

REPORTED ON THE JUDICIAL AUDIT CONDUCTED IN RTC – BRANCHES 29 AND 59, TOLEDO CITY

A.M. No. 97-9-278-RTC. July 08, 1998

Ponente: PUNO, J.

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PUNO, J.:

The present administrative matter arose from a judicial audit conducted in the Regional Trial Court of Toledo City, in view of the retirement of two presiding judges in said court, namely Judge Gualberto P. Delgado of Branch 29 and Judge Antonio R. Roque of Branch 59. Judge Delgado went on optional retirement on January 10, 1997, while Judge Roque reached the compulsory retirement age on May 10, 1997.

I. Branch 29

The audit report showed that Judge Gualberto P. Delgado left ten (10) undecided cases[1] already submitted for decision. When he filed his application for optional retirement, he did not submit any certification from the Clerk of Court of Branch 29 that he has no pending cases submitted for decision or resolution. Nonetheless, the Retirement Division of the Office of Administrative Services of this Court processed and submitted his application to the Office of the Court Administrator (OCAD) for final evaluation. In turn, the Office of Deputy Court Administrator Bernardo P. Abesamis recommended the approval of Judge Delgado's retirement, citing that he had been in the government service for 36 years, the last seven years of which were spent in the Judiciary, that he had no pending criminal or civil case, that he filed the required Statement of Assets and Liabilities and that he was cleared of money and property accountability.[2] Thus, in a Resolution dated January 21, 1997, the Court En Banc approved Judge Delgado's retirement effective January 10, 1997.[3]

The audit report further disclosed that the Clerk of Court of Branch 29, Atty. Raul Cesar C. Bajarias, failed to transmit, for an unreasonable length of time, the records of appealed cases to the proper appellate court despite court orders directing him to do so. At the time of the judicial audit in May 1997, the records of the following cases were still with Branch 29:

Case No./ Nature

Date of Order to Transmit

Records to appellate court

Crim. Case No. 1861

February 27, 1997

(for Murder)

Crim Case No. TCS-1961

(for Frustrated Homicide)

October 21, 1996

Civil Case No. T-344 (for Partition)

Judge Delgado ordered the

transmittal upon approval

of the Notice of Appeal

on October 25, 1996

Civil Case No. T-406

Judge Delgado ordered the

(for Quieting of Title)

transmittal upon approval

of the Notice of Appeal

on October 8, 1996

Furthermore, in Criminal Case No. 1876, for murder, Judge Delgado issued an Order, dated March 18, 1997, directing Atty. Bajarias to issue a writ of execution of the Judgment promulgated on January 8, 1997. However, said writ was not attached to the records upon audit in May 1997.

II. Branch 59

The audit report showed that Judge Antonio R. Roque failed to decide eight (8) criminal cases and nine (9) civil cases[4] within the reglementary period. Moreover, the actions taken on nineteen (19) criminal cases[5] and eleven (11) civil cases were made only after the lapse of a considerable length of time. The report also revealed that no initial actions were taken on two (2) criminal cases (Criminal Case Nos. TCS-T-434 and TCS-T-490) from the time they were assigned to the said branch on May 28, 1996 and January 27, 1997, respectively. Similarly, as of the date of the judicial audit, seven (7) civil cases[6] were not acted upon from the time of their filing in 1996.

The audit report further showed that Clerk of Court Eustacia Marfil, Office of the Clerk of Court, then acting as the Clerk of Court of Branches 29 and 59, assigned new docket numbers to case raffled to Branch 59, instead of the original docket numbers used in the docket books of the Office of the Clerk of Court. In view of the new docket numbers, the audit team had difficulty in verifying the status of the cases assigned to Branch 59. It was reported too that Branch 59 does not maintain its own docket books and solely relies on the docket books of the Office of the Clerk of Court.

