RE: RELEASE BY JUDGEMANUEL T. MURO, RTC, BRANCH 54, MANILA, OF AN ACCUSED IN A NON-BAILABLE OFFENSE.

A.M. No. 00-7-323-RTJ. October 17, 2001

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PER CURIAM:

> "Although every office in the government service is a public trust, no position exacts a greater demand on moral righteousness and uprightness than a seat in the Judiciary. High ethical principles and a sense of propriety should be maintained, without which the faith of the people in the Judiciary so indispensable in an orderly society cannot be preserved. There is simply no place in the Judiciary for those who cannot meet the exacting standards of judicial conduct and integrity."

There goes our exhortation to the members of the bench in Administrative Case No. 00-7-09-CA, entitled "In Re: Derogatory News Items Charging Court of Appeals Associate Justice Demetrio Demetria with Interference on Behalf of a Suspected Drug Queen,"[1] the precursor of the present case which involves another episode in the grand scheme to secure for Yu Yuk Lai, detained without bail, temporary liberty and possibly an acquittal.

The present case re-echoes the above clarion call.

On July 16, 2000, Yu Yuk Lai, one of the accused in Criminal Case No. 99-169862,[2] was re-arrested by the Presidential Anti-Organized Crime Task Force (PAOCTF) while playing baccarat without jail guards at the Holiday Inn Pavilion Casino. At that time, she was supposed to be detained at the Manila City Jail since her petition for bail was previously denied by Judge Perfecto A.S. Laguio, Jr.[3]Forthwith, a news article was published in the Philippine Star[4]entitled "BJMP told to explain drug queen's case." It reported that Yu Yuk Lai "had obtained an order signed by Judge Manuel T. Muro (Regional Trial Court, Branch 54, Manila) allowing her hospital confinement for medical and humanitarian reasons."

Acting on the news report, Chief Justice Hilario G. Davide, Jr., in Memoranda dated July 20, 2000, July 25, 2000 and July 26, 2000, directed Judge Manuel T. Muro, respondent, to comment on the article and to submit to this Court pertinent documents showing that the order was regularly issued.[5]

After respondent judge had complied with the Memoranda, the Court en banc, in a Resolution[6]dated August 8, 2000, designated Justice Remedios A. Salazar-Fernando of the Court of Appeals to conduct an investigation and to submit to this Court her report and recommendation. In the same Resolution, this Court suspended respondent judge from office until further orders.

It appears from the investigation that on May 3, 2000, Atty. Rodolfo G. Tablante, Yu Yuk Lai's counsel, filed a "Motion to Order the Confinement of Accused in a Hospital,"[7] alleging that:

> "2. Prior to April 29, 2000, due to recurring vertigo and other physical ailments, accused requested to be examined by a private medical doctor;
>
> 3. Last April 29, 2000 with the approval of her request by the warden of the City Jail, she was examined by Dr. Roy R. Cuesta, M.D., MBM Medical Surgical Clinic and found accused suffering from toxic goiter and

> Estrogen Deficiency and recommended her hospital confinement for:
>
> 1. Complete gynecological evaluation and
> 2. Clearance
> 3. Edoctrine evaluation
> 4. Possible (HRT) Hormonal Replacement
> 5. Therapy
> 6. Paps Smear
> 7. Pelvic Ultrasound
> 8. Blood Chemistries
> 9. Thyroid Studies"

A Clinical Abstract prepared by Dr. Roy Cuesta, Yu Yuk Lai's physician, was attached to the motion.

On May 3, 2000, Judge Angel V. Colet, then presiding judge of the Manila Regional Trial Court, Branch 53, to where Criminal Case No. 99-169862 was re-raffled,[8]directed State Prosecutor Pablito C. Formaran III and the Chief of the Manila City Jail Medical Clinic to comment on Yu Yuk Lai's motion.[9]

In a letter dated May 8, 2000, Doctor Jose Estrada Rosal, Chief, Health Services of the Manila City Jail, did not oppose the motion. Instead, he requested that the accused be brought to the Philippine General Hospital for confinement for a maximum period of seven (7) days.[10] Prosecutor Formaran, on the other hand, manifested that if the doctor of the Manila City Jail Infirmary concurred in the recommendation of the physician of Yu Yuk Lai, then for humanitarian reasons, he would interpose no objection to her hospital confinement for a reasonable period set by the court.[11]

Meanwhile, Judge Colet died. The case was assigned to his pairing judge, respondent herein.

On May 15, 2000, respondent judge issued an order, the dispositive portion of which reads:

> "WHEREFORE, finding accused's aforesaid motion to be well taken and for humanitarian reasons and upon request of the accused, the City Warden is hereby ordered to allow the confinement of accused Yu Yuk Lai at the Manila Doctors Hospital immediately upon receipt of this order, all medical bills at the expense of the accused for medical examination and treatment for a period not exceeding seven (7) days and that proper safeguards be taken to prevent her escape for the duration of the confinement.
>
> SO ORDERED."[12]

On May 19, 2000, Yu Yuk Lai filed an urgent motion for extension of her medical confinement[13]for a period of two (2) months. She claimed that the results of her ECG, PAPS smear, pelvic ultrasound, KUB, T3, T4 and other blood chemistries were not yet completed; and that according to her attending physician at the Manila Doctors Hospital, Dr. Peregrino C. Lao, he needed a period of two (2) months to complete the laboratory examination and treatment. She submitted a copy of the Progress Report Medical Evaluation signed by Dr. Lao.

