

**JOSEPH F. DAYO, JUDICIAL SUPERVISOR, COMPLAINANT VS.
DOMINADOR P. AGUSTIN, MUNICIPAL JUDGE OF ALIAGA, NUEVA
ECIJA, RESPONDENT.**

Adm. Matter No. 225-MJ. January 21, 1975

Ponente: AQUINO, J.

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AQUINO, J.:

Municipal Judge Dominador P. Agustin of Aliaga, Nueva Ecija was charged by Joseph F. Dayo, a judicial supervisor, with negligence and incompetence for (a) failing to conduct or terminate the preliminary investigation in five criminal cases, (b) failure to elevate to the Court of First Instance the record of a criminal case, and (c) delay in the disposition of nineteen other criminal cases.

Judge Agustin in his answer pointed out that because the judicial supervisor did not bother to talk with him, he (the respondent) had no chance to explain to that functionary what actually transpired in the twenty-five criminal cases. He pointed out that the parties in the said cases never complained that he was negligent. He alleged that in some of the cases no action could be taken because the accused were at large. In other cases, the parties asked for postponements. He pointed out that the judicial supervisor examined only the docket book, the entries of which were incomplete, and he did not scrutinize the actions taken as shown in the expedientes.

Judge Salvador C. Reyes of the Court of First Instance of Nueva Ecija heard the respondent and conscientiously examined the docket book and the dates appearing in the expedientes of the twenty-five cases.

He found that the judicial supervisor overlooked the actions taken by Judge Agustin which are shown in the expedientes but which, however, were not entered in the docket book. Thus, with respect to the nineteen cases, Judge Reyes said:

"While it is again true that the docket (book) failed to show the action taken by the respondent Judge in said cases, it is not true as charged that respondent, through neglect of duty or incompetence, failed to act further, thereby unreasonably delaying their disposition.

"The records (expedientes) of each of all said cases show that the respondent Judge had in truth and in fact acted and took further steps in said cases, which in his discretion he believed were proper in the premises, according to the particular facts and circumstances surrounding each case."

The Investigator, in recommending the exoneration of Judge Agustin with the warning that he should bestow more attention on "the making of proper entries in the docket (book) of his court as well as to supervise more closely the work of his personnel", made the following justificatory observations:

"Many of the cases involved in this administrative complaint have not been acted upon faster because the accused were at-large or unapprehended, as the records will show, but the duty of arresting accused persons is with the police and law enforcement agencies over which the respondent Judge has no control. It is only after the accused have been arrested or under the custody of the law that the court is able to proceed with the hearing

or trial of the case. Under the circumstances, delays are inevitable and unavoidable and the court is truly helpless.

"Also, it is to be stated that the delay in the prompt disposition of the various cases has been due to postponements upon motion of the lawyers of either party or both.

"In fine, it may be stated that the failure to reflect in the docket (book) the entries that are supposed to be there may be attributed to lack of personnel to perform the work, lack of time, or to lack of close supervision over the person entrusted with such duty.

". . . the respondent Judge is certainly to be blamed for his failure to see that the said entries should have been promptly made by the person or persons concerned.

"In this connection, it may be stated that the respondent Judge is almost at retirement age, being already 68 years old, has been in the service for twenty-eight (28) years, sickly, and suffering from hypertension and cardiac ailment for years. It is possible, therefore, that due to his old age and sickness he has not been able to properly perform his administrative duties of close supervision over his employees."

Parenthetically, it may be noted that Judge Agustin in his petition dated October 29, 1974 disclosed that he had applied for compulsory retirement effective on January 14, 1975, his seventieth birthday.

The respondent did not comply with the following provisions of Rule 136 of the Rules of Court regarding the docket:

"Sec. 18. Docket and other records of inferior courts — Every municipal or city judge shall keep a well-bound book labeled "docket," in which he shall enter for each case:

- (a) The title of the case including the names of all the parties;
- (b) The nature of the case, whether civil or criminal, and if the latter, the offense charged;
- (c) The date of issuing preliminary and intermediate process including orders of arrest and subpoenas, and the date and nature of the return thereon;
- (d) The date of the appearance or default of the defendant;
- (e) The date of presenting the plea, answer, or motion to quash, and the nature of the same;
- (f) The minutes of the trial, including the date thereof and of all adjournments;
- (g) The names and addresses of all witnesses;
- (h) The date and nature of the judgment, and, in a civil case, the relief granted;
- (i) An itemized statement of the costs;
- (j) The date of any execution issued, and the date and contents of the return thereon;
- (k) The date of any notice of appeal filed, and the name of the party filing the same.

A municipal or city judge may keep two dockets, one for civil and one for criminal cases. He shall also keep all the pleading and other papers and exhibits in cases pending in his court, and shall certify copies of his docket entries and other records proper to be certified, for the fees prescribed by these rules. It shall not be necessary for the municipal or city judge to reduce to writing the testimony of witnesses, except that of the accused in preliminary investigations."

After a dispassionate evaluation of the attendant circumstances, we are of the opinion that respondent's omissions

and remissness do not warrant drastic disciplinary action. He is censured for his dereliction in not seeing to it that his docket book was up-to-date.

But such failure should not be an obstacle to his retirement with the corresponding benefits, assuming that there are no causes or grounds for depriving him such privileges.

IN VIEW THEREOF, the charge against the respondent is dismissed.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Fernandez, JJ., concur.

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