

RE: REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE REGIONAL TRIAL COURT, BRANCH 4, DOLORES, EASTERN SAMAR

A.M. No. 06-6-340-RTC. October 17, 2007

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PER CURIAM:

This administrative case arose from a memorandum^[1] an audit team of the Office of the Court Administrator (OCA) submitted. The audit team reported on the judicial audit conducted in the Regional Trial Court (RTC), Branch 4, Dolores, Eastern Samar (trial court) on 7 October 2004.

Judge Gorgonio T. Alvarez (Judge Alvarez), who was due for compulsory retirement on 9 September 2005, used to preside over the trial court. In view of his compulsory retirement, the audit team conducted a judicial audit of cases. The audit team found that the trial court had a total caseload of 200 cases consisting of 132 criminal cases and 68 civil cases.^[2]

The audit team found that Judge Alvarez inhibited himself from hearing Civil Case Nos. 3 (206), 53, and 139, and A.M. Nos. 03-1 and 03-2. Civil Case Nos. 3 (206), 53, and 139 were assigned to Judge Arnulfo O. Bugtas (Judge Bugtas), RTC, Branch 2, Borongan, Eastern Samar, while Administrative Matter Nos. 03-1 and 03-2 were assigned to Judge Juliana Adalim-White (Judge Adalim-White), RTC, Branch 5, Oras, Eastern Samar.^[3]

The audit team found that:

- Judge Alvarez failed to act on 27 cases for a considerable length of time.
- Judge Bugtas:
 - failed to decide Civil Case No. 3 (206) within the reglementary 90-day period;
 - failed to resolve pending incidents in Civil Case No. 53 for more than four years; and
 - failed to resolve a motion for reconsideration in Civil Case No. 139.
- Judge Adalim-White failed to act on A.M. Nos. 03-1 and 03-2 for a considerable length of time.^[4]

The audit team also found that Judge Bugtas accepted the bail bonds in Criminal Case Nos. 393 and 358, both of which were pending before Judge Alvarez.^[5] In Criminal Case No. 393, the supposed surety, Esperanza G. Aseo (Aseo), filed with Judge Alvarez an affidavit of disclaimer^[6] dated 28 January 2004 stating that (1) she did not know the accused, neither was she related to him; (2) the use of her property as bail bond was unauthorized; (3) the signature on the property bond was forged; (4) she did not sign as a surety; (5) her real signature was different from the signature on the property bond; (6) she did not sign her name as "Esperanza Galo," but as "Esperanza G. Aseo"; (7) "Galo" was her maiden name while "Aseo" was her family name; and (8) the truthfulness of the property bond was questionable because copies of the tax declaration and original certificate of title over the property were not attached to the bond.

In Criminal Case No. 358, Judge Bugtas accepted the bail bond on 9 December 1999 and, on the same day, then

officer-in-charge Ernesto C. Qutorio (Qutorio), now legal researcher, RTC, Branch 2, Borongan, Eastern Samar signed the order of release. Judge Bugtas and Qutorio did not forward the bail, order of release, and other supporting papers to Judge Alvarez until after a subpoena duces tecum was issued on 29 January 2002.[7]

Thus, the audit team recommended to the OCA to:

- Direct Judge Alvarez to explain his failure to act on the 27 cases for a considerable length of time, act on these cases, and submit to the Court a copy of his decisions, resolutions, orders, and other documents.
- Direct Judge Bugtas to:
 - explain his failure to decide Civil Case No. 3 (206) within the 90-day reglementary period, decide the case, and submit to the Court a copy of his decision;
 - explain his failure to resolve the pending incidents in Civil Case No. 53 for more than four years, resolve the incidents, and submit to the Court a copy of his orders;
 - explain his acceptance of the bail bonds in Criminal Case Nos. 393 and 358;
 - explain his order to release the accused in Criminal Case No. 393 on the strength of a spurious property bond; and
 - resolve the motion for reconsideration in Civil Case No. 139 and submit to the Court a copy of his order.
- Direct Judge Bugtas and Qutorio to explain their failure to forward the bail, order of release, and other supporting papers in Criminal Case No. 358.
- Direct Judge Adalim-White to:
 - explain her failure to act on A.M. Nos. 03-1 and 03-2 for a considerable length of time, act on these cases, and submit to the Court a copy of her orders.[8]

The OCA sent a memorandum[9] dated 18 March 2005 to Judge Alvarez, Judge Bugtas, Qutorio, and Judge Adalim-White detailing the audit team's recommendations.

In his letter[10] dated 6 April 2005, Judge Alvarez explained the status of the 27 cases. Thereafter, he submitted a copy of all his decisions, resolutions, orders, and other documents.[11]

In his letter[12] dated 25 April 2005, Judge Bugtas explained that he (1) failed to decide Civil Case No. 3 (206) within the 90-day reglementary period because the transcript of stenographic notes of the case was incomplete; (2) failed to resolve the pending incidents in Civil Case No. 53 for more than four years because he misplaced the records of the case; (3) accepted the bail bonds in Criminal Case Nos. 393 and 358 because Judge Alvarez was unavailable; (4) ordered the release of the accused in Criminal Case No. 393 because the property bond and other bail documents were regular on their face and the surety's signature was genuine; (5) was in the process of resolving the motion for reconsideration in Civil Case No. 139; and (6) failed to forward the bail, order of release, and other supporting papers in Criminal Case No. 358 because the accused failed to cause the annotation of the lien on the property's certificate of title.

