

REQUEST OF JUDGE EDUARDO F. CARTAGENA, MUNICIPAL CIRCUIT TRIAL COURT, LAMITAN, BASILAN, FOR TWO MONTHS LEAVE WITHOUT PAY FROM 10 AUGUST TO 01 NOVEMBER 1995.

A.M. No. 95-9-98-MCTC. December 04, 1997

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PER CURIAM:

This administrative matter came about following the receipt by Deputy Court Administrator Bernardo P. Abesamis of a letter, dated 14 August 1995, of Judge Eduardo F. Cartagena, of the Municipal Circuit Trial Court of Lamitan-Tipo-tipo and Tuburan, Basilan, applying for a two-month leave without pay from 10 August to 01 November 1995. In the letter, evidently sent from the United States of America (“USA”), Judge Cartagena wrote to say that after attending a seminar in Tagaytay City, he had to immediately depart for Los Angeles, USA, upon being informed by his daughter that his mother was gravely ill. He said that he had failed to get an authority to travel from the Office of the Court Administrator because he took a direct flight from Zamboanga City and stayed in Manila only for some minutes for the connecting flight. He likewise mentioned about having to promptly keep an appointment at the LACUSC Medical Center in connection with his prostate gland ailment and another consultation with an EENT specialist regarding his hearing problem.

Judge Cartagena stated that he was able to dispose of more than twenty cases within a period of three months and that he had no pending cases for trial or decision.

In the meantime, the Court received a letter, dated 25 August 1995, from Executive Judge Salvador A. Memoracion of the Regional Trial Court of Isabela, Basilan, Branch 2, advising the Court that Judge Cartagena again left for abroad without notice and without filing any application for leave of absence. It would appear that Judge Cartagena had traveled before without first informing Judge Memoracion. The Clerk of Court of MCTC Lamitan-Tipo-tipo-Tuburan, Wilfredo P. Reyes, reported to Judge Memoracion that Judge Cartagena had left various legal matters, including several cases pending trial, all requiring his personal attention. Judge Memoracion recommended the dismissal of Judge Cartagena from the service and meanwhile designated Judge Cecilio G. Martin to be the Acting Presiding Judge of MCTC Lamitan-Tipo-Tipo-Tuburan.

In its resolution of 17 October 1995, the Court resolved to deny the letter-request, dated 14 August 1995, of Judge Cartagena and to direct him to return to the Philippines within ten days from receipt of the resolution of the Court, as well as to explain, upon his arrival, why he should not be disciplinarily dealt with for traveling abroad without the corresponding application for leave, travel authority and court clearance.

In his explanation, dated 16 July 1996, sent from California, USA, Judge Cartagena averred that he had received a copy of the Court's 17 October 1995 resolution only on 15 July 1996 when it was brought to him by his daughter who visited from the Philippines. He was thus informed, for the first time, that his request for authority to travel had been denied. According to him he was unable to return to the Philippines, as directed by the Court, as he had to attend to the needs of his mother who was then gravely ill. It was only after his mother's recovery that he was able to attend to his prostate problem and to have his treatment which lasted for six months. He then went to an

EENT specialist for eye treatment. He was scheduled to return to the Philippines forthwith but, on 09 April 1996, his daughter's car which he was driving was hit by a sixteen-wheeler truck. He had to undergo physical therapy and was discharged only on 20 June 1996. Judge Cartagena, finally, manifested his desire to return to his post or be allowed to retire.

In a letter to the Court, dated 02 April 1997, Judge Memoracion requested that Judge Cartagena be investigated for abandonment of office from 08 August 1995 to 31 March 1997, or for a period of one year, seven months and twenty-three days; for failure to comply with this Court's resolution of 17 October 1995; for going to the USA and returning to his station without notifying the Executive Judge of RTC, Isabela, Basilan; and for making or treating his office as if it were his personal domain.

In a letter, dated the following day or 03 April 1997, Judge Memoracion directed Judge Cartagena to cease and desist from acting as Presiding Judge of MCTC-Tipo-Tipo-Tuburan until the latter could present a resolution from the Supreme Court that no disciplinary measure had been taken against him pursuant to the Court's resolution of 17 October 1995.

In his supplemental explanation, dated 07 April 1997, Judge Cartagena informed the Court that he reported for work on 31 March 1997 in compliance with the 17 October 1995 resolution of the Court. He was not able to drop by at the Supreme Court on his way to his station because, he explained, his connecting flight from Los Angeles arrived in Manila at midnight of 25 March 1997, and his flight to Zamboanga City was at 5:30 in the morning. He also stated that he was unable to return to his station after he submitted his explanation, dated 16 July 1996, because he underwent continued physical therapy due to the vehicular accident he encountered on 20 January 1997. He reiterated his willingness to assume his post (a place which he described as a hotbed of terrorist activities) or, in the alternative, to be allowed to retire for medical reasons.

