RE: REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE MUNICIPAL CIRCUIT TRIAL COURT, JIMENEZ-SINACABAN, MISAMIS OCCIDENTAL/JUDGE PRISCILLA HERNANDEZ.

A.M. No. 03-7-170-MCTC. July 14, 2009

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PER CURIAM:

On February 26 to 28, 2003, a judicial audit of the Fourth Municipal Circuit Trial Court (MCTC) of Jimenez-Sinacaban, Misamis Occidental, presided by respondent Judge Priscilla Hernandez, was conducted. As a result, a resolution dated August 13, 2003[1] was issued directing respondent to:

> 1) submit her explanation on her failure to regularly report for work at the 4[th] MCTC, Jimenez-Sinacaban, Misamis Occidental and why she reports for work only in the afternoon of her scheduled dates of hearings in said court;
>
> 2) submit her explanation on her failure to decide [nine civil cases and 16 criminal cases][2] and to decide the same within 30 days from notice;
>
> 3) submit her explanation on her failure to resolve the pending incidents in [three civil cases and one criminal case][3] and to resolve the same within 30 days from notice;
>
> 4) submit her explanation on her failure to resolve the preliminary investigation in [six criminal cases][4] and to resolve the same within 30 days from notice;
>
> 5) submit her explanation on her failure to take further action on [11 civil cases and 19 criminal cases][5] and to take appropriate action thereon within 30 days from notice;
>
> 6) submit her explanation on her failure to transmit the resolutions and case folders in [two criminal cases][6] to the Office of the Provincial Prosecutor, Misamis Occidental within the 10-day period in violation of Section 5, Rule 11 of the Revised Rules on Criminal Procedure and
>
> 7) submit her explanation on the apparent loss of [records of one civil case and two criminal cases].[7]

However, respondent failed to comply with these directives.[8] The Office of the Court Administrator (OCA)[9] issued a memorandum dated October 18, 2004 directing her anew to comply with the same but there was no response.[10] In this Court's resolution dated October 3, 2005, she was directed to show cause why she should not be administratively dealt with or held in contempt for failure to comply with the August 13, 2003 resolution.[11]

Meanwhile, on October 10, 2005, a second audit was conducted on the 4[th] MCTC of Jimenez-Sinacaban, as well as on the 5[th] MCTC of Clarin-Tudela, Misamis Occidental where respondent was also Acting Presiding Judge.[12] The OCA reported its findings in its Memorandum dated January 6, 2006:[13]

> In summary, out of the 130 caseload of this court at the time of the second audit, [10] criminal and civil cases have unresolved pending incidents, [27] criminal and civil cases are still undecided despite the lapse of the [90-day] reglementary period, [one] civil case which the court failed to take any action from the time of its filing and [47] criminal and civil cases without further action or setting for a considerable length of time or a

> total of [85] problematic cases. Thus, only [34.616%] of cases are moving and [65.384%] of these cases need the required appropriate action from [respondent].
>
> [Respondent] is complemented with [seven] staff members headed by Mr. Michael Angelo O. Saa, Court Interpreter who acts as the court's Officer-in-Charge.
>
> The team was not able to audit the [five] criminal and [seven] civil cases which according to Mr. Michael Saa were in the possession of [respondent].
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> Aside from these cases, [two civil cases and eight criminal cases][14] included in the first audit, were also not presented to the second audit team. Verification from the court's Monthly Report of Cases starting from January 2004 to August 2005 (excepting June 2005 wherein the court did not submit any report) failed to show that these cases were either decided, disposed of, archived or in any way acted upon by the court.
>
> It was also noted that no orders were issued in some cases that would indicate whether or not these cases are being tried under the New Rules on Summary Procedure, the folders/rollo/expediente are not paginated; the marked exhibits are not signed and dated; the minutes are not properly filled up (without indicating the personal circumstances and the substance of the testimonies of witnesses), the certificates of arraignment are unsigned by the accused and his/her counsel and the docket books need to be updated.
>
> It is quite manifest that [respondent], instead of acting on the cases subject of the adverse findings of the first audit, continuously added unacted cases to her file.
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>
> In a letter dated April 14, 2005, Atty. Benjamin C. Galindo, then a Sangguniang member of the Municipality of Jimenez during the May 2004 elections, reminded the [OCA] that the audit of the [MCTCs] in Jimenez-Sinacaban and Aloran-Panaon was made upon the request of the Integrated Bar of the Philippines (Misamis Occidental Chapter) wherein [respondent] was directed "to resolve some [70] pending cases in her sala which remained undecided long after the [90] day period" per memorandum of the court. Even the Sangguniang Bayan passed a resolution requesting [respondent] to decide these cases which remains unheeded.[15]
>
> xxx xxx xxx (Emphasis in the original)