This time, Prosecutor Formaran opposed Yu Yuk Lai's motion on the following grounds:

> "1.
>
> The present request of accused Yu Yuk Lai for extension of medical confinement for a period of two (2) months is bereft of strong basis and unprecedented. It must be pointed out that the medical evaluation by the private doctor of accused Yu Yuk Lai, which is not even notarized, does not indicate that the latter's illness is so serious. From the doctor's diagnoses, accused Yu Yuk Lai is allegedly suffering from urinary tract infection, acute vaginitis, and estrogen deficiency, which cases can be treated without need of hospital confinement as per opinion by the physician of the Department of Justice when consulted by the undersigned;

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2.

Moreover, the undersigned wonders why the result of accused' ECG, Paps Smear and other required laboratory examinations were not completed despite the 7 days given to conduct the same. Perhaps, it need not be mentioned that the result of the ECG and Paps Smear can be had in one day especially taking into consideration the technology of the hospital wherein the accused is being confined and examined. And assuming that those laboratory examinations are not yet completed x x x with due respect, can be made and completed without need of further hospital confinement of the accused for obvious reason;

3.

Besides, the said medical findings being not coming from an impartial and independent government physician, the same cannot be taken hook, line and sinker."[14]

On May 29, 2000, Yu Yuk Lai's counsel filed a Manifestation[15]attaching thereto a copy of the Clinical Abstract Report of Dr. Lao and a Certification of Dr. Felix Salgado, a specialist from the Philippine General Hospital, stating that "furher work-ups and diagnostic test are recommended [for Yu Yuk Lai] to rule out possibility of other underlying organic cause."

The hearing of the motion and opposition was inserted in the court's calendar on May 26, 2000. However, for some reasons, the incidents were not heard. Respondent judge simply issued an order submitting them for resolution.[16]Thereafter, on June 5, 2000, he granted Yu Yuk Lai's motion, thus:

"Acting on the Urgent Motion for Extension of Medical Confinement, dated May 19, 2000, filed by accused Yu Yuk Lai, through counsel, and the Opposition thereto, dated May 25, 2000, filed by State Prosecutor Pablo C. Formaran III, and considering that the reason of the movant-accused in requesting for extension of medical confinement is to complete her medical work-ups and management, as advised by Dr. Peregrino Ceniza Lao, attending, contained in his Progress Report Medical Evaluation and Clinical Abstract Report, copies of which are attached to the records, and concurred in by Dr. Felix Salgado, Specialist-Consultant, Department of Obstetrics and Gynecology, Phil. General Hospital, who conducted his own gynecologic evaluation and assessment on accused Yu Yuk Lai, and recommended further work-ups and diagnostic tests to rule out the possibility of other underlying organic cause, contained in his Certification, dated May 26, 2000, let the motion be granted.

WHEREFORE, finding accused Yu Yuk Lai's motion to be well-taken, for medical consideration and humanitarian reason and upon request of the accused, this Court hereby allows the extension of medical confinement of accused Yu Yuk Lai at the Manila Doctors Hospital for completion of her medical examination and treatment for a period of one (1) month, or until such a time that she is fit to be discharged from the said hospital, as certified to by her attending physician, who is directed to regularly submit to this Court his progress report on the condition of the accused.

SO ORDERED."[17]

Subsequently, on July 6, 2000, unidentified employees[18]of the Regional Trial Court of Manila wrote a letter to the Secretary of Justice (copies were furnished the Chief State Prosecutor, the Ombudsman and respondent judge) alleging that "the (respondent) judge has issued an Order for the confinement of Yu Yuk Lai in the hospital even if she is not sick and there is already a rumor circulating around the City Hall that the notorious judge had given the go signal to the counsel of the accused to file the Motion to Quash, which will be granted for a consideration of million of pesos and the contact person is allegedly the daughter of the judge, who is an employee in the said branch."

On July 14, 2000, Prosecutor Formaran filed a motion[19]asking respondent judge to inhibit himself "from further

handling the case and/or resolving the demurrer to evidence." Pending resolution, Yu Yuk Lai was arrested while playing baccarat at the Casino Filipino, Holiday Inn Pavilion.