Acting on the foregoing report, we issued a Resolution dated October 7, 1997, directing, among others:

(a) Atty. Raul Cesar C. Bajarias, Branch 29 Clerk of Court, RTC, Toledo City, to explain why he should not be held administratively liable for his failure to forward to the proper appellate court the records of Criminal Case Nos. TCS-1861 and TCS-1961; and Civil Case Nos. T-344 and T-406. He was further directed to issue the writ of execution in Criminal Case No. 1876;

(b) Mrs. Patrocinio V. Salazar, HRMO V, Employees Welfare and Benefits Division, Office of the Administrative Services, Supreme Court, to comment why the application of Judge Gualberto P. Delgado was processed and submitted to the Court despite the absence of a certification from the Clerk of Court of Branch

29 of RTC, Toledo City, that Judge Delgado has no pending cases submitted for decision or resolution;

(c) Judge Antonio R. Roque, former presiding judge of Branch 59, RTC, Toledo City, to explain why a portion of his retirement benefits should not be forfeited as fine for his failure to decide within the reglementary period the cases submitted for decision, especially those involving detention prisoners;[7] and

(d) Clerk of Court Eustacia N. Marfil, RTC, Toledo City, to immediately desist from assigning different docket numbers to cases raffled to Branch 59 and to explain why she should not be held administratively liable for adopting said practice.

As directed, the concerned court officers submitted their respective explanations, thus:

(a) Branch Clerk of Court Raul Cesar Bajarias

In his written explanation,[8] dated November 3, 1997, Atty. Bajarias claimed that he issued a writ of execution in Criminal Case No. TCS-1876 on April 1, 1997. As for the records of the appealed criminal and civil cases, he claimed that he already transmitted them to the Court of Appeals on the following dates:

Case No.

Date of transmittal of records

TCS-1861

July 14, 1997

TCS-1961

July 2, 1997

T-406

March 4, 1997

T-344

October 25, 1996

(b) Mrs. Patrocinio V. Salazar

Mrs. Salazar alleged that, as a matter of procedure, the office of the Administrative Services' duty is to verify whether the requirements in the prescribed checklist for retiring judges have been complied with by a judge applying for retirement, to wit:

- a. Certification of regular monthly salary and other emoluments
- b. Birth Certificate and Marriage Contract
- c. Bar Clearance
- d. Service Record from other government offices
- e. Supreme Court Clearance
- f. RTC Clearance as to no pending criminal and administrative case

- g. NBI or Police Clearance (for Supreme Court Employees)
- h. RTC Clearance as to no money and property accountabilities duly noted by the Provincial Treasurer
- i. Updated Assets and Liabilities
- j. Ombudsman Clearance

Since Judge Delgado complied with the foregoing, his application was processed and forwarded to the Office of the Court Administrator for final evaluation and verification of the applicant's compliance with the requirements under letters "K" and "L" of the same checklist, thus:

"k. For Clerks of Court and OIC of all courts who are accountable officers, please see Fiscal Audit Division, Office of the Court Administrator, relative to reconciliation of cash accountabilities,

l. For OPTIONAL RETIREMENT of Judges, please submit list of cases pending decision or resolution indicating the date it was submitted and whether said cases are current or inherited and the list of cases pending trial, duly certified by the Branch Clerk of Court."

Mrs. Salazar alleged that since the processing of the papers of Judge Delgado was already with OCAD, her office has no information whether he already complied with the requirement in letter "l". At any rate, Mrs. Salazar pointed out that Deputy Court Administrator Abesamis recommended the approval of Judge Delgado's application. She stressed, further, that on November 11, 1996, the Office of Deputy Court Administrator Abesamis sent a telegram to Judge Delgado requiring the latter to submit his monthly report of cases pending in his sala.

(c) Judge Antonio R. Roque

Judge Roque averred in a letter dated November 28, 1997, that of the reported eight (8) criminal cases due for decision, one case (TCS-498) was already disposed of on April 16, 1997, while another case (TCS-4078) is still being heard since the accused was arraigned only on September 11, 1997. On the other hand, only five (5) out of the nine (9) undecided civil case are actually due for resolution. The the rest are still to be heard.