Regarding the first audit of the 5[th] MCTC of Clarin-Tudela, the findings were as follows:

> An analysis of the data above shows that out of the 186 pending cases at the time of [audit,] there are [11] criminal and civil cases with unresolved motions, [33] undecided criminal and civil cases submitted for decision, [six] unacted criminal and civil cases and [64] criminal and civil cases without further action or setting or a total of one hundred fourteen [114] cases or [61.29%] of the court's total case load need to be acted upon by respondent.
>
> [Respondent] is complemented with [eight] staff members headed by Ms. Merilla O. Adecir, Clerk of Court II. [Respondent] holds hearings in both courts only in the afternoons claiming the non-availability of prosecutors and public attorneys. However, she was not able to explain her failure to report to the courts concerned during mornings.
>
> Further findings of the team show that case records/rollo are not chronologically arranged; documents/pleadings received are not properly stamped as to date, time and staff who received the same; marked exhibits are not initialed by the interpreter; certificates of arraignment are unsigned by accused and his/her counsel; and some cases have no orders indicating whether or not these cases are governed by the Rule on Summary Procedure as mandated by Section 2 thereof.[16]

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> xxx xxx xxx (Emphasis in the original)

The OCA, in its recommendation, stated:

> [Respondent] was appointed Presiding Judge [of MCTC], Jimenez-Sinacaban on October 29, 1993 and assumed her duties on December 1, 1993 per her service [record]. In connection with her designation as Acting Presiding Judge of the [5[th] MCTC of Clarin-Tudela], records were unavailable as to her exact date of assumption although according to [Ms. Merilla O. Adecir], [respondent] assumed as Acting Presiding Judge of the 5[th] MCTC on August 1, 1994.
>
> Taking into consideration her date of assumption, the adverse findings of the audit teams are clearly attributable to her gross incompetence, inefficiency, negligence and dereliction of duty. To reiterate, out of the [27] criminal and civil cases submitted for decision in the 4[th] MCTC, Jimenez-Sinacaban, [four] were submitted for decision as early as 1996 and still remain undecided, [10] motions remain unresolved with at least [one] motion being filed as early as 1996 and out of the [47] cases that remain unacted upon, [six] cases remain at the preliminary investigation stage since 1996. With regard to the cases at the [5[th] MCTC of Clarin-Tudela], cases should have been decided, resolved or set for hearing as early as 1996. Out of the [40] cases submitted for decision, [three] cases were submitted as early as 1996, in the [11] unresolved motions, [one] was filed as early as 1997 and of the [64] cases without further action or setting, [one] case remains at the preliminary investigation stage since 1997. Furthermore, a sampling of the consolidated certificates of service of [respondent[in the 4[th] and 5[th] MCTCs failed to disclose that there were undecided cases submitted for decision and unresolved motions submitted for resolution.
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> With regard to [the] problematic state of cases in the [5[th] MCTC of Clarin-Tudela] and the corresponding plight of the parties and their [counsels,] the revocation of the designation of [respondent] and the consequent designation of another in her [place] is not only appropriate but also imperative.
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> Considering the case loads of [the other] judges and the distance to the [5[th] MCTC of Clarin-Tudela], Judge Teresita Saa may be designated as Acting Presiding Judge thereat.[17]
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> xxx xxx xxx (Emphasis in the original)

It recommended that respondent be dismissed on grounds of gross incompetence, inefficiency, negligence and dereliction of duty and that her designation as Acting Presiding Judge of the 5[th] MCTC of Clarin-Tudela be revoked.[18] Consequently, pursuant to Administrative Order No. 05-2006, respondent's designation was revoked.[19]