In her exhaustive report, Justice Fernando came up with the following findings, conclusion and recommendation, thus:

> "On the basis of a Clinical Abstract of one Dr. Roy Cuesta, Judge Muro issued the May 12, 2000 Order which is highly irregular. The stated order indicated the name of Judge Angel Colet but contained the signature of Judge Muro. Judge Muro had no reason to sign the Order over the name of Judge Colet who may have died at that time or was on leave of absence. Besides, the May 12, 2000 hearing on the Motion was without notice to the State Prosecutor irrespective of the fact that he already filed his Comment to the Motion. In fact, the parties were not present during the hearing as there was no order setting the same for hearing on May 12, 2000. This is a clear violation of Sec. 4, Rule 15 of the 1997 Rules of Civil Procedure which provides that:
>
> Sec. 4, Hearing of motion. -- Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.
>
> Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice."
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> x x x x x x
>
> It was highly irregular that Judge Muro admitted as gospel truth the allegations on the physical condition of Yu Yuk Lai and failed to check the veracity of the findings in the Clinical Abstract. The mere fact that the Clinical Abstract was notarized does not prevent Judge Muro from verifying the truth considering that Yu Yuk Lai is charged with a very serious offense. Besides, it is common knowledge that it is so easy to have documents notarized. Considering further that Judge Muro is not a doctor and has insufficient knowledge of what were stated in Clinical Abstract, with more reason that he should have exercised extreme caution before issuing order of this sort. If he had set the Motion for hearing, he would have discovered that Dr. Rosal of the Manila City Jail Infirmary whose recommendation he had given so much weight, did not even bother to check the actual medical condition of Yu Yuk Lai, when he could have done it very easily and he ought to do it as he was ordered by the court to file his Comment. The recommendation of Dr. Rosal was purely guesswork. It was admitted by Dr. Rosal that he never examined accused Yu Yuk Lai despite the report that Yu Yuk Lai complained of some illnesses while on detention. Even before he filed his Comment as ordered by Judge Colet, Dr. Rosal did not verify if Yu Yuk Lai was still suffering from those illnesses, nor check the accuracy of the Clinical Abstract.
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> Without exerting any effort, undersigned was able to get an admission from both Dr. Lao and Dr. Salgado that there was no need for Yu Yuk Lai to be confined. Dr. Lao merely acceded to the requests of Yu Yuk Lai and accommodated her.
>
> The Order dated May 15, 2000 of Judge Muro which granted the Motion for Confinement for a period of seven (7) days at the Manila Doctors Hospital is likewise highly irregular. During the investigation, Judge Muro admitted that he issued the Order without reviewing the records of the case. Further, the doctors summoned during the investigation categorically admitted that the medical condition of Yu Yuk Lai did not warrant confinement at the hospital and the laboratory examinations and treatments which they recommended can all be done on an out-patient basis. Had Judge Muro been sincere to his duties he would have easily detected that the medical reports were not truthful and did not state the actual condition of the patient. If he wanted to know the truth and have solid and legal basis for his Order, all he needed was little time to hear and inquire into the state of health of Yu Yuk Lai. He could have done better but he never even attempted to do. This is gross

negligence on the part of Judge Muro.

Relative to the issue at hand, the main reason for the "release" of accused Yu Yuk Lai was her confinement at the hospital for medical treatment, as ordered by Judge Muro. But the same does not sidetrack the issue that in the issuance of an order for confinement of an accused, all necessary precautions should be employed before the same be issued. Judge Muro had failed to prove and had in fact been very adamant in stating that the determination whether Yu Yuk Lai was really ill or not was not for his determination but lies with the doctors alone. The act of Judge Muro in issuing the Order in this fashion encouraged more deception. He gave all the opportunities to Yu Yuk Lai to submit fabricated medical reports. His leniency towards Yu Yuk Lai led to her "release" from detention. Such attitude runs afoul to Canon 4 of the Canons of Judicial Ethics which provides that:

"4. Essential conduct

He should be temperate, patient, attentive, impartial, and since he is to administer the law and apply it to the facts, he should be studious of the principles of the law, diligent in endeavoring to ascertain the facts."

This is regardless of the fact that Judge Muro's order for confinement indicated that proper safeguards be taken to prevent her escape for the duration of the confinement and his statement in his Final Supplemental Manifestation that Yu Yuk Lai was not the only accused who benefited from a humanitarian order such as an Order for Confinement.

In every case handled by a judge, even by a pairing judge as in this case, the same amount of effort in the determination and study of the issues should be accorded, lest miscarriage of justice results. The judiciary has no room for a judge who does (not) care to read and study the case assigned to him. Otherwise, the following pronouncement of the Supreme Court will come to naught:

"The judiciary needs judges who read, study and ponder - judges who personify learning and equanimity."

The order for confinement for a period of seven (7) days commencing on May 15, 2000, the date of her actual confinement, expired on May 22, 2000. On May 19, 2000, a Motion for Extension of Confinement was filed this time based on the progress report of Dr. Peregrino Lao, the attending physician at the Manila Doctors Hospital. In the Order dated May 22, 2000, State Prosecutor Formaran was required to submit his Comment to the Motion for Extension of Confinement. An Opposition to the Motion was filed by State Prosecutor Formaran on May 26, 2000, the same day the motion was set for hearing. Peculiarly, the parties were not given an opportunity to orally argue on the issue. As stated by State Prosecutor Formaran, the proceeding was just. inserted during the hearing. It had been said that there was an on-going hearing of another case such that the State Prosecutor was not given the opportunity to make any manifestation. The actuation of Judge Muro ran contrary to his avowed duty to administer justice according to the law.