Allegedly, he failed to decide the above cases because he was awaiting the memoranda of the parties. He explained that he considered a case as submitted for decision only upon receipt of the required memorandum, otherwise, the litigants would no longer file it despite the court's order. Moreover, with the memorandum on hand, it was easier for him to decide a case as there is no law library in Toledo City. He allegedly had to go to Cebu City for research which entailed so much time and expense.

Judge Roque also claimed that he wanted to decide the said cases but could no longer do so since his compulsory retirement was on May 10, 1997. The judicial audit was done from May 9-13, 1997.

(d) Clerk of Court Eustacia Marfil

In her letter-explanation dated November 7, 1997, Clerk of Court Marfil explained that, in addition to her official functions as Clerk of Court of the Regional Trial Court of Toledo City, she also acted as Branch Clerk of Court of Branch 29. Moreover, upon the request of Judge Roque, she was also temporarily assigned in Branch 59, pending the appointment of the clerk of court in his sala. Considering the duties attached to the three (3) positions she held at that time, she devised a way to enable her to readily identify the cases assigned to Branch 59. For instance, while the official log book of the Office of the Clerk of Court reveals the original docket number of a case, e.g. "TCS-809", she assigned a new control number thereto, i.e. "TCS T-1". The new control number was the one written in the log book of Branch 59, however, the original docket number was still indicated under it. Hence, in

the example given, the phrase “formerly TCS-809”, in parenthesis, was written below the new docket number “TCS-1”.

She averred that she did not intend to hide the original docket number of the case and insisted that the changes she introduced were done in good faith and not meant to deceive or mislead anyone. She prayed for the Court’s leniency on the ground that the practice was immediately corrected upon learning her mistake from Atty. Jocelyn Regencia, the duly appointed Clerk of Court of Branch 59.

After receiving the explanations of the concerned court officers, we issued a resolution, dated December 9, 1997, referring the matter to the Office of the Court Administrator for evaluation.

The Court Administrator, through Deputy Court Administrator Abesamis, found the explanations of Atty. Bajarias, Mrs. Salazar and Atty. Marfil to be satisfactory. Judge Roque’s explanation, on the other hand, was found unsatisfactory on the ground that his failure to decide cases within the reglementary period runs counter to Canon 3, Rule 3.05 of the Code of Judicial Conduct. The OCAD recommended that Judge Roque be fined in the amount of fifty thousand pesos (P50,000.00) .

We shall now pass upon their administrative liabilities.

(a) Branch Clerk of Court Raul Cesar Bajarias

We note that Atty. Bajarias did not explain why he did not transmit the records of the appealed cases with dispatch. Thus, in Criminal Case No. TCS-1861, for murder, where the accused was sentenced to reclusion perpetua, he erroneously transmitted the records to the Court of Appeals only on July 14, 1997[9] despite the fact that the Notice of Appeal was filed as early as January 24, 1997 and the order to transmit the records was issued on February 27, 1997. In Criminal Case No. TCS-1961, for frustrated homicide, the Notice of Appeal was filed on October 18, 1996. The order to transmit the records was issued on October 21, 1996, but the records were transmitted only on July 2, 1997.

Similarly, in Civil Case No. T-406, for Quieting of Title, Judge Delgado ordered the records’ transmittal upon approval of the Notice of Appeal on October 8, 1996, but Atty. Bajarias complied with the order only on March 4, 1997.[10] On the other hand, in Civil Case No. T-344, the Notice of Appeal was approved on October 25, 1996. The records were allegedly transmitted on the same date as per the certified xerox copy of the transmittal letter submitted by Atty. Bajarias, although as per the audit team’s report, the said records were still with Branch 29 upon audit in May, 1997.

As regards the non-issuance of the writ of execution in Criminal Case No. TCS-1876, Atty. Bajarias submitted an alleged copy of the said writ, dated April 1, 1997, together with a copy of the Sheriff’s Return of Service, dated April 30, 1997, although as of the date of the audit on May 9-13, 1997, said writ was not attached to the records of the case.