In its resolution of 26 June 1997, the Court referred the matter to the Office of the Court Administrator for evaluation, report and recommendation.

The OCA reported that from 1993 to 1997, Judge Cartagena was almost always abroad (in the USA). His first recorded leave of absence for the USA was for vacation and sick leave from 01 June to 23 July 1993 to visit his mother, whom he had claimed to be gravely ill. He again requested for another leave from 30 May to 08 July 1994 to visit his wife and children in the USA. The OCA noted the report, dated 17 April 1995, of the Leave Division of the Court, stating that Judge Cartagena applied for leave of absence with pay from 30 May to 10 June 1994, and leave of absence without pay from 11 June to 08 July 1994. He requested for an extension of his leave from 11 July to 14 November 1994 but it was denied by DCA Juanito Bernad on 24 October 1994. Judge Cartagena next requested for an extension of his leave of absence from 15 November 1994 to 22 March 1995 supposedly because he had to undergo a gall bladder operation. He was required to submit a medical certificate; he complied by submitting one issued by the Los Angeles County University of Southern California Medical Center along with another request for extension of his leave until the first week of April 1995. The medical certificate, upon evaluation of the Supreme Court Clinic, was found to be "incomplete and deplete of essential information required for a thorough and complete evaluation of (the) case." [1] Judge Cartagena's request was denied, and he was directed by DCA Juanito A. Bernad to forthwith return to the Philippines and report for work.

In a memorandum addressed to Chief Justice Andres R. Narvasa, dated 11 September 1997, the OCA, through DCA Bernardo P. Abesamis, recommended that Judge Cartagena be allowed to retire from the service effective 31 March 1997 and that a fine of One Hundred Thousand Pesos (P100,000.00) be imposed upon him, deductible from any retirement benefit that may be due him.

The Court holds that respondent Judge should be dismissed from the service.

Judge Cartagena's attitude betrays his lack of concern for his office. In one instance, "In Re: Request of Judge Esther N. Bans to Travel Abroad," [2] the Court has had occasion to stress:

"x x x. As a judicial officer delicately tasked with the administration of justice, the higher interests of public service should, at all times, be above all other considerations. x x x. Judges should be reminded that requests for permission to travel abroad on official time should not be presumed granted by the Court. Guided by considerations of higher interests of the service, the Court painstakingly looks into every request on a case-to-case basis." [3]

Judge Cartagena's travels have been neither on official time nor for official business. He undoubtedly should have been more conscious of his court duties, as well as more cautious of his actuations, than he has heretofore exhibited. He should have been aware that, in regularly leaving his station, he continually has caused great disservice to countless litigants and has denied them speedy justice. In departing for abroad without the knowledge, let alone the permission, of the Court, Judge Cartagena has violated Memorandum Order No. 26 [4] which mandates that "(r)equêtes for permission to travel abroad from members and employees of the judiciary (should x x x) be obtained from the Supreme Court." [5] In addition, Judge Cartagena has chosen to be unmindful of the authority of his immediate superior, Judge Memoracion, whom he apparently did not even notify of his travels.

The doctrine of *res ipsa loquitur*, i.e., that the Court may impose its authority upon erring judges whose actuations, on their face, would show gross incompetence, ignorance of the law, or misconduct, is obviously applicable to the instant case. [6]

WHEREFORE, finding respondent Judge Eduardo F. Cartagena guilty of gross misconduct, the Court hereby dismisses him from the service with forfeiture of all benefits and with prejudice to re-employment in any other branch, instrumentality or agency of the government, including government-owned and controlled corporations.

Judge Eduardo F. Cartagena is hereby enjoined upon his receipt hereof to cease and desist from performing any and all acts pertaining to his office.

This decision is immediately executory.

Let a copy of this decision be attached to the records of Judge Eduardo F. Cartagena with this Court.

SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Francisco, Panganiban, and Martinez, JJ., concur.

Mendoza, J., on leave.

[1] Rollo, p. 52.

[2] 147 SCRA 560.

[3] At page 563.

[4] Modifying Executive Order No. 6 Providing Procedures Relative to Requests of Government Officials and for Authority to Travel Abroad.

[5] See *Recio vs. Acuña*, *OCA vs. Acuña*, 221 SCRA 70.

[6] *Macalintal vs. Judge Teh*, A.M. No. RTJ-97-1375, 16 October 1997; *Consolidated Bank and Trust Corporation vs. Capistrano*, 159 SCRA 47.

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