Despite a long interregnum, respondent still did not comply with the Court's directives. Because of such inaction, the OCA, in its memorandum dated August 9, 2007, not only reiterated its earlier recommendation for respondent's dismissal but also recommended her immediate suspension pending the resolution of this administrative matter.[20] As a result, the Court suspended respondent in a resolution dated October 10, 2007.[21]

Respondent filed a motion for reconsideration dated November 19, 2007. She admitted her culpability in the delay of the disposition of cases but claimed as contributory factors the volume of her work and designations in other courts. She begged for the Court's compassion in the resolution of her motion.[22] Her motion was denied in a resolution dated January 28, 2008.[23]

In the meantime, Judge Henry B. Damasing, Executive Judge of the Regional Trial Court of Oroquieta City, Misamis Occidental, Branch 14, furnished the OCA a copy of his letter dated November 21, 2007 to respondent

requesting her to forward or return certain records of seven criminal and eight civil cases in her possession.[24] Later, records of one of the criminal cases were found in the 4[th] MCTC of Jimenez-Sinacaban.[25] On the rest, respondent said nothing. Neither did she return the said case records.[26] It was only on September 26, 2008 that the OCA was informed that respondent personally returned all the missing records except for one.[27] Thus, the OCA again recommended that respondent be dismissed from the service.

We approve the findings and recommendations of the OCA.

Respondent continually failed to comply fully with the Court's directives. After several orders and reminders to submit her explanation, her one and only move was to file a two-page motion for reconsideration of the resolution ordering her suspension:

> Respondent admits her culpability in the delay of the disposition of the cases as reported, and begged for the court's compassion to consider the volume of her work as contributory factor for the delay.
>
> The respondent, aside from presiding at 4[th] [MCTC], Jimenez, Misamis Occidental, had also been designated presiding judge of 5[th] [MCTC] Clarin-Tudela from August 1995 to February 2005, respondent was also designated presiding judge of Branch III MTCC Ozamiz City on January 27, 1998 until December 2000 as well as designated Executive Judge of MTCC Ozamiz City from November, 1998 to November, 2000.
>
> The [respondent,] after the revocation of all her [designations] to preside over the other courts, had been working for unclogging the caseload of the 4[th] [MCTC], Jimenez-Sinacaban, Misamis Occidental. In support of this [allegation,] respondent attached a copy of the certification issued by the clerk of court to the fact that respondent had decided seventy-seven (77) cases over the period stated therein.[28]

As early as August 2003, the Court had already ordered respondent to explain and resolve the problems in her court. But it was only in November 2007, or three long years after when the Court finally suspended her, that she decided to give the Court a two-page motion. She never complied with the Court's directives, not even partially, and did not offer any reason for her non-compliance. She made a bare statement that she allegedly decided 77 cases from November 2006 to October 2007 but did not elaborate what these cases were.

The Court will not tolerate the indifference of respondent judges to resolutions requiring their written explanations. An order or resolution of this Court is not to be construed as a mere request, nor should it be complied with partially, inadequately or selectively.[29] To do so shows disrespect to the Court, an act only too deserving of reproof.[30]

> ... [Respondent] refused to heed the directives of this Court and the OCA to explain his shortcomings. Respondent ought to know that a resolution of the Court is not to be construed as a mere request not should it be complied with partially, inadequately or selectively. At the core of the judge's esteemed position is obedience to the dictates of law and justice. A judge must be first to exhibit respect for authority.[31]

Moreover, the findings of the OCA show that respondent was clearly remiss in the performance of her judicial duties. Despite the lapse of more than two years from the time the first audit was made, there was no improvement in the resolution of cases in her sala. At the time of the second audit, she had only 130 pending cases (indeed a light load by the usual standards) but more than half of those (65.384% or 85 cases) were unacted upon.

Even respondent admitted that she was in delay but cited as excuse her designations in other courts resulting in a heavy caseload. This explanation is far from acceptable. She cannot hide behind the much-abused excuse of heavy caseload to justify her failure to decide and resolve cases promptly.[32] She could have asked the Court for a reasonable period of extension to dispose of the cases but she did not.