Atty. Bajarias ought to know that the Rules of Court requires clerks of court to transmit the complete records to the appellate court within five (5) days after the filing of notice of appeal, in criminal cases,[11] and within thirty (30) days after perfection of the appeal, in civil cases.[12] If the efforts to complete the records fail, the clerk of court shall indicate in his letter of transmittal the exhibits or transcripts not included in the records being transmitted to the appellate court, the reasons for their non-transmittal, and the steps taken or that could be taken to have them available.[13]

We have held that the failure of the clerk of court to transmit the records of the case constitutes negligence and warrants disciplinary action.[14] The reason for the rule requiring prompt transmittal of the records of appealed

cases to the appellant court is to ensure the speedy disposition of the case, especially in criminal cases involving detention prisoners. Otherwise, the speedy administration of justice would be hampered.[15]

The Clerk of Court is an essential officer of our judicial system. As an officer of the court, he performs delicate administrative functions vital to the prompt and proper administration of justice.[16] Thus, for neglecting to diligently perform his assigned tasks and for not giving any explanation on why he reneged on his duty to transmit the records of the appealed cases on time, Atty. Bajarias should be fined.

(b) Mrs. Patrocinio V. Salazar

The Office of the Administrative Services and the Office of the Court of Administrator are both responsible in assessing whether Judge Delgado had complied with all the requirements prescribed in the checklist before submitting the same to the Court En Banc for approval. We find it strange that both offices overlooked such a basic requirement considering that this is not the first time that a judge had applied for retirement. The OCA bears the heavier burden of ensuring that retiring judges have cleared their dockets as it has direct supervision over them, particularly in matters relating to the prompt disposition of cases pending in their courts. As explained by Mrs. Salazar, as a matter of procedure, the OCA checks on a monthly basis the cases disposed of by lower courts, through the Monthly Report of Cases submitted to its Statistics Division.[17] A simple check on the said monthly report would have readily revealed that Judge Delgado had cases submitted for decision at the time he filed his application for optional retirement. Obviously, it failed to do its task.

Instead of blaming each other, the OCA and the Office of Administrative Services should work together as a team. They should properly delineate the limits of their functions to avoid a repetition of the situation at hand.

(c) Judge Antonio R. Roque

The records clearly show that Judge Roque failed to meet the deadline set by the Constitution, particularly Section 15, Article VIII which provides that all cases filed before the lower courts must be decided or resolved within three (3) months from the date of submission.

We find the explanation of Judge Roque unsatisfactory. He tried to shift the blame on the litigants for failure to submit their memoranda. However, such argument will not exculpate him. A case is deemed submitted for decision upon the admission of the evidence of the parties at the termination of the trial. The ninety (90) day period for deciding the case commences to run from the submission of the case for decision without memoranda; in case the Court requires or allows its filing, the case shall be considered submitted for decision upon the filing of the last memorandum, or the expiration of the period to do so, whichever is earlier.[18] Thus, in cases where the court allows the filing of memoranda, no further orders announcing the submission of cases for decision are necessary before they can be regarded as submitted for decision. Where the parties fail to submit their memoranda within the period given to them by the court, a case is deemed submitted for decision upon the expiration of that period whether or not there is an order from the court to that effect. It is not the order that makes a case ready for disposition of the court. The mere filing of the memoranda or the termination of the period to file one, whichever is earlier, ipso facto submits the case for adjudication.[19]

In the case at bar, the period granted by Judge Roque for the parties to file their memoranda had already expired for more than six (6) months, for the undecided criminal cases. Similarly, in the undecided civil cases, considerable length of time had elapsed from the time Judge Roque required the parties to file their memoranda. We restate that “this Court cannot countenance such undue delay of a judge, especially now when there is an all-out effort to minimize, if not totally eradicate, the problems of congestion and delay long plaguing our courts. Moreover, the requirement that cases be decided within ninety (90) days from their submission for decision is

designed to prevent delay in the administration of justice, for obviously, justice delayed is justice denied, and delay in the disposition of cases erodes the faith and confidence of our people in the judiciary, lowers its standards, and brings it into disrepute.”[20]

We note that the case left undecided by Judge Roque include several criminal cases and three (3) of them involve detention prisoