

DOCTOR ALFONSO DE LEON, COMPLAINANT, VS. JUDGE JOSE P. CASTRO, COURT OF FIRST INSTANCE OF RIZAL, QUEZON CITY BRANCH V-B, RESPONDENT.

A.M. No. 2005-CFI. April 27, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

In Civil Case No. Q-19384 of the Court of First Instance of Rizal, Quezon City Branch V-B, entitled "Spouses Alfonso de Leon, etc. vs. Spouses Vicente B. Llanes, etc.," the defendants, as directed by the court, filed a motion to dismiss dated August 10, 1977. To that motion, the plaintiffs interposed an opposition dated August 15, 1977.

The motion was submitted for resolution on October 14, 1977 or after the parties had filed their memoranda. Because of the delay in the resolution of the said motion, plaintiff Alfonso de Leon in a verified complaint dated August 14, 1978 asked this Court to take disciplinary action against respondent Judge. He alleged that, according to his information, the Judge was an intimate friend of defendants' counsel.

Respondent judge said in his comment that it was only on May 5, 1978 when his attention was called to the said motion to dismiss because Doctor De Leon filed a motion for its early resolution. Respondent judge said that the expediente of the case could not be located because it had allegedly been misplaced.

The respondent said that the delay was unintentional and was caused by circumstances beyond his control. To avoid a repetition of such delay, he caused to be prepared a list of cases and incidents submitted for resolution. He resolved the motion to dismiss in the De Leon case in his order of August 16, 1978 or five days before the herein administrative complaint was filed.

Lawyer Pedro G. Peralta, in a manifestation dated November 30, 1978, said that after a perusal of respondent's comment, the complainant decided to desist from pressing his charge and opted to withdraw his complaint.

Justice Lorenzo Relova, the Court Administrator who had been a trial judge for several years, observed that the delay complained of could have been avoided had the respondent earlier adopted a system of checklisting all matters submitted for resolution.

Because of respondent's failure to devise earlier that system, his violation of the ninety-day period fixed in section 11(1), Article X of the Constitution and his submission of false certificates of service under section 5 of the Judiciary Law is not excusable. (See *Serra vs. Belarmino*, Administrative Matter No. 967-MJ, March 24, 1981.)

Respondent's neglect of duty is a matter of record. His defense is not meritorious. An investigation of the charge by a Justice of the Court of Appeals is not necessary specially considering complainant's desistance.

WHEREFORE, as recommended by the Court Administrator, the respondent is censured and warned that a more drastic penalty will be imposed for a repetition of that anomaly. A copy of this decision should be attached to his personal record.

SO ORDERED.

Barredo (Chairman), Concepcion Jr., Fernandez and De Castro, JJ., concur.
Abad Santos, J., is on leave.

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