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It is thus clear that Judge Muro "delegated" to the doctors the determination of the length of Yu Yuk Lai's confinement in the hospital. His first consideration should have been the gravity of the charge against Yu Yuk Lai which is non-bailable. He created an easy vehicle for Yu Yuk Lai to attain temporary relief from detention. Had he conducted a simple inquiry on the actual medical condition of Yu Yuk Lai, he could have discovered easily that the same was not life threatening/or serious in nature which would require confinement in a hospital. Besides, mere reading of the Motions and the Medical Reports/Certifications would invite suspicion considering the complaints and the recommended treatment. A simple investigation would reveal that Yu Yuk Lai was allowed by the doctors to go out on pass on several accessions. This only shows that she was not suffering form any ailment needing hospitalization or that her medical condition was not that serious as the doctors wanted it to appear.

It has been said that when the law transgressed is elementary, the failure to know or observe it constitutes gross

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> ignorance of the law. However, applying the doctrine of res ipsa loquitor, the case presented herein was not mere ignorance of the law but amounts to grave abuse of authority, grave misconduct and conduct prejudicial to proper administration of justice.
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> X x x x x x
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> Conclusion and Recommendation
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> WHEREFORE, in view of the foregoing, it is respectfully submitted that Judge Muro's acts were so serious and indefensible in character as to call for the penalty of DISMISSAL from the service."[20]

We agree with the findings of Justice Fernando.

At the outset, it must be noted that this is not the first time that respondent judge has been charged administratively. In State Prosecutors v. Muro,[21] he was meted the penalty of dismissal from the service with cancellation of eligibility, forfeiture of leave credits and retirement benefits and disqualification from reemployment in the government service for dismissing precipitately the eleven (11) cases of Violation of Central Bank Foreign Exchange Restrictions filed by the State Prosecutors against Imelda Romualdez-Marcos. In his motion for reconsideration, respondent judge made the solemn commitment that: (a) he will avoid creating a situation that spawns suspicion of arbitrary and improper conduct; (b) he will adopt the usual and expected method of doing justice and not seek to be extreme or peculiar in his judgment or spectacular or sensational in the conduct of the court; and (c) he will avoid all appearances of impropriety, specially those that create suspicion of partiality, bias or improper motive.[22]Prompted by compassion and mercy, this Court gave him the chance to redeem himself by reducing the penalty to mere suspension from office without pay.

Unfortunately, respondent judge fails to honor his commitment.

This time, respondent judge committed serious lapses in issuing the orders dated May 15, 2000 and June 5, 2000. In granting Yu Yuk Lai's motions without conducting a hearing to determine the veracity of the allegations contained therein and of the attached documents, he opened the administration of justice vulnerable to false claims and, ultimately, to the improper release from jail of an accused charged with a heinous crime. The strong Opposition filed by Prosecutor Formaran had already provided, the caveat. It is odd that respondent judge did not bother to conduct, further inquiry and require Yu Yuk Lai's counsel to present evidence showing that her continuous imprisonment would pose danger to her health. In People v. Honorable Ireneo Gako, Jr.[23]the prosecution vigorously objected to the confinement of the accused in the hospital, questioning the ill health of the latter. Judge Gako, Jr., instead of ascertaining the true state of health of the accused, inexplicably relied on a court order, issued six years ago, authorizing the confinement of the accused in the hospital. In setting the proper course of conduct, this Court ruled that Judge Gako, Jr. should have recalled the order of confinement and ordered the detention of the accused "until the defense could prove through competent evidence that the imprisonment of said accused would imperil his health."

We have reasons to expect from respondent judge the highest degree of circumspection. For one, Yu Yuk Lai was charged with a heinous crime and the evidence against her is prima facie strong, for which reason her petition for bail was denied.[24] Incidentally, it maybe recalled that in applications for bail, the importance of the Rule requiring a hearing is emphasized. This is because on its result depends the right of an accused to provisional liberty vis-a-vis the duty of the State to protect the people against dangerous elements. The resolution of the issue affects important norms in our society: liberty on one hand, and order on the other. To minimize, if not eliminate, error and arbitrariness in a judge's decision, the Rules require the judge to hear the parties and then make an intelligent assessment of their evidence.[25]The same considerations apply in the present case. Respondent judge should have set the motion for hearing and require Yu Yuk Lai to prove that her detention will imperil her health.

The fact that she would likewise be guarded at the hospital is of no moment. It is beyond dispute that her detention in the Manila City Jail afforded more protection to the state than her confinement in a hospital where she had greater mobility. True enough, she was arrested gambling at the Holiday Inn Pavilion Casino on July 16, 2000.

The fact that the evidence of Yu Yuk Lai's guilt is strong, is more than enough reason to alert respondent judge. As it turned out, there was really no necessity for Yu Yuk Lai to be confined in a hospital. Without exerting any effort on her part, Justice Fernando was able to secure from Dr. Lao and Dr. Salgado an admission that Yu Yuk Lai's illness does not need confinement. Dr. Lao also admitted that he merely acceded to the request of Yu Yuk Lai.[26]

Clearly, respondent judge violated the clear mandate that "in every case, a judge shall endeavor diligently to ascertain the facts and the applicable law."[27]He forgot that trial judges, in this jurisdiction, are judges of both the law and the facts. The mere failure to propound a proper question to a witness, which might develop some material fact upon which the judgment of the case would vary is considered negligence in the performance of their duties if a miscarriage of justice resulted therefrom. A judge therefore must conscientiously endeavor each time to seek the truth, to know, and aptly apply the law, and to dispose of the controversy objectively and impartially, all to the end that justice is done to every party.[28]These qualities are wanting on the part of respondent judge, as shown by his testimony, thus:

> "JUSTICE FERNANDO:
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> x x x x x x
>
> Q Judge, before issuing the May 15 order, did you inquire if there was an emergency situation that would prevent you or the doctor from further evaluation or examination of the patient?
>
> A No. I'm not the doctor.
>
> Q How about you?
>
> A I'm not the doctor. Whatever the doctor will say, I can accept.
>
> Q But even if we are not doctors, by merely looking at a person, you would know if he or she is suffering from serious ailment.
>
> A It depends on the disease of the person.
>
> JUSTICE FERNANDO:
>
> Q So, you did not require or you did not ask the accused to appear, before you issued the order?
>
> A I did not find it necessary because the doctors have more knowledge of the situation recommended.
>
> xxx xxx
>
> JUSTICE FERNANDO:
>
> Q Did you call for Dr. Lao?
>
> A No.
>
> Q Did you ask Dr. Lao to appear before you and explain?
>
> A No I did not.

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JUSTICE FERNANDO:

Q Because we cannot just accept what is written in the certification because we have to examine them if they were really telling the truth even if the document is under oath. We have to examine and determine the urgency of that request as well as the actual medical condition of the patient.

A I did not. I'm not the doctor.

Q You're not a doctor, yes, I admit, that's why with more reason that you have to examine very carefully and ask for the assistance of the doctor who issued that certification to explain to you the condition of the patient, so that would be the basis of whatever order you are going to issue.

Q Did you examine the doctor and ask what is vaginitis, estrogen deficiency, and so forth?

A I took his word for it.

Q Did you inquire from the defense counsel if the accused was still in the hospital when he filed his urgent motion?

A I did not.

JUSTICE FERNANDO:

Q You did not verify?

A No.

Q Did you grant the motion?

A I granted the motion on June 5, 2000 for confinement of the accused at the Manila Doctor's Hospital for completion of her medical examination and treatment for a period of one (1) month or until such a time that she is fit to be discharged from the said office.

x x x x x x

Q Was there a comment filed by State Prosecutor Formaran?

A There is an opposition dated May 25.

Q Was there an opposition?

A Yes. The reason for the opposition is that it is medical in nature. They cannot understand the need because the oppositor says that they wonder why the result of the accused's ECG, pap smear, and other required medical examinations were not completed despite the 7 days given to conduct the same. The position of the Prosecutor is that the doctors....

Q So, this time, the Prosecutor opposed the extended confinement and the reason was that?

A He said that the doctor should have completed the various examinations

JUSTICE FERNANDO:

Q May we go back to the urgent motion for extension. Counsel for the accused was asking for extension because the results of the pap smear, the ECG, were not yet completed. The blood chemistry examinations are to be conducted in the succeeding weeks. The opposition states. We could not agree because in a matter of one (1) day you could get the results of the ECG and pap smear. What was your order after the opposition was filed?

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A I granted the motion for extension of one (1) month or until subject is fit to be discharged from the said hospital as certified to by the attending physician, and directed to regularly submit a report on the condition of the accused.

Q Before issuing the June 5 order, did you conduct a hearing?

A No, because...

Q You merely relied on the motion, the opposition, as well as the medical certificate issued by Dr. Lao concurred by Dr. Salgado, is that correct?

A Yes, Your Honor. On May 26, my order says the motion for extension is deemed submitted for resolution.

Q Was there a hearing conducted on May 26?

A No more. There was already the motion and opposition,

JUSTICE FERNANDO:

Q So, you merely relied on the pleadings and the attached medical certificates issued by the two doctors. So, you did not verify is you could secure the result of the pap smear in one day?

A I am not the doctor.

Q Yes, you did not verify. With more reason, you are not a doctor, you have to inquire.

A They are the doctors. By the way Your Honor, we are going deep into the medical certificates."[29]

In placing absolute reliance on the findings and recommendations of Dr. Lao and Dr. Salgado, respondent judge manifested his gross inefficiency and partiality in favor of Yu Yuk Lai. His repeated excuse that the doctors are the ones "knowledgeable" on medical matters does not justify such reliance. Under our rules on evidence, experts' opinions are not ordinarily conclusive in the sense that they must be accepted as true. They are generally regarded only as purely advisory in character.[30] Thus, while a trial judge may rely on the statements of someone knowledgeable on the subject, it should not be to the extent that such reliance would already amount to a surrender of his authority to decide. Inherent in the office of a judge is the duty to resolve factual and legal issues, i.e. the duty to decide. Rendering a decision does not mean the mere issuance of an order. It involves the intelligent assessment of the evidence in support of the parties' respective claims. Statement such as "whatever the doctor says I can accept," amounts to an abdication of the judge's primordial duty to decide.