> That a judge had been given additional work as acting presiding judge in other courts, as in the case of Judge

> Ramos, cannot justify his failure to resolve any pending incident. In Casia v. Gestopa, we already held a similar contention as unmeritorious. We even reminded respondent judge therein that:
>
> . . . if his caseload prevented the disposition of cases within the reglementary period, all he had to do was ask from this Court for a reasonable extension of time to dispose of the cases involved. The Court, cognizant of the caseload of judges and mindful of the difficulty encountered by them in the reasonable disposition of cases, would almost always grant the request.[33]

The Constitution mandates that all cases or matters filed before all lower courts shall be decided or resolved within 90 days from the time they are submitted for decision.[34] Respondent repeatedly ignored this mandate. She also violated Canon 3, Rule 3.05 of the New Code of Judicial Conduct which requires judges to dispose of the court's business promptly and decide cases within the required periods.

Failure to comply within the mandated period constitutes a serious violation of the constitutional right of the parties to a speedy disposition of their cases.[35] The Court has always considered a judge's delay in deciding cases within the prescribed period of three months as gross inefficiency.[36] It undermines the people's faith and confidence in the judiciary,[37] lowers its standards and brings it to disrepute.[38] Undue delay cannot be countenanced at a time when the clogging of the court dockets is still the bane of the judiciary.[39] The raison d' etre of courts lies not only in properly dispensing justice but also in being able to do so seasonably.[40]

> Delay derails the administration of justice. It postpones the rectification of wrong and the vindication of the unjustly prosecuted. It crowds the dockets of the courts, increasing the costs for all litigants, pressuring judges to take short cuts, interfering with the prompt and deliberate disposition of those causes in which all parties are diligent and prepared for trial, and overhanging the entire process with the pall of disorganization and insolubility. More than this, possibilities for error in fact-finding multiply rapidly as time elapses between the original fact and its judicial determination. If the facts are not fully and accurately determined, then the wisest judge cannot distinguish between merit and demerit. If courts do not get the facts right, there is little chance for their judgment to be right.[41]

Additionally, respondent was repeatedly asked to explain the whereabouts of certain missing case records. She never bothered to do so and worse, it took her five years to return such records. Section 14 of Rule 136 of the Rules of Court expressly provides that "[no] record shall be taken from the clerk's office without an order of the court except as otherwise provided by these rules." Further, Article 226 of the Revised Penal Code punishes any public officer who removes, conceals or destroys documents or papers officially entrusted to him. With such heavy responsibilities, judges are therefore expected to exercise utmost diligence and care in handling the records of cases.[42]

Considering the gravity of respondent's omissions and the absence of any explanation whatsoever on her part, her dismissal from the service is called for.[43] The administration of justice demands that those who don judicial robes be able to comply fully and faithfully with the task set before them.[44] In this regard, respondent miserably failed.[45] The wheels of justice would hardly move if respondent is allowed to continue working in the judiciary.[46] Therefore, as recommended by the OCA, after a thorough judicial audit, and considering the unrebutted audit reports on record, the penalty of dismissal from the service is in order.[47]

For her repeated violations of Supreme Court directives and rules (a less serious offense punishable with suspension for not less than one month nor more than three months or a fine of more than P10,000 but not exceeding P20,000), she is fined the maximum amount of P20,000.

Pursuant to A.M. No. 02-9-02-SC,[48] this administrative case against respondent as a judge based on grounds which are also grounds for the disciplinary action against members of the Bar, shall be considered as disciplinary

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proceedings against such judge as a member of the Bar.[49]

Violation of the fundamental tenets of judicial conduct embodied in the Code of Judicial Conduct constitutes a breach of Canons 1 and 11 of the Code of Professional Responsibility (CPR):

> CANON 1 -- A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND FOR LEGAL PROCESSES.
>
> CANON 11 -- A LAWYER SHALL OBSERVE AND MAINTAIN THE RESPECT DUE TO THE COURTS AND TO JUDICIAL OFFICERS AND SHOULD INSIST ON SIMILAR CONDUCT BY OTHERS.

Certainly, a judge who falls short of the ethics of the judicial office tends to diminish the people's respect for the law and legal processes. She also fails to observe and maintain the esteem due to the courts and judicial officers.[50] Respondent must always bear in mind that it is a magistrate's duty to uphold the integrity of the judiciary at all times.

Respondent's delay also runs counter to Canon 12 and Rule 12.04 of the CPR which provides:

> CANON 12 -- A LAWYER SHALL EXERT EVERY EFFORT AND CONSIDER IT HIS DUTY TO ASSIST IN THE SPEEDY AND EFFICIENT ADMINISTRATION OF JUSTICE.
>
> xxx xxx xxx
>
> Rule 12.04 - A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse Court processes.

For such violation of Canons 1, 11, 12 and Rule 12.04 of the CPR, she should be further fined the amount of P5,000.

WHEREFORE, respondent Judge Priscilla T. Hernandez, Presiding Judge of the Fourth Municipal Circuit Trial Court of Jimenez-Sinacaban, Misamis Occidental is found LIABLE for gross neglect of judicial duty and gross inefficiency. She is hereby ordered DISMISSED from the service, with forfeiture of all benefits except accrued leave credits, if any, and with prejudice to re-employment in any government branch or instrumentality, including government-owned or controlled corporations. For her repeated violations of Supreme Court directives and Section 14 of Rule 136 of the Rules of Court, she is FINED P20,000.

Respondent is further hereby FINED P5,000 for her violation of Canons 1, 11, 12 and Rule 12.04 of the Code of Professional Responsibility payable within the same period stated above. She is STERNLY WARNED that commission of the same or similar acts shall be dealt with more severely.

Let copies of this resolution be furnished the Office of the Court Administrator and the Office of the Bar Confidant to be attached to respondent's records.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Corona, Carpio Morales, Chico-Nazario, Nachura, Leonardo-De Castro, Brion, Peralta and Bersamin, JJ., concur.Velasco, Jr., J., no part due to prior action in OCA.

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[1] Rollo, pp. 27-28.

[2] Civil Case Nos. 745, 746, 747, 749, 757, 758, 764, 766, 787 and Criminal Case Nos. 7483, 7518, 7522, 7606, 7627, 7659, 7660, 7661, 7662, 7707, 7760, 7781, 7816, 7817, 7841, and 7846.

[3] Civil Case Nos. 761, 781, 789 and Criminal Case No. 7989.

[4] Criminal Case Nos. 7680, 7814, 7926, 7977, 7965 and 7992.

[5] Civil Case Nos. 748, 759, 769, 770, 776, 782, 783, 784, 786, 788, 790 and Criminal Case Nos. 7674, 7682, 7722, 7757, 7761, 7776, 7800, 7804, 7809, 7835, 7855, 7870, 7907, 7945, 7967, 7968, 7969, 7975, 7987, and 7990.

[6] Criminal Case Nos. 7997 and 8005.

[7] Civil Case No. 771 and Criminal Case Nos. 7881 and 7889.

[8] Rollo, p. 115.

[9] Through Court Administrator Presbitero J. Velasco, Jr., now Supreme Court Associate Justice.

[10] Rollo, pp. 110, 226.

[11] Id., p. 117.

[12] Id., p. 118.

[13] To then Chief Justice Artemio V. Panganiban.

[14] Civil Case Nos. 787 and 788 and Criminal Case Nos. 7627, 7804, 7814, 7835, 7881, 7968, 7997 and 8005.

[15] Rollo, pp. 125-127, citation omitted.

[16] Id., pp. 137-138.

[17] Id., pp. 137-141.

[18] Id., pp. 141-142.

[19] Pursuant to the same order, Judge Teresita N. Saa was designated as Acting Presiding Judge of the 5[th] MCTC of Clarin-Tudela. Id., p. 189.

[20] Id., pp. 227-228.

[21] Id., p. 229. Now, Acting Presiding Judge of 4[th] MCTC of Jimenez-Sinacaban is Judge Grace Monica N. Zapatos-Lariba.

[22] Id., pp. 231-232.

[23] Id., p. 271.

[24] These cases, as provided by Ms. Rosa Peligres, Clerk of Court, 4[th] MCTC, Jimenez-Sinacaban and Mr. Sulpicio S. Buscato, Clerk of Court II, 3[rd] MCTC, Aloran-Panaon, were Criminal Case Nos. 7881, 7889, 8072, 8061, 7846, 8052 and Civil Case Nos. 764, 771, 781, 795, 792, 793, 820 and 824 coming from MCTC, Jimenez-Sinacaban and People v. Rico L. Tome for Arbitrary Detention from MCTC, Aloran-Panaon.

[25] Criminal Case No. 8052.

[26] Rollo, p. 272.

[27] The OCA received a copy of a letter dated September 12, 2008 of Ms. Rosa T. Peligres, Clerk of Court II, 4[th] Municipal Circuit Trial Court of Jimenez-Sinacaban, Misamis Occidental, to Judge Damasing. The returned records were of Criminal Case Nos. 7846, 7881, 7889, 8061, 8072 and Civil Case Nos. 764, 771, 781, 792, 793,

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795, 820, and 824. However, no mention was made as to whether the records of People v. Rico L. Tome for Arbitrary Detention, from the MCTC, Aloran-Panaon were returned or not.

[28] Rollo, pp. 231-232, citations omitted.

[29] Goforth v. Huelar, Jr., A.M. No. P-07-2372, 23 July 2008, citing Lumapas v. Tamin, A.M. No. RTJ-99-1519, 26 June 2003, 405 SCRA 30.

[30] Id.

[31] Office of the Court Administrator v. Legaspi, Jr., A.M. No. MTJ-06-1661, 25 January 2007, 512 SCRA 570, 583.

[32] Report on the Judicial Audit and Physical Inventory of Cases in the METC of Manila Br. 2, 456 Phil. 30, 48 (2003).

[33] Atty. Ala v. Judge Ramos, Jr., 431 Phil. 275, 288-289 (2002).

[34] Constitution, Article VIII, Section 15.

[35] Salvador v. Limsiaco, A.M. No. MTJ-08-1695, 16 April 2008, 551 SCRA 373, 377, citing Mosquero v. Legaspi, A.M. No. No. RTJ-99-1511, 10 July 2000, 335 SCRA 326.

[36] Pantig v. Daing, Jr., A.M. No. RTJ-03-1791, 8 July 2004, 434 SCRA 7, 17, citing Guintu v. Judge Lucero, A.M. No. MTJ-93-794, 23 August 1996, 261 SCRA 1, 7.

[37] Concerned Trial Lawyers of Manila v. Veneracion, A.M. No. RTJ-05-1920, 26 April 2006, 488 SCRA 285, 296.

[38] Espineli v. Español, A.M. No. RTJ-03-1785, 10 March 2005, 453 SCRA 96, 99, citing Office of the Court Administrator v. Quilala, A.M. No. MTJ-01-1341, 15 February 2001, 351 SCRA 597.

[39] Concerned Trial Lawyers of Manila v. Veneracion, supra note 15, citing Re: Report on the Judicial Audit in the RTC, Branch 71, Antipolo City, A.M. No. 03-11-652-RTC, 21 July 2004, 434 SCRA 555.

[40] Lim, Jr. v. Magallanes, A.M. No. RTJ-05-1932, 2 April 2007, 520 SCRA 12, 18, citing Vicente Pichon v. Judge Lucilo Rallos, 444 Phil. 131 (2003).

[41] Orocio v. Roxas, A.M. Nos. 07-115-CA-J and CA-08-46-J, 19 August 2008, citing Pac. Transport. Co. v. Stoot, 530 S.W.2d 930, 931 (Tex. 1975).

[42] Atty. Ala v. Judge Ramos, Jr., supra note 33, pp. 287-288.

[43] Office of the Court Administrator v. Legaspi, Jr., supra note 31.

[44] Re: Report of Bernardo Ponferrada Re Judicial Audit Conducted in Br. 21, RTC, Cebu City - Judge Genis B. Balbuena, Presiding, A.M. No. 00-4-08-SC, 31 July 2002, 385 SCRA 490, 498.

[45] Id.

[46] Id.

[47] Office of the Court Administrator v. Legaspi, Jr., supra 31.

[48] Dated September 17, 2002 and took effect on October 1, 2002.

[49] Maddela v. Dallong-Galicinao , A.C. No. 6491, 31 January 2005, 450 SCRA 19, 25.

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[50] Juan de la Cruz (Concerned Citizen of Legazpi City) v. Carretas, A.M. No. RTJ-07-2043, 5 September 2007, 532 SCRA 218, 232.

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