On 11 May 2005, the OCA received a copy of Judge Bugtas' resolution in Civil Case No. 139. On 2 August 2005, it received a copy of his decision in Civil Case No. 3 (206).[13]

In his letter[14] dated 25 April 2005, Qutorio stated that he failed to forward the bail, order of release, and other supporting papers in Criminal Case No. 358 because the accused failed to cause the annotation of the lien on the property's certificate of title.

In a letter,[15] Judge Adalim-White stated that she had already resolved A.M. Nos. 03-1 and 03-2 by her orders dated 24 November 2004 and 31 January 2005, respectively. She submitted a copy of these orders.[16]

In its 1[st] indorsement[17] dated 16 May 2005, the OCA referred Judge Bugtas' explanation regarding his acceptance of the bail bonds in Criminal Case Nos. 393 and 358 to Judge Alvarez for comment. On Criminal Case No. 393, Judge Alvarez stated that he issued several orders for the arrest of the accused and forfeiture of the property bond after the supposed surety, one Esperanza Galo, failed to produce the accused before the trial court. Thereafter, Aseo filed with Judge Alvarez the affidavit of disclaimer dated 28 January 2004.[18]

Judge Alvarez directed Aseo to furnish the trial court a copy of her voter's affidavit. He then compared Aseo's signatures on her voter's affidavit and affidavit of disclaimer with the signature on the property bond. After a very careful study, Judge Alvarez concluded that the signature on the property bond was forged -- the signatures on the voter's affidavit and the affidavit of disclaimer were different from the signature on the property bond.[19] On 12 May 2004, Judge Alvarez cancelled the property bond and ordered the issuance of an alias warrant of arrest.[20]

On Criminal Case No. 358, Judge Alvarez stated that Judge Bugtas accepted the bail bond and Qutorio signed the order of release on 9 December 1999.[21] However, Judge Bugtas and Qutorio failed to forward the bail, order of release, and other supporting papers to Judge Alvarez until after a subpoena duces tecum was issued on 29 January 2002. Judge Alvarez directed Qutorio to appear before him and answer questions regarding the bail. Instead of appearing before Judge Alvarez, Qutorio sent a written explanation stating that he did not forward the bail documents because the accused failed to cause the annotation of the lien on the property's certificate of title.[22]

In its memorandum[23] dated 6 May 2006, the OCA:

- Found that Judge Alvarez had fully complied with its directives when he acted on the 27 cases within the given period and submitted a copy of all his decisions, resolutions, orders, and other documents;
- Found that Judge Bugtas:
 - failed to decide Civil Case No. 3 (206) within the 90-day reglementary period;
 - failed to resolve the pending incidents in Civil Case No. 53 for more than four years;
 - acted without authority when he accepted the bail bonds in Criminal Case Nos. 393 and 358;
 - violated the Rules of Court when he failed to forward the bail, order of release, and other supporting papers in Criminal Case No. 358; and
 - went beyond the call of his duties when he approved the spurious property bond in Criminal Case No. 393.
- Found that Qutorio erred when he:
 - presented to Judge Bugtas for acceptance the bail bonds in Criminal Case Nos. 393 and 358; and
 - signed the order of release in Criminal Case No. 358.
- Found that Judge Adalim-White had substantially complied with its directives when she acted on the two administrative cases and submitted a copy of her orders.
- Recommended that:
 - the audit team's memorandum dated 18 March 2005 be treated as an administrative complaint against Judge Bugtas and Qutorio;

- Judge Bugtas be dismissed from the service for gross inefficiency and gross ignorance of the law; and
- Qutorio be suspended for one month and one day for simple misconduct.

In a Resolution dated 3 July 2006, the Court approved Judge Bugtas' application for optional retirement effective 31 January 2006, but held in abeyance the release of his retirement benefits. In a Resolution[24] dated 2 August 2006, the Court required the parties to manifest whether they were willing to submit the case for decision based on the pleadings already filed.

In his manifestation dated 11 August 2006, Judge Bugtas stated that (1) the Court had no jurisdiction over the instant case because of the approval of his optional retirement effective 31 January 2006, and (2) the Court's attitude towards judges is the reason why there are many unfilled positions in the judiciary. He told the Court to dismiss the instant case outright for lack of jurisdiction and order the immediate release of his retirement benefits.

In a Resolution dated 11 December 2006, the Court (1) considered Judge Bugtas to have waived his compliance with the Resolution dated 2 August 2006 and (2) dispensed with Judge Alvarez's compliance with the Resolution dated 2 August 2006. In a Resolution dated 26 February 2007, the Court considered Qutorio and Judge Adalim-White to have waived their compliance with the Resolution dated 2 August 2006.

The Court agrees with the OCA's recommendations, with some modifications.

Section 15, Article VIII of the Constitution[25] states that judges must decide all cases within three months from the date of submission. In *Re: Report on the Judicial Audit Conducted at the Municipal Trial Court in Cities (Branch 1), Surigao City*,[26] the Court held that:

A judge is mandated to render a decision not more than 90 days from the time a case is submitted for decision. Judges are to dispose of the court's business promptly and decide cases within the period specified in the Constitution, that is, 3 months from the filing of the last pleading, brief or memorandum. Failure to observe said rule constitutes a ground for administrative sanction against the defaulting judge, absent sufficient justification for his non-compliance therewith. (Emphasis ours)

Rule 1.02, Canon 1 of the Code of Judicial Conduct states that judges should administer justice without delay. Rule 3.05 of Canon 3 states that judges shall dispose of the court's business promptly and decide cases within the required periods. In *Office of the Court Administrator v. Javellana*,[27] the Court held that:

A judge cannot choose his deadline for deciding cases pending before him. Without an extension granted by this Court, the failure to decide even a single case within the required period constitutes gross inefficiency that merits administrative sanction.