As shown by the records, respondent judge is guilty of gross misconduct constituting violations of the Code of Judicial Conduct,[31]for being utterly inefficient[32]and for manifesting partiality.[33]

Misconduct implies wrongful intention and not mere error of judgment. For serious misconduct to exist, the judicial act complained of should be corrupt or inspired by an intention to violate the law or a persistent disregard of well-known legal rules.[34]In not conducting a hearing on the incidents of the case, respondent judge disregarded a rule of procedure which is so basic and simple. Section 4, Rule 15 of the 1997 Rules of Civil Procedure which states that "except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant," is so clear that we find no justification why respondent judge overlooked it. With his more than ordinary credentials and qualifications,[35]we have the reason to assume and expect that he is well-versed and familiar with the rules. His deviation appears to this Court as nothing but a product of a willful and deliberate intent to disregard the rule to favor Yu Yuk Lai. And, as stated by this Court in State Prosecutors v. Muro[36]"his impressive scholastic record as student of law all the more punctuates his blunder rather than temper it."

Inefficiency, on the other hand, implies negligence, incompetence, ignorance and carelessness. There is inexcusable inefficiency on the part of a judge when he fails to observe in the performance of his duties that degree of diligence, prudence, and circumspection which the law requires in the rendition of any public service.[37]By the very delicate nature of their functions in dispensing justice, judges are expected to be more circumspect in the performance of their duties.[38]And it is said that when the inefficiency springs from a failure to consider so basic and elemental a rule, a law or a principle in the discharge of his duties, a judge is either too incompetent and undeserving of the position and title he holds or he is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority.[39]

Partiality indicates bias, predilection or the inclination to favor one side.[40] While a judge should possess proficiency in law in order that he can competently construe and enforce the law, it is more important that he should act and behave in such a manner that the parties before him should have confidence in his impartiality. Like Ceasar's wife, a judge must not only be pure but beyond suspicion.[41]

In the present case, respondent judge opened himself to suspicion of partiality when he exhibited extraordinary leniency and indulgent attitude towards Yu Yuk Lai.

First, despite the request of Dr. Rosal, the government physician, that Yu Yuk Lai be confined at the Philippine General Hospital, respondent judge preferred the Manila Doctors Hospital on the ground that it was the choice of Yu Yuk Lai's counsel.[42]

Second, he extended Yu Yuk Lai's confinement "until such a time that she is fit to be discharged from the said hospital, as certified to by her attending physician." This, in effect, subjected the length of Yu Yuk Lai's medical confinement to the will of her physicians. That this was the real purpose of respondent judge is shown in his testimony, thus:

> "JUSTICE FERNANDO:
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> x x x x x x
>
> Q You issued the June 5 order "granting an extension of one (1) month or until such a time that she is fit to be discharged from the hospital as certified to by the attending physician, who was directed to regularly submit to this court his progress report on the condition of the accused." So, in short, this order is an open-ended order. It could not be shorter than a month.
>
> ATTY. SAGUISAG:
>
> But the periodic report may say that she is fit for release after a month.
>
> JUDGE MURO:
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> Your Honor, I did that without further motions for extension, so the doctors will be the one to determine if the patient should be released.
>
> JUSTICE FERNANDO:
>
> So, they don't need to file further extensions because you have an open-ended order.
>
> A Yes, the doctors are in the best position to determine."[43]

And third, respondent judge did not bother to make an incisive inquiry to ascertain the true state of facts despite the Opposition filed by Prosecutor Formaran. Considering that his attention was already called by Prosecutor Formaran, prudence dictates that he should conduct a hearing. When he threw all his cautions to the wind in favor of Yu Yuk Lai, he effectively manifested partiality. Such irregular conduct did not escape the observation of

Prosecutor Formaran. He testified:

> "JUSTICE FERNANDO:
>
> Q You mentioned that your colleagues warned you to be very careful in this case. Why was it so?
>
> A Because I have complained to them why this is so. I've been filling an opposition and yet the judge did not even discuss my points raised in my opposition, and had been so lenient to the accused.
>
> Q What were the series of events that made you decide to file a motion for inhibition?
>
> A The first order for hospital confinement, because the recommendation there is, the accused should be confined at PGH, and yet Judge Muro ordered the confinement at the Manila Doctor's Hospital. And second, the order granting another extension of one (1) month and it appears indefinite. So these series of events really convinced me that there is something wrong. That's why I have complained to my colleagues and consulted them what I should do, and in fact, to me, any decision of judge Muro has been lenient in the past, specially drugs cases.
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> X x x x x x
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> JUSTICE FERNANDO:
>
> Q Did you actually file a motion for inhibition?
>
> A Yes, Your Honor.
>
> Q When did you file this motion?
>
> A I filed it on July 14, 2000.
>
> Q This was before the arrest of Yu Yuk Lai?
>
> A That was before the arrest of Yu Yuk Lai. And I would like to cite, Your Honor, the statement that I was trying to impress upon the judge, Your Honor, that an honest medical examination of Yu Yuk lai's state of health will surely prove that her illness was not that serious to require that long period of confinement and this was proven when accused Yu Yuk Lai was arrested at the Holiday Inn at the casino playing baccarat on July 16, 2000."[44]

Time and again, this Court has admonished judges not only to be impartial but also to appear to be so, for appearance is an essential manifestation of reality.[45]Judges are enjoined to avoid not just impropriety in their conduct but even the mere appearance of impropriety.[46]The appearance of bias or prejudice can be as damaging to public competence and the administration of justice as actual bias or prejudice.[47]

Indeed, no less than the Code of Judicial Conduct mandates that a judge should be the embodiment of competence, integrity and independence.[48]In every case, a judge shall endeavor diligently to ascertain the facts and applicable laws unswayed by partisan interests, public opinion, or fear of criticism.[49]He is the visible representation of the law and, more importantly, of justice.[50] He should administer his office with a due regard to the integrity of the system of the law itself, remembering that he is not a depository of arbitrary power, but a judge under the sanction of law. Never for a moment must he act like a petty tyrant or provide any opportunity to be perceived as such through the abuse or misuse of the authority or power vested in him, otherwise the faith of the people in the courts could be irreparably eroded.[51] In Dimatulac v. Villon,[52]we ruled:

> "The judge should always be imbued with a high sense of duty and responsibility in the discharge of his obligation to promptly and properly administer justice. He must view himself as a priest for the administration of justice is akin to a religious crusade. Thus, exerting the same devotion as a priest `in the performance of the

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> most sacred ceremonies of religious liturgy,' the judge must render service with impartiality commensurate with public trust and confidence reposed in him."

Undoubtedly, respondent judge has impaired the image of the judiciary to which he owes the duty of loyalty and obligation to keep it at all times above suspicion and worthy of the people's trust.[53]

Judicial office demands the best possible men and women in the service. This Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards effective and efficient administration of justice, thus tainting its image in the eyes of the public.[54]

In view of the foregoing disquisition, we impose upon respondent Judge the supreme penalty of dismissal from the service with forfeiture of benefits except his accrued leave credits pursuant to Rule 140 of the Rules of Court, as amended,[55]thus:

> "SEC. 11. Sanctions. - A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:
>
> 1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits; "

WHEREFORE, for gross misconduct constituting violations of the Code of Judicial Conduct, respondent Judge MANUEL T. MURO, Presiding Judge of the Regional Trial Court, Branch 54, Manila, is hereby ordered DISMISSED from the service with forfeiture of all benefits, except his accrued leave credits, and with prejudice to re-employment in any branch or service of the government, including government-owned or controlled corporations. His dismissal shall take effect immediately upon his receipt of a copy of this Decision which must be personally served by the Office of the Court Administrator.

Let a copy of this Decision be attached to the records of respondent judge with this Court.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.
Vitug, J., on official leave.

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[1] In this case, the Court En Banc dismissed from the service Court of Appeals Justice Demetrio G. Demetria for interceding in behalf of Yu Yuk Lai in Criminal Case No. 99-169862. The Court finds that Justice Demetria joined forces with PATAFA President Go Teng Kok , and Atty. Reinerio Paas in persuading State Prosecutor Pablo C. Formaran III and Chief State Prosecutor Jovencito R. Zuno to withdraw the former's Motion for Inhibition against Judge Manuel T. Muro in the above-mentioned criminal case. Justice Demetria was quoted as saying to CSP Zuno "Pakisabi mo nga kay State Prosecutor Formaran na iwithdraw na iyong kanyang Motion to Inhibit para naman makagawa na ng Order si Judge Muro." Go Teng Kok pleaded the same thing, saying that the Motion for Inhibition would delay the resolution of the case and if Judge Muro would inhibit, a new judge might convict his friend Yu Yuk Lai.

[2] People of the Philippines versus Kenneth Maceda y Sy, alias William Sy and Yu Yuk Lai alias Sze Yuk Lai.

In an information dated December 9, 1998, State Posecutor Formaran III charges Kenneth Monceda y Sy alias William Sy and Yu Yuk Lai alias Sze Yuk Lai of the crime of violation of Section 15, Article III of Republic Act

No. 6425 (otherwise known as the Dangerous Drugs Act of 1972), as amended, by Republic Act No. 7659 (An Act to Impose the Death Penalty on Certain Heinous Crime, Amending for that Purpose the Revised Penal Code, as amended, Other Special Penal Laws, and For Other Purposes). The case was raffled to the sala of Judge Perfecto A.S. Laguio, Jr., Regional Trial Court, Branch 18, Manila. The information alleged that on or about November 7, 1998, the above-named accused, conspiring, confederating and mutually helping one another, with deliberate intent and without authority of law, did then and there, willfully, unlawfully and feloniously sell and deliver to a poseur-buyer three (3) kilograms, more or less, of methylamphetamine hydrochloride (shabu), which is a regulated drug. (Records of Criminal Case No. 99-169862, p. 3).

[3] Records of Criminal Case No. 99-169862, p. 201.

[4] Records, p.3.

[5] Records, p. 2; p. 16; p. 44.

[6] Records, pp. 1-1 A.

[7] Records, pp. 21-22.

[8] Criminal Case No. 99-169862 was re-raffled from Branch 18 to Branch 53 of the Regional Trial Court, Manila pursuant to the Order dated January 28, 2000 of Judge Perfecto Laguio, Jr., inhibiting himself from hearing the case for the peace of mind of both accused who filed a Joint Motion for his Inhibition. (Records of Criminal Case No. 99-169862, p. 223)

[9] Records, p. 27.

[10] Records, p. 28.

[11] Records, pp. 29-30.

[12] Records, pp. 31-32.

[13] Criminal Records of Criminal Case No. 99-169862, pp. 251-252.

[14] Records of Criminal Case no. 99-169862, pp. 256-258.

[15] Records of Criminal case No. 99-169862, p. 263.

[16] Records, p. 33.

[17] Records, p. 46.

[18] They call themselves "CONCERNED COURT EMPLOYEES."

[19] Records of Criminal Case No. 99-169862, p. 315.

[20] Final Report and Recommnedation, pp. 27-35.

[21] A.M. No. RTJ-92-876, 236 SCRA 505 (1994).

[22] State Prosecutors v. Judge Manuel T. Muro, 251 SCRA 111 (1995).

[23] G.R No. 135045; December 15, 2000, p.19.

[24] Criminal Records of Criminal Case No. 99-169862, p. 201

[25] Concerned Citizens v. Elma, 241 SCRA 84 (1995)

[26] Final Report and Recommendation, p. 29.

[27] Rule 3.02, Canon 3 of the Code of Judicial Conduct.

[28] Young v. de Guzman, 303 SCRA 254 (1999)

[29] TSN, August 24, 2000, pp. 18-26.

[30] 20 Am. Jur. 1060, Francisco, Evidence, 1993 Ed. p. 357

[31] Section 8 of Rule 140 of the Rules of Court as amended.

[32] Canon 3 of the Code of Judicial Conduct provides -- 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.

[33] Rule 3.02, Canon 3 of the Code of Judicial Conduct provides -- In every case, a judge shall endeavor diligently to ascertain the facts and the applicable law unswayed by partisan interests, public opinion or fear of criticism.

[34] Agpalo, Legal Ethics, 6th Ed., 1997, p. 457. Gross misconduct of a judge refers to transgression of some established and definite rule of action, more particularly unlawful behavior or gross negligence.

[35] He graduated from the law school, magna cum laude, the valedictorian of his class and placed 6[th] in the Bar examination. (See State Prosecutors v. Muro, 251 SCRA 111, 114 (1995)

[36] Ibid.

[37] Fernandez v.Imbing, 260 SCRA 586 (1996); Cuaresma v. Enriquez, 248 SCRA 454 (1995); Suroza v.Honrado, 110 SCRA 388 (1981).

[38] Galvez v. Eduardo, 252 SCRA 570 (1996)

[39] Castanos v.Escano, Jr., 251 SCRA 174 (1995); Carreon v. Flores, 64 SCRA 238 (1975)

[40] Webster Third New International Dictionary, 1993, p. 1646.

[41] Agpalo, Legal Ethics, Sixth Edition, 1997, p. 442.

[42] "JUSTICE FERNANDO:

> x x x x x x
>
> Q So why did you choose Manila Doctor's instead of Philippine General Hospital which was the hospital recommended by Dr. Rosal?
>
> A "In case that the accused be brought to the Philippine General Hospital" but this was a time, in a letter addressed to Judge Colet...
>
> Q Yes, Judge, but the case was already assigned to you and you were the one who issued the orders based on the record. Because we cannot ask Judge Colet anymore. He is already dead. You inherited the case from him. That's why we are asking you the reason why you chose Manila Doctor's instead of PGH. Before issuing the May 15, 2000 order, did you personally see the accused and verify the physical condition?
>
> A No, I did not see her.
>
> Q Then, why Manila Doctor's, Judge?

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> A I do not know. It was the choice of the lawyer. My order of May 15, 2000 said "Finding the aforesaid motion of the accused to be well-taken, and for humanitarian reason, upon request of' the accused, court allows the confinement at the Manila Doctor's Hospital. (TSN, August 24, 2000, pp. 17-18).

[43] TSN, August 24, 2000, pp. 26-27.

[44] TSN, August 25, 2000, pp. 28-30

[45] Espiritu v.Javellanos, 280 SCRA 579 (1997)

[46] San Juan v. Bagalasca, 283 SCRA 416 (1997)

[47] 46 Am Jur 2d Section 160, p 255.

[48] Rule 1.01, Canon 1, Code of Judicial Conduct.

[49] Rule 3.02, Canon 3, Code of Judicial Conduct. Sangguniang Bayan of Taguig v.Judge Estrella, Adm. Mat. No. 0l-1608-RTJ, January 16, 2001

[50] Oca v. Gines, 224 SCRA 261 (1993)

[51] Caamic v. Galapon, Jr., 237 SCRA 390 (1994); Fernandez v.Imbing, supra.

[52] 297 SCRA 679 (1998)

[53] Sadik Casar, 266 SCRA 1 (1997)

[54] Escanan v.Monterola II, AM. No. P-99-1347, February 6, 2001.

[55] Per Administrative Order No. 01-8-10-SC which took effect on October 1, 2001.

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