect to the other defendants.
- U-6716, NARITO vs. LANTANO
- U-6373, ABANTE vs. QUIZON
- U-7481, RAMOS vs. SALINA
- U-7953, GUERRERO vs. BRINGOT

Drafts of the decisions in some of the other cases have already been prepared.

In due time and within the period granted, the civil cases submitted for decision would be resolved. [3]

Regarding the items in paragraph (b) of the July 2004 Memorandum, he declared that:

#### Criminal Cases

- U-10020- PP vs. EDWIN MORALES – the prosecution was given 10 days to formally offer its exhibits.
- U-11352, PP vs. MIGUEL DE GUZMAN – allegedly accused died already pending trial. Counsel for the accused was directed to submit authenticated death certificate.
- U-11351, PP vs. MIGUEL DE GUZMAN (same as above)
- U-11262, PP vs. EPIFANIO SORIANO – accused given 10 days to file demurrer to evidence. Prosecution given the same period to file opposition/comment.
- U-11460, PP vs. ALEXIS RIVERA, case was dismissed 8-3-04.
- U-10354, PP vs. EXPRECION, allegedly accused died already pending trial. Counsel for the accused was directed to submit authenticated death certificate.
- U-12341, PP vs. BERNARDO RIVERA. Case was archived on July 15, 2004.

- U-12987, PP vs. CRISTY GALINATO ET AL. The City Prosecutor issued a resolution asking for the dismissal of the Information.
- U-12132, PP vs. LETECIA GANADEN, warrant of arrest issued for the apprehension of the accused on August 2, 2004.
- U-12549, PP v. FRANCISCO EUGENIO, JR. Accused was ordered to be confined at National Center of Mental Health, Mandaluyong City.
- U-12807, PP vs. CLAYFORD DAVE. Case was archived on May 27, 2004.
- U-12811, PP vs. AMADO TERRADO, JR. Case was archived on May 27, 2004. [4]

As to items in paragraph (c) of the July 2004 Memorandum, he alleged that:

#### Criminal Cases

- U-11398, PP vs. MACOY MAKAPADO and KAREN MAKAPADO – Decision promulgated on June 22, 2004. Accused were acquitted.
- U-11629, PP vs. PRUDENCIO LEGASPI – Decision promulgated on May 17, 2004. Accused was acquitted.
- U-12279 – Decision promulgated on April 29, 2004. Accused was convicted.
- U-8382 U-8384, PP vs. FRANCISCO TUCAY – Joint Decision promulgated on April 19, 2004. Accused was convicted of the crimes of murder and violation of the Omnibus Election Code. [5]

On November 26, 2004, Judge Emuslan was instructed to fully comply and to inform the OCA of the actions taken on the pending cases and to attach proofs of such actions. He was also warned of possible disciplinary action in case of failure to fully comply. [6]

Judge Emuslan complied by informing the OCA on February 16, 2005 on the status of the pending cases and incidents, to wit:

#### CRIMINAL CASES:

- Crim. Case No. U-9639 (PP vs. Ricky Contaoe, et al.) – Decision promulgated on September 27, 2004;
- Crim. Case No. U-10196 (PP vs. Cesar Ubaldo) – Decision promulgated on August 31, 2004;
- Crim. Case No. U-10020 (PP vs. Edwin Morales) – Presentation of Defense Evidence set on February 2 & 17, 2005;
- Crim. Case Nos. 11351 & 11352 (PP vs. Miguel de Guzman) & Crim. Case No. U-10354 (PP vs. Esprecion) – accused died pending trial, accused's counsel required to submit the respective Death Certificates of the accused;
- Crim. Case Nos. U-12807 (PP vs. Clayford Dave) & U-12811 (PP vs. Amado Terrado, Jr.) – cases were archived as per Order of the Court dated May 27, 2004;
- Crim. Case No. U-12549 (PP vs. Francisco Eugenio) – accused was discharged from the National Center for Mental Health, Mandaluyong City on November 20, 2004. Pre-trial set on January 20, 2005;
- Crim. Case No. U-12987 (PP vs. Cristy Galinato, et al.) – dismissed as per Order of the Court dated September 8, 2004;
- Crim. Case No. U-12341 (PP vs. Bernardino Rivera) – case was archived as per Order of the Court dated July 15, 2004;

- Crim. Case No. U-11460 (PP vs. Alexis Rivera) – case was dismissed as per Order of the Court dated September 3, 2004;
- Crim. Case No. U-12132 (PP vs. Letecia Ganaden) – Warrant of Arrest issued on August 2, 2004;
- Crim. Case No. U-11262 (PP vs. Epifanio Soriano) – presentation of defense set on February 24, 2005;
- Crim. Case No. U-11398 (PP vs. Macoy & Karen Makapado) – Decision promulgated on June 22, 2004. Accused were acquitted.
- Crim. Case No. U-11629 (PP vs. Prudencio Legaspi) – Decision promulgated on May 17, 2004. Accused was acquitted.
- Crim. Case No. U-12279 (PP vs. Michael Dy) – Decision promulgated on April 29, 2004. Accused was convicted.
- Crim. Case No. U-8382 & 8384 (PP vs. Francisco Tucay) – Joint Decision promulgated on April 19, 2004. Accused was convicted of murder & violation of the Omnibus Election Code.

#### CIVIL CASES:

- Civil Case No. U-4022 (Feliciano Torres vs. Severo Aduan) – Submitted for Decision;
- Civil Case No. U-4051 (Quirino Cantillo vs. Benjamin Padilla) – Incomplete TSN. Stenographer died already.
- Civil Case No. U-4235 (Maura Antonio vda. de Gonzales vs. Bibiano Sarmiento) – Submitted for Decision;
- Civil Case No. U-4353 (Francisco Roy vs. Bonifacio Francisco) – Submitted for Decision;
- Civil Case No. 4496 (Jose Fortunato vs. Manaoag Utility Co.) – Decided, December 29, 2004.
- Civil Case No. U-4567 (Ricardo Abriam vs. Emilio ABriam) – Submitted for Decision;
- Civil Case No. U-5262 (Bernardina Mendoza vs. Catalina Dorion) – Submitted for Decision;
- Civil Case No. U-5368 (Maria Pasag vs. Ildefonso Balanag) – Submitted for Decision;
- Civil Case No. U-5465 (Sps. Felimon Reyes vs. Myrna Bautista) –Submitted for Decision;
- Civil Case No. U-5766 (Kaunlaran Savings vs. Benedicto Alhambra) – Submitted for Decision;
- Civil Case No. U-5890 (Anita Vinluan vs. Mercedes Cano vda. de Generosa) – Submitted for Decision; Draft already prepared;
- Civil Case No. U-6023 (Sps. Guillermo de Venecia vs. Gualberto Orpilla) – Decision already prepared;
- Civil Case No. U-6097 (Manuel Racimo vs. Moises Tinio, Jr.) – Decision already drafted;
- Civil Case No. U-6203 (Agaton Hugo, et al. vs. Felix Bermudez) – Decision already drafted
- Civil Case No. U-6293 (NPC vs. Paguyo, et. al.) – Decision rendered for several defendants;
- Civil Case No. U-6373 (Elsa Abante vs. Sps. Reynaldo Quizon) – Submitted for Decision;
- Civil Case No. U-6475 (Sps. Reynaldo Linsangan vs. PNB, et. al.) – Submitted for Decision;
- Civil Case No. U-6540 (Ignacio Benito vs. Macaria Bautista) – Submitted for Decision;
- Civil Case No. U-6643 (Donata Lucero vs. Francisco Natividad) – Submitted for Decision;

- Civil Case No. U-6709 (Florencio Fajardo vs. Benito Benosa, et. al.) – Decision issued on June 28, 2000. Contempt proceedings on appeal to Court of Appeals.
- Civil Case No. U-6716 (Sps. Alejandro Narito vs. Michelle Lantano) – Submitted for Decision;
- Civil Case No. U-6821 (NPC vs. Francisco Domingo, et. al.) "Motion for Intervention granted;
- Civil Case No. U-6872 (Manuel R. Sison vs. Pablo Tan, et. al.) – Formal Offer admitted on 1-04-05;
- Civil Case No. 6880 (Bernabe Sta. Maria, Sr. vs. Sps. Bernabe Sta. Maria, Jr.) – Plaintiff's counsel filed a Notice of Substitution which was noted by the Court. Decision being drafted.
- Civil Case No. U-6899 (Consuelo Tabayocycoc vs. Pacita Cosme, et. al.) – Submitted for Decision;
- Civil Case No. 6915 (Florencio Sagaoinit vs. Dan Sagaoinit) – Review Conference set on February 18, 2005;
- Civil Case No. U-7036 – Adelina De Vera vs. Paulino De Vera) – Submitted for Decision;
- Civil Case No. U-7047 (Ireneo Magno, Sr. vs. Juliana Pascua); Draft of Decision already prepared.
- Civil Case No. 7184 (Mylene dela Paz vs. Dolores Moster, et. al) – Pre-trial set on January 18, 2005;
- Civil Case No. 7190 (NPC vs. HiHipolito Lopez, et al) Archived 1-30-03;
- Civil Case No. 7202 (Ria Nidoy vs. Eduardo Quinones) – Decided; Sept. 8, 2004;
- Civil Case No. U-7205 (Heirs of Tranquilina Tabor vs. Pedro Tablada) – Submitted for Decision;
- Civil Case No. U-7232 (Irene Agliam vs. Juan Agliam) – Submitted for Decision;
- Civil Case No. 7246 (Estrellita N. Garcia vs. Florencia Salioa) Decided – June 18, 2004;
- Civil Case No. 7365 (Benito Ambrosio vs. Belinda Santos) – Decided, November 16, 2004;
- Civil Case No. 7370 (Rodelio Revilla vs. Mario Casem, et. al.) – draft prepared;
- Civil Case No. U-7386 (Michael Gonzales vs. Sps. Nestor Suniga) - Submitted for Decision;
- Civil Case No. U-7458 (Edmundo Barrozo vs. Angelita Soriano) – Submitted for Decision;
- Civil Case No. U-7481 (Domingo Ramos vs. Eulogio Salinas) – proceedings suspended pending resolution of the petition for certiorari filed the Court of Appeals;
- Civil Case No. 7489 (Pacita Prangan vs. Oscar/Zenaida Barrozo) – Submitted for Decision;
- Civil Case No. 7496 (Eddie Marcelo vs. Juanito Villamar) – Submitted for Decision;
- Civil Case No. 7536 (Letecia Castillo vs. Lolita Sagun) – Submitted for Decision;
- Civil Case No. 7555 (Sps. Florencio Viernes vs. Sps. Anacleto Pulido) – Submitted for Decision;
- Civil Case No. 7612 (Delia Perrin vs. Cirilo Mintar) – Submitted for Decision;
- Civil Case No. 7631 (Martha Sabalboro, et. al. vs. Francisco Carino) – Decided – July 1, 2004;
- Civil Case No. 7638 (Teofista M. Silverio vs. Sps. Gil Barrozo) – Submitted for Decision;
- Civil Case No. 7653 (RCBC vs. Lilia C. Cordero) – Submitted for Decision;
- Civil Case No. 7662 (Sps. Nicanor Rabago vs. Maxima Rabago) – Decided, June 18, 2004;

- Civil Case No. U-7674 (Sps. Herminigildo Adap vs. Thelma Agustin) – Dismissed, August 31, 2004;
- Civil Case No. 7721 (Heirs of Sixto Macaraeg vs. Charlie Biala) – Submitted for Decision;
- Civil Case No. 7762 (Rogelio Aradanas vs. Esperanza Querido) – Submitted for Decision;
- Civil Case No. 7767 (Sps. Meradio Lantano vs. Francisco Regacho) – Pre-trial set on January 18, 2005;
- Civil Case No. 7825 (Rolando Baquirin vs. Felicidad Nimer) – Decided, November 30, 2004;
- Civil Case No. 7915 (Judina V. Baylon vs. Emilia V. Daguio) – Decided, July 8, 2004;
- Civil Case No. 7922 (Erlinda Arcalas vs. Juan Arcalas) – Submitted for Decision;
- Civil Case No. U-7953 (Domingo Guerrero vs. Sps. Severo Bungot) – Motion to Dismiss denied; with pending Motion to Declare Defendants in Default;
- Civil Case No. U-8034 (Sps. Susana L. Tan vs. Sps. Emilio/Laureta Agne) – Submitted for Decision; [7]

However, he again failed to fully comply with the July 2004 Memorandum citing as reasons his work load as Executive Judge of the Regional Trial Court of Urdaneta City, as Presiding Judge of Branch 47 and Pairing Judge of Branch 48.[8] He requested for another three months within which to decide and resolve all the pending cases and incidents before his sala. [9]

After the lapse of the three-month period requested to "fully comply" with the July 2004 Memorandum, Judge Emuslan informed the OCA [10] that despite best efforts, he still could not comply because of increasing work load and failing health. Thus, he again requested for an additional period of 90 days [11] which the OCA granted [12] provided it will be the last and final extension otherwise the matter shall be referred to the Court for appropriate action.[13] "Full compliance" included the submission of proof of the action taken within five days from rendition or issuance thereof, which Judge Emuslan failed to submit despite repeated instructions.

On September 7, 2005, Judge Emuslan informed the OCA of the actions taken on the pending cases but did not attach proofs of his actions. Also, despite OCA'S previous warning that requests for extension will no longer be entertained, he again requested for an additional period of three months. [14]

Upon evaluation, the OCA observed that despite the several extensions granted to Judge Emuslan, he was able to dispose only 14 out of the 49 cases enumerated in paragraph (a) of the July 2004 Memorandum, leaving 35 cases still undecided; [15] and of the 14 cases listed in paragraph (c), six were decided/resolved while eight remained unacted. The OCA however was not furnished with proofs that these cases were decided or acted upon. [16]

In view of the foregoing, the OCA recommended that:

- (1) Case be REDOCKETED as a regular administrative matter;
- (2) For failing to file his compliances fully, completely and faithfully with the various directives of the Office of the OCA, the Hon. Meliton G. Emuslan, Presiding Judge, RTC, Br. 47, Urdaneta City, Pangasinan, be meted a FINE in the amount of Five Thousand Pesos (P5,000.00); and
- (3) He (Judge Emuslan) be again further DIRECTED to fully, completely and faithfully COMPLY with the Memorandum, dated July 2004 of the OCA and the various Memorandum thereafter issued, specially the Memorandum, dated 29 June 2005 according him (Judge Emuslan) a last and final extension to FULLY COMPLY with the Memorandum, dated July 2004, otherwise the matter shall finally be referred to the Court for appropriate action(;) and that full compliance hereof shall include the submission by him of proof of the action taken of the cases mentioned in the Memorandum, dated July 2004, which he failed to do so up to now. In this respect his attention is called to the portion of the Memorandum, dated July 2004 to him which

provides:

"2. Compliance with the above directives together with copies of the resolutions/orders, etc. in the aforecited cases shall be submitted to the Court, through the Court Management Office, Office of the Court Administrator, within five (5) days from rendition, issuance or action taken thereon."

(4) Considering his latest request for extension of ninety (90) days, embodied in his Letter, dated 25 July 2005, Judge Emuslan be GRANTED a three (3) months extension, within which to comply with the Memorandum, dated July 2004 of the OCA, to commence from the date of notice hereof, provided that this will be the LAST AND FINAL EXTENSION that the Court will accord him to fully, completely and faithfully comply with the aforesaid Memorandum. [17]

Time and again the Court has stated that members of the judiciary have the sworn duty to administer justice without undue delay. Delay in the disposition of cases undermines the people's faith and confidence in the judiciary. Hence, judges are enjoined to decide cases with dispatch. Their failure to do so constitutes gross inefficiency and warrants the imposition of administrative sanction[s] against them. [18]

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. These are self-evident dogmas which do not even have to be emphasized, but to which we are wont to advert when some members of the judiciary commit legal missteps or stray from the axioms of judicial ethics. [19] Failure to resolve cases submitted for decision within the period fixed by law constitutes a serious violation of the constitutional right of the parties to a speedy disposition of their cases. [20] Rule 1.02, Canon 1 of the Code of Judicial Conduct states in no uncertain terms that a judge should administer justice impartially and without delay while Rule 3.05, Canon 3 requires the judge to dispose of the court's business promptly and decide cases within the required periods.

The Court has laid down administrative guidelines to ensure that the mandates on the prompt disposition of judicial business are complied with. Thus, SC Administrative Circular No. 13-87 states, *inter alia*, that:

The reorganized judiciary is tasked with the tremendous responsibility of assisting parties litigants in obtaining just, speedy and inexpensive determination of their cases and proceedings as directed in Rule 1, Sec. 2 of the Rules of Court. [21] Delay is a recurring complaint of every litigant. The main objective of every judge, particularly of trial judges, should be to avoid delays, or if it cannot be totally avoided, to hold them to the minimum and to repudiate manifestly dilatory tactics.

#### GENERAL GUIDELINES

For all members of the judiciary, the following guidelines are hereby issued:

x x x x

3. 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 date of submission by all lower collegiate courts while all other lower courts are given a period of three months to do so. (Emphasis added)

Along the same vein, SC Administrative Circular No. 1-88 states that:

Pursuant to Sec. 12, Art. XVIII of the 1987 Constitution mandating the adoption of a systematic plan to expedite the decision or resolution of cases or matters pending in the Supreme Court and the lower courts prior to the effectivity of the Constitution on February 2, 1987, the following directives must be complied with strictly by all concerned.

x x x x

6. Motions and Other Interlocutory Matters:

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

The records show that Judge Emuslan failed to decide the cases submitted for decision and to resolve pending incidents and motions, despite the lapse of more than a year since he was directed to comply. The excuses he proffered to explain his tardiness are not satisfactory. If respondent judge felt that he could not decide the cases or the pending incidents within the reglementary period, he should have asked for extension of time to dispose of the same. This Court, cognizant of the caseload of judges and mindful of the difficulty encountered by them in the seasonable disposition of cases, have always granted requests for extension of time to decide. [22]

What aggravates the malfeasance of Judge Emuslan is his refusal to heed the directives of the OCA to submit proof of his compliance. His prolonged and repeated refusal to comply constitutes a clear and willful disrespect for lawful orders of the OCA. It has been stressed that it is through the OCA that the Supreme Court exercises supervision over all lower courts and personnel thereof. At the core of the judge's esteemed position is obedience to the dictates of the law and justice. A judge must be the first to exhibit respect for authority. [23] Judge Emuslan failed in this aspect when he repeatedly ignored the lawful orders of the OCA.

A resolution of the Supreme Court is not to be construed as a mere request nor should it be complied with partially, inadequately or selectively. [24]

In the light of the prevailing facts of this case, we find that a fine of P20,000.00 [25] is commensurate under the circumstances.

WHEREFORE, Judge Meliton G. Emuslan, Presiding Judge of the Regional Trial Court of Urdaneta City, Pangasinan, Branch 47, is FINED Twenty Thousand Pesos (P20,000.00) for gross inefficiency for failure to comply with the Memorandum of the Office of the Court Administrator dated July 2004. Respondent judge is further WARNED that a repetition of similar infractions shall be dealt with more severely.

**SO ORDERED.**

Panganiban, C.J., (Chairperson), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 47-48.

[2] Id. at 50.

[3] Id. at 52-53.

[4] Id. at 53-54.

[5] Id. at 54-55.

[6] Id. at 61.

[7] Id. at 62-67.

[8] Id. at 67.

[9] Id.

[10] Id. at 77.

[11] Id.

[12] Id. at 86.

[13] Id.

[14] Id. at 87-92.

[15] Id. at 10-11.

[16] Id. at 11.

[17] Id. at 12-13.

[18] Re: Report on the Judicial Audit of Cases in the Regional Trial Court, Br. 35, Iriga City, 359 Phil. 712, 716 (1998).

[19] Ruperto v. Banquerigo, 355 Phil. 420, 425 (1998).

[20] Report on the Judicial Audit Conducted in Branch 34, Regional Trial Court, Iriga City, 381 Phil. 386, 390 (2000).

[21] Now RULES OF COURT, Rule 1, Sec. 6.

[22] Office of the Court Administrator v. Aquino, 389 Phil. 518, 523 (2000).

[23] Re: Request For The Expeditious Resolution of Case Nos. 4666 To 4669, Adm. Matter No. 04-6-141-MTC, September 20, 2005.

[24] Guerrero v. Deray, 442 Phil. 85, 94 (2002).

[25] See Re: Request For The Expeditious Resolution of Case Nos. 4666 To 4669, Adm. Matter No. 04-6-141-MTC, *supra*.

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