The Code of Judicial Conduct, specifically Canon 3, Rule 3.05 mandates judges to attend promptly to the business of the court and decide cases within the periods prescribed by law and the Rules. Under the 1987 Constitution, lower court judges are also mandated to decide cases within 90 days from submission.

Judges must closely adhere to the Code of Judicial Conduct in order to preserve the integrity, competence and independence of the judiciary and make the administration of justice more efficient. Time and again, we have stressed the need to strictly observe this duty so as not to negate our efforts to minimize, if not totally eradicate, the twin problems of congestion and delay that have long plagued our courts. (Emphasis ours)

In *Office of the Court Administrator v. Garcia-Blanco*,[28] the Court held that the 90-day reglementary period is mandatory. Failure to decide cases within the reglementary period constitutes a ground for administrative liability except when there are valid reasons for the delay.[29]

Civil Case No. 3 (206) was submitted for decision on 10 December 2003; therefore, the decision was due on 10

March 2004. Judge Bugtas decided the case only on 22 July 2005, and only after the OCA required him to do so. If it were not for the judicial audit, Judge Bugtas would have left the case undecided indefinitely.

Judge Bugtas explained that he incurred the delay because the transcript of stenographic notes was incomplete. This is unacceptable. The incompleteness of the transcript of stenographic notes is not a valid excuse for delay in rendering judgment. Judges are required to personally take down notes of the salient portions of the hearings and to proceed in preparing the decisions without waiting for the transcript of stenographic notes. In *Re: Report on Judicial Audit in RTC - Br. 26, Manila*,^[30] the Court held that "judges are required to take down notes and to proceed in the preparation of decisions, even without the transcript of stenographic notes as the reglementary period continues to run with or without them." In *OCA v. Judge Salva*,^[31] the Court held that:

[T]he 90-day reglementary period for deciding or resolving cases submitted for such purposes is reckoned from the date when the last pleading, brief or memorandum required by the Rules of Court or by the court itself is submitted, and not from the time when the transcript of stenographic notes of a case is completed by the stenographer.^[32] (Emphasis ours)

Judges are allowed, for valid reasons, to ask for an extension of the 90-day reglementary period.^[33] Judge Bugtas did not ask for any extension. In *Re: Report on the Judicial Audit Conducted in the Regional Trial Court, Branches 3, 5, 7, 60 and 61, Baguio City*,^[34] the Court held that failure to decide even one case within the 90-day reglementary period constitutes gross inefficiency.

Aside from the long delay in deciding Civil Case No. 3 (206), Judge Bugtas also failed to resolve pending incidents in Civil Case No. 53 for more than four years. Section 15, Article VIII of the Constitution states that judges must resolve all matters within three months from the date of submission unless the law requires a shorter period. Rule 1.02, Canon 1 of the Code of Judicial Conduct states that judges should administer justice without delay. Rule 3.05 of Canon 3 states that judges shall dispose of the court's business promptly. In *Sianghio, Jr. v. Judge Reyes*,^[35] the Court held that unreasonable delays in resolving pending motions violate the norms of judicial conduct and in *Custodio v. Quitain*,^[36] the Court held that unreasonable delays in resolving motions or other incidents are administratively sanctionable.

In the instant case, Judge Bugtas did not act on the pending incidents for more than four years. Inaction for more than four years is clearly unreasonable. Worse, if the audit team had not conducted the judicial audit, Judge Bugtas would have left the pending incidents unresolved indefinitely.

Judge Bugtas explained that he incurred the delay because he misplaced the records of the case. This is unacceptable. Judge Bugtas' explanation cannot exonerate him or mitigate his inefficiency.^[37] Losing the records of the case constitutes gross negligence.^[38]

Judge Bugtas was responsible for managing his court efficiently to ensure the prompt delivery of court services.^[39] Rule 3.08, Canon 3 of the

Code of Judicial Conduct^[40] states that judges should diligently discharge administrative responsibilities and maintain professional competence in court management. Rule 3.09 states that judges should organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity. Judge Bugtas opted to ignore these rules. The audit team had to ask for the assistance of one Atty. Crisolito A. Tavera in looking for the records of Civil Case No. 53, which were later found in a heap of papers. In *Sianghio, Jr.*,^[41] the Court held that:

If only respondent judge performed his mandated duty of devising an efficient recording and filing system in his court to enable him to monitor the flow of cases and to manage their speedy and timely disposition, the records of the case would not have been misplaced.

Canon 3, Rule 3.09 requires judges to manage their dockets in such a manner that the work of their courts is accomplished with reasonable dispatch. However, we would like to emphasize that the responsibility of making a physical inventory of cases primarily rests on the presiding judge. (Emphasis ours)

This is not the first time Judge Bugtas has been found grossly inefficient. In *Montes v. Bugtas*,^[42] the Court found him grossly inefficient for failing to decide a case within the 90-day reglementary period. In *Montes*, Judge Bugtas explained that he incurred the delay because he left the decision in his chamber and forgot about it.^[43] The Court sanctioned him and warned him that a repetition of the same act will be dealt with more severely.^[44]

Section 9, Rule 140 of the Rules of Court^[45] classifies undue delay in rendering a decision or order as a less serious charge. It is punishable by (1) suspension from office without salary and other benefits for not less than one month nor more than three months, or (2) a fine of more than P10,000 but not exceeding P20,000.^[46]

Rule 3.01, Canon 3 of the Code of Judicial Conduct states that judges should be faithful to the law and maintain professional competence. Section 17(a), Rule 114 of the Rules of Court provides:

SEC. 17. Bail, where filed. -- (a) Bail in the amount fixed may be filed with the court where the case is pending, or in the absence or unavailability of the judge thereof, with any regional trial judge, metropolitan trial judge, municipal trial judge, municipal trial judge, or municipal circuit trial judge in the province, city, or municipality. If the accused is arrested in a province, city or municipality other than where the case is pending, bail may also be filed with any Regional Trial Court of said place, or if no judge thereof is available, with any metropolitan trial judge, municipal trial judge, or municipal circuit trial judge therein. (Emphasis ours)

In *Cruz v. Judge Yaneza*,^[47] the Court held that:

There are prerequisites to be complied with. First, the application for bail must be filed in the court where the case is pending. In the absence or unavailability of the judge thereof, the application for bail must be filed with another branch of the same court within the province or city. Second, if the accused is arrested in a province, city or municipality other than where the case is pending, bail may be filed with any regional trial court of the place.

In the instant case, Judge Bugtas did not present any proof to show that (1) Judge Alvarez was unavailable, or (2) the accused were arrested in Borongan. According to the OCA:

The criminal cases were pending before RTC, Branch 4, Dolores, Eastern Samar and there was no showing that Judge Alvarez was absent or unavailable when Judge Bugtas approved the bail bonds in Criminal Cases [sic] Nos. 393 and 358 on December 20, 1996 and December 9, 1999, respectively. There is also no proof that the accused were arrested in Borongan to clothe Judge Bugtas with authority to grant bail.^[48] (Emphasis ours)

Since (1) Criminal Case Nos. 393 and 358 were pending before Judge Alvarez, (2) there was no showing that Judge Alvarez was unavailable, and (3) the accused were not arrested in Borongan, Judge Bugtas had no authority to accept the bail bonds in these cases. In *Espanol v. Mupas*,^[49] the Court held that judges who approve applications for bail of accused whose cases are pending in other courts are guilty of gross ignorance of the law. In *Lim v. Dumlao*,^[50] the Court held that:

The requirements of Section 17(a), Rule 114 x x x must be complied with before a judge may grant bail. The Court recognizes that not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, but only in cases within the parameters of tolerable misjudgment. Where, however, the law is straightforward and the facts so evident, not to know it or to act as if one does not know it constitutes gross ignorance of the law.

Respondent judge undeniably erred in approving the bail and issuing the order of release. He is expected to know that certain requirements ought to be complied with before he can approve [the accused's] bail and issue

an order for his release. The law involved is rudimentary that it leaves little room for error. (Emphasis ours)

In Criminal Case No. 358, Judge Bugtas not only wrongfully accepted the bail but also failed to forward the bail, order of release, and other supporting papers to Judge Alvarez as required in the Rules of Court. Section 19, Rule 114 of the Rules of Court provides:

SEC. 19. Release on bail. -- The accused must be discharged upon approval of the bail by the judge with whom it was filed in accordance with section 17 of this Rule.

When bail is filed with a court other than where the case is pending, the judge who accepted the bail shall forward it, together with the order of release and other supporting papers, to the court where the case is pending, which may, for good reason, require a different one to be filed. (Emphasis ours)

In *Nai v. Mauricio, Sr.*,^[51] the Court held that judges should forward the records pertaining to the bail bond immediately after receiving them. In the instant case, Judge Bugtas accepted the bail bond in Criminal Case No. 358 on 9 December 1999. He forwarded the bail, order of release, and other supporting papers only after a subpoena duces tecum was issued on 29 January 2002. If the subpoena duces tecum were not issued, Judge Bugtas would have continued to ignore the provisions of Section 19 indefinitely.

Judge Bugtas explained that he did not forward the records pertaining to the bail because the accused failed to cause the annotation of the lien on the property's certificate of title. This is unacceptable. Section 19 is very clear: "When bail is filed with a court other than where the case is pending, the judge who accepted the bail shall forward it, together with the order of release and other supporting papers, to the court where the case is pending."

Section 11, Rule 114 of the Rules of Court^[52] states that failure of the accused to cause the annotation of the lien on the property's certificate of title within 10 days after the approval of the property bond shall be sufficient cause for the cancellation of the bond and re-arrest and detention of the accused. Judge Alvarez could have cancelled the property bond and issued the warrant of arrest much sooner had Judge Bugtas followed Section 19. Moreover, since Judge Bugtas opted to accept and retain possession of the bail bond, albeit erroneously, the least he could have done was to cancel the property bond and issue a warrant of arrest when the accused failed to cause the annotation of the lien within 10 days, yet he did not do so.

Not every judicial error constitutes ignorance of the law. When the error is committed in good faith, it does not warrant administrative sanction. However, the error must be within the parameters of tolerable misjudgment. When the law is clear and leaves little room for error, not to know it constitutes gross ignorance of the law.^[53] In the instant case, the law is very clear and Judge Bugtas is grossly ignorant.

This is not the first time Judge Bugtas has been found grossly ignorant of the law. He has had two cases finding him grossly ignorant of the law, both dealing with the release of persons charged with penal offenses. In *Adalim-White v. Bugtas*,^[54] the Court found him grossly ignorant of the law for ordering the release of the accused on recognizance pending approval of the accused's application for parole and before serving the minimum period of his sentence. And in *Docena-Caspe v. Judge Bugtas*,^[55] the Court found him grossly ignorant of the law for granting bail to the accused charged with murder without conducting a hearing to determine whether the evidence of guilt was strong. In both cases, the Court sanctioned him and warned him that a repetition of similar acts will be dealt with more severely.

Section 8, Rule 140 of the Rules of Court^[56] classifies gross ignorance of the law or procedure as a serious charge. It is punishable by (1) dismissal from the service, with forfeiture of all benefits except accrued leave credits, and with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations; (2) suspension from office without salary and other benefits for

more than three months but not exceeding six months; or (3) a fine of more than P20,000 but not exceeding P40,000.[57] Considering that this is Judge Bugtas' fourth offense, the Court agrees with the OCA's recommendation to impose the penalty of dismissal.

Although Judge Bugtas can no longer be dismissed because of his early retirement, his retirement benefits, except accrued leave credits, shall be forfeited, with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

In Criminal Case No. 393, Judge Bugtas not only wrongfully accepted the bail bond but also approved a spurious property bond. In Judicial Audit and Physical Inventory of Confiscated Cash, Surety and Property Bonds at RTC, Tarlac City, Branches 63, 64 and 65,[58] the Court held that judges are bound to review the bond documents before approving the bond. In that case, the Court agreed with the observations of the OCA that:

Although the duty to ensure compliance with the requisites of bail bond application rests mainly with the Clerk of Court or his duly authorized personnel and the task of the Judge is only to approve the same, said task has an accompanying responsibility on the part of the approving Judge to review or determine its validity. Understandably, he should be employing the minimum standard the rules require the clerks of court to observe. Considering the seriousness of the purpose in the posting of bail bond, approval thereof should pass through strict scrutiny and with utmost caution on the part of both the Clerk of Court (or his duly authorized personnel) and the approving Judge. (Emphasis ours)

In *Padilla v. Judge Silerio*,[59] the Court sanctioned a judge for his negligence in approving a spurious bond and held that judges are enjoined to carefully pore over all documents before they sign the same and give their official imprimatur. It agreed with the observations of the OCA that:

[R]espondent Judge should be made liable for carelessness and failure to exercise the necessary diligence when he signed the Order approving the spurious x x x bond of [the] accused x x x.

Signing of Orders must not be taken lightly nor should it be considered as one of the usual paperwork that simply passes through the hands of a judge for signature. Respondent Judge should be made to account for his negligence and lack of prudence which resulted in the anomaly now in question. (Emphasis ours)

In the instant case, Judge Bugtas approved the property bond in Criminal Case No. 393 without the knowledge and consent of the registered owner of the property. In her affidavit of disclaimer, Aseo stated:

I was shocked to receive an ORDER issued by Hon. Presiding Judge Gorgonio T. Alvarez, ordering the alleged bond forfeited in favor of the government and directing the sheriff to cause the confiscation of the bond[.]

x x x [T]he use of my said property as a surety [sic] is of dubious character since what is now attached to the BAIL BOND is only a CERTIFICATION from the Office of the Treasurer, Dolores, Eastern Samar, signed by Dario C. Quitorio, the Real Property Tax Clerk, certifying to the effect that Esperanza Galo is the owner of TD No. 400100, and another CERTIFICATION signed by Adolfo V. Codiamat, Ass't. Municipal Treasurer, to the effect that the said Tax Declaration No. 400100 has no record of liens and encumbrances of claims to the said property, and no copy of the said Tax Declaration was attached nor a copy of the original certificate of Title, being a titled property[.][60]

In his letter dated 25 April 2005, Judge Bugtas stated that he found no significant disparity between the signature on the property bond and Aseo's signature on her voter's affidavit. He stated that Judge Alvarez's conclusion that the signature on the property bond was forged had no legal basis because it was not supported by findings of a handwriting expert. These are unacceptable.

The Court agrees with Judge Alvarez's conclusion that the signature on the property bond was forged. The dissimilarity between the signature on the property bond and the signatures on Aseo's voter's affidavit and

affidavit of disclaimer is glaring. The signature on the property bond reads "Esperanza Galo," while the signatures on the voter's affidavit and affidavit of disclaimer read "Esperanza G. Aseo." Moreover, the handwriting on the property bond is markedly different from those on the voter's affidavit and affidavit of disclaimer.

In *De Jesus v. Court of Appeals*,^[61] the Court held that resort to handwriting experts is dispensable in cases involving comparison of handwriting. A finding of forgery does not entirely depend on the testimony of a handwriting expert because the judge must conduct an independent examination of the questioned signature in arriving at a conclusion on its authenticity. Resort to handwriting experts is not mandatory especially when, as in this case, the dissimilarity is so obvious.

The Court agrees with the OCA that, "Judge Bugtas should be held liable for approving the spurious property bond x x x in Criminal Case No. 393."^[62] Simple misconduct is any unlawful, wrongful, or improper conduct.^[63] It constitutes a less serious charge, punishable by (1) suspension from office without salary and other benefits for not less than one nor more than three months, or (2) a fine of more than P10,000 but not exceeding P20,000.^[64]

Judge Bugtas contended that the Court lacked jurisdiction over the instant case because of the approval of his optional retirement effective 31 January 2006. This is unacceptable. In *Concerned Trial Lawyers of Manila v. Veneracion*,^[65] the Court held that cessation from office because of retirement does not render the administrative case moot or warrant its dismissal:

Cessation from the office of respondent judge because of death or retirement does not warrant the dismissal of the administrative complaint filed against him while he was still in the service or render the said administrative case moot and academic. The jurisdiction that was this Court's at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased [to hold] office during the pendency of his case. Indeed, the retirement of a judge or any judicial officer from the service does not preclude the finding of any administrative liability to which he shall still be answerable. (Emphasis ours)

In the instant case, the audit team conducted the judicial audit on 7 October 2004 and submitted to the OCA a memorandum dated 18 March 2005. Upon the recommendation of the OCA, the memorandum dated 18 March 2005 was treated as an administrative complaint against Judge Bugtas and Quitorio. The OCA sent a memorandum dated 18 March 2005 to Judge Bugtas detailing the audit team's recommendations. On 28 April 2005, the OCA received Judge Bugtas' letter dated 25 April 2005 containing his explanations. These show that, when Judge Bugtas retired on 31 January 2006, the instant administrative case was already pending.

In *Aquino, Jr. v. Miranda*,^[66] the Court held that it "is not ousted of its jurisdiction over an administrative case by the mere fact that the respondent public official ceases to hold office during the pendency of respondent's case." The retirement of Judge Bugtas did not preclude the finding of any administrative liability, to which he shall still be answerable.^[67]

Aside from the instant case and the three previous cases decided against him, Judge Bugtas has another administrative case^[68] pending against him. Undoubtedly, he has demonstrated his incorrigibility and unfitness to be a judge. In *Adalim-White*,^[69] the Court agreed with the observations of the investigating justice on Judge Bugtas. These observations continue to hold true today, and with more reason. According to the investigating justice:

The undersigned Investigating Justice does not accept Judge Bugtas' good faith because Judge Bugtas was apparently lacking in sincerity. He was not unaware that [the accused] was serving final sentence for which his indeterminate penalty had a minimum of 4 years and 2 months. When Judge Bugtas ordered the release, [the accused] had not yet served even the minimum of the indeterminate sentence, a fact that Judge Bugtas should

have known through a simple process of computation. x x x He was fully aware that [the accused] could not be released even upon recognizance of the Provincial Jail Warden.

x x x x

Judge Bugtas could give no acceptable explanation for his acts.

x x x x

The undersigned Investigating Justice opines that Judge Bugtas' contention compounds his already dire situation. x x x Such ignorance, whether pretended or not, is terrifying to see in a judicial officer like Judge Bugtas, a presiding judge of the Regional trial Court. (Emphasis ours)

Clerks of court have no authority to order the release of persons charged with penal offenses. In *Gonzalo v. Mejia*,^[70] the Court held that:

There is usurpation of judicial function when a person who is not a judge attempts to perform an act the authority for which the law has vested only upon a judge. In *Escanillo vs. Monterola II*, we ruled that the clerk of court, unlike a judge, has no power to order either the commitment or the release of persons charged with penal offenses. Thus, respondent, in ordering the release of the four prisoners, has duly usurped the judicial prerogative of a judge. Such usurpation is equivalent to grave misconduct. (Emphasis ours)

In *Judge Vallarta v. Vda. De Batoon*,^[71] the Court held that:

[T]he approval of the bail of an accused person and the authority to order the release of a detained person is purely a judicial function. The clerk of court, unlike a judicial authority, has no power to order either the commitment or the release on bail of person [sic] charged with penal offenses. (Emphasis ours)

In *Biag v. Gubatanga*,^[72] the Court held that:

Clearly, the Clerk of Court is not empowered to issue the questioned order in the name of the judge. It was gross misrepresentation on the part of respondent to issue the Release Order x x x, thus causing the release of the accused x x x without a proper court order. By taking a direct hand in the release of the accused, who is now at large, respondent is guilty of grave misconduct, as she has arrogated unto herself the disposition of a judicial matter pending adjudication before the court. (Emphasis ours)

In the instant case, Quitorio personally signed the order of release in Criminal Case No. 358. The OCA found that:

He x x x signed the Order of Release in Criminal Case No. 358 on the same day that Judge Bugtas approved the property bond of the accused. By releasing the accused on account of the property bond he had posted, Quitorio arrogated unto himself the authority to exercise judicial discretion.

The issuance of a release order is a judicial function, not an administrative one. A Clerk of Court has no power to order the release on bail of persons charged with penal offenses (*Hon. Jose S. Arcilla vs. Alfredo Sabido*, 88 SCRA 53 [1979]).^[73]

Section 17(a), Rule 114 of the Rules of Court provides:

SEC. 17. Bail, where filed. -- (a) Bail in the amount fixed may be filed with the court where the case is pending, or in the absence or unavailability of the judge thereof, with any regional trial judge, metropolitan trial judge, municipal trial judge, municipal trial judge, or municipal circuit trial judge in the province, city, or municipality. If the accused is arrested in a province, city or municipality other than where the case is pending, bail may also be filed with any Regional Trial Court of said place, or if no judge thereof is available, with any metropolitan trial judge, municipal trial judge, or municipal circuit trial judge therein. (Emphasis ours)

In the instant case, (1) Criminal Case Nos. 393 and 358 were both pending before Judge Alvarez, (2) there was no

showing that Judge Alvarez was unavailable, and (3) the accused were not arrested in Borongan. Thus, Qutorio should not have presented the bail bonds in these cases to Judge Bugtas for approval. In Judicial Audit and Physical Inventory of Confiscated Cash, Surety and Property Bonds at RTC, Tarlac City, Branches 63, 64 and 65,[74] the Court agreed with the observation of the OCA that the duty to ensure compliance with the requisites of bail bond application rests mainly on the clerk of court. Considering the seriousness of the purpose in posting a bail bond, its approval should pass through strict scrutiny.

Qutorio fully knew that Criminal Case Nos. 393 and 358 were pending before Judge Alvarez, yet he opted to present the bail bonds in these cases to Judge Bugtas for approval.

Section 19, Rule 114 of the Rules of Court provides:

SEC. 19. Release on bail. -- The accused must be discharged upon approval of the bail by the judge with whom it was filed in accordance with section 17 of this Rule.

When bail is filed with a court other than where the case is pending, the judge who accepted the bail shall forward it, together with the order of release and other supporting papers, to the court where the case is pending, which may, for good reason, require a different one to be filed. (Emphasis ours)

In the instant case, Qutorio failed to forward the bail, order of release, and other supporting papers to Judge Alvarez for more than two years. He only did so after a subpoena duces tecum was issued. Qutorio's failure to observe the clear and simple mandate of Section 19 is sanctionable. In *Santiago v. Judge Jovellanos*,[75] the Court sanctioned a clerk of court for failing to forward the bail documents.

Simple misconduct has been defined as an unacceptable behavior that transgresses the established rules of conduct for public officers.[76] It is an unlawful behavior.[77] "Misconduct in office is any unlawful behavior by a public officer in relation to the duties of his office, willful in character. It generally means wrongful, improper, unlawful conduct motivated by a premeditated, obstinate, or intentional purpose although it may not necessarily imply corruption or criminal intent." [78]

Section 52(B)(2)[79] of the Revised Uniform Rules on Administrative Cases in the Civil Service[80] classifies simple misconduct as a less grave offense punishable by suspension of one month and one day to six months for the first offense.

WHEREFORE, the Court finds Judge Arnulfo O. Bugtas of RTC, Branch 2, Borongan, Eastern Samar GUILTY of GROSS IGNORANCE OF THE LAW. Accordingly, the Court orders the FORFEITURE of his entire retirement benefits, except accrued leave credits, and with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations. The Court also finds Judge Bugtas guilty of (1) UNDUE DELAY IN RENDERING A DECISION, (2) UNDUE DELAY IN RENDERING ORDERS, and (3) SIMPLE MISCONDUCT. These constitute aggravating circumstances to the offense of gross ignorance of the law.

The Court finds Ernesto C. Qutorio, Legal Researcher of RTC, Branch 2, Borongan, Eastern Samar GUILTY of SIMPLE MISCONDUCT. Accordingly, the Court SUSPENDS him from office for three months without pay and STERNLY WARNS him that a repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.

Puno, C.J., Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Tinga, Chico-Nazario, Garcia, Velasco, Jr., and Reyes, JJ., concur.
Quisumbing, and Nachura, JJ., no part.

Ynares-Santiago, and Azcuna, JJ., on official leave.

[1] Rollo, pp. 11-19.

[2]Id. at 11.

[3] Id. at 12-17.

[4] Id.

[5] Id. at 17.

[6] Id. at 171.

[7] Id. at 17.

[8] Id. at 17-19.

[9] Id. at 20-23.

[10]Id. at 24-25.

[11]Id. at 27-123.

[12] Id. at 124-126.

[13] Id. at 4.

[14] Id. at 162-163.

[15] Id. at 190.

[16] Id. at 5.

[17] Id. at 166.

[18]Id. at 167.

[19] Id.

[20] Id. at 17.

[21]Id. at 168.

[22]Id. at 17.

[23]Id. at 1-10.

[24] Third Division's Resolution, A.M. No. 06-6-340-RTC, 2 August 2006.

[25] Section 15, Article VIII of the Constitution provides:

SEC. 15. (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.

(2) A case or matter shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the Rules of Court or by the court itself.

(3) Upon the expiration of the corresponding period, a certification to this effect signed by the Chief Justice or the presiding judge shall forthwith be issued and a copy thereof attached to the record of the case or matter, and served upon the parties. The certification shall state why a decision or resolution has not been rendered or issued within said period.

(4) Despite the expiration of the applicable mandatory period, the court, without prejudice to such responsibility as may have been incurred in consequence thereof, shall decide or resolve the case or matter submitted thereto for determination, without further delay.

[26] A.M. No. P-04-1835, 11 January 2005, 448 SCRA 13, 20.

[27] A.M. No. RTJ-02-1737, 9 September 2004, 438 SCRA 1, 13-14.

[28] A.M. No. RTJ-05-1941, 25 April 2006, 488 SCRA 109, 120.

[29] Re: Report on the Judicial Audit Conducted at the Municipal Trial Court in Cities (Branch 1), Surigao City, *supra* note 26, at 20.

[30] 414 Phil. 675, 681 (2001).

[31] 391 Phil. 13, 23-24 (2000).

[32] *Id.* at 23-24.

[33] Re: Report on Judicial Audit in RTC-Br. 26, Manila, *supra*.

[34] 467 Phil. 1, 17 (2004).

[35] 416 Phil. 215, 224 (2001).

[36] 450 Phil. 70, 72 (2003).

[37] See *Buenaflor v. Ibarreta, Jr.*, 431 Phil. 249, 253 (2002).

[38] *Tugot v. Coliflores*, 467 Phil. 391, 402 (2004).

[39] See *Buenaflor v. Ibarreta, Jr.*, *supra* at 253.

[40] Rule 3.08, Canon 3 of the Code of Judicial Conduct provides:

A judge should diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of other judges and court personnel.

[41] *Supra* note 35.

[42] 408 Phil. 662, 668 (2001).

[43] *Id.* at 667.

[44] *Id.* at 668.

[45] Section 9, Rule 140 of the Rules of Court provides:

SEC. 9. Less Serious Charges. -- Less serious charges include:

- Undue delay in rendering a decision or order, or in transmitting the records of a case;
- Frequent and unjustified absences without leave or habitual tardiness;

- Unauthorized practice of law;
- Violation of Supreme Court rules, directives, and circulars;
- Receiving additional or double compensation unless specifically authorized by law;
- Untruthful statements in the certificate of service; and
- Simple Misconduct.

[46] RULES OF COURT, Rule 140, Sec. 11(B).

[47] 363 Phil. 629, 644 (1999).

[48] Rollo, p. 6.

[49] A.M. No. MTJ-01-1348, 11 November 2004, 442 SCRA 13, 50.

[50] A.M. No. MTJ-04-1556, 31 March 2005, 454 SCRA 196, 201-202.

[51] 460 Phil. 107, 116 (2003).

[52] Section 11, Rule 114 of the Rules of Court provides:

SEC. 11. Property bond, how posted. -- A property bond is an undertaking constituted as lien on the real property given as security for the amount of the bail. Within ten (10) days after the approval of the bond, the accused shall cause the annotation of the lien on the certificate of title on file with the Registry of Deeds if the land is registered, or if unregistered, in the Registration Book on the space provided therefor, in the Registry of Deeds for the province or city where the land lies, and on the corresponding tax declaration in the office of the provincial, city and municipal assessor concerned.

Within the same period, the accused shall submit to the court his compliance and his failure to do so shall be sufficient cause for the cancellation of the property bond and his re-arrest and detention.

[53] *Lim v. Dumlao*, supra note 50.

[54] A.M. No. RTJ-02-1738, 17 November 2005, 475 SCRA 175, 189.

[55] 448 Phil. 45, 56-57 (2003).

[56] Section 8, Rule 140 of the Rules of Court provides:

SEC. 8. Serious Charges. -- Serious charges include:

- Bribery, direct or indirect;
- Dishonesty and violations of the Anti-Graft and Corrupt Practices Law (R.A. No. 3019);
- Gross misconduct constituting violations of the Code of Judicial Conduct;
- Knowingly rendering an unjust judgment or order as determined by a competent court in an appropriate proceeding;
- Conviction of a crime involving moral turpitude;
- Willful failure to pay a just debt;
- Borrowing money or property from lawyers and litigants in a case pending before the court;

- Immorality;
- Gross ignorance of the law or procedure;
- Partisan political activities; and
- Alcoholism and/or vicious habits.

[57]RULES OF COURT, Rule 140, Sec. 11(A), par. 1.

[58] A.M. No. 04-7-358-RTC, 22 July 2005, 464 SCRA 21, 28-29.

[59] 387 Phil. 538, 542-543 (2000).

[60] Rollo, p. 171.

[61]G.R. No. 127857, 20 June 2006, 491 SCRA 325, 336.

[62] Rollo, p. 7.

[63]Office of the Court Administrator v. Paderanga, A.M. No. RTJ-01-1660, 25 August 2005, 468 SCRA 21, 35-36.

[64]RULES OF COURT, Rule 140, Sec. 11(B).

[65] A.M. No. RTJ-05-1920, 26 April 2006, 488 SCRA 285, 298-299.

[66]A.M. No. P-01-1453, 27 May 2004, 429 SCRA 230, 239.

[67] See Liguio v. Camano, Jr., 435 Phil. 695, 705-706 (2002).

[68]A.M. No. 06-6-380-RTC.

[69]Supra note 54, at 181-183.

[70] A.M. No. P-02-1662, 28 July 2004, 435 SCRA 349, 356.

[71] 405 Phil. 454, 460 (2001).

[72] 376 Phil. 870, 875 (1999).

[73] Rollo, p. 9.

[74]Supra note 58.

[75]391 Phil. 682, 698 (2000).

[76] Castelo v. Florendo, 459 Phil. 581, 597 (2003).

[77]Imperial v. Santiago, Jr., 446 Phil. 104, 118 (2003).

[78]Villaceran v. Beltejar, A.M. No. P-05-1934, 11 April 2005, 455 SCRA 191, 201.

[79] Section 52 of the Revised Uniform Rules on Administrative Cases in the Civil Service provides:

Section 52. Classification of Offenses.-- Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

B. The following are less grave offenses with the corresponding penalties:

x x x x

2. Simple Misconduct

1[st] offense -- Suspension (1 mo. 1 day to 6 mos.)

2[nd] offense -- Dismissal

[80]Promulgated by the Civil Service Commission through Resolution No. 99-1936 dated 31 August 1999 and implemented by CSC Memorandum Circular No. 19, Series of 1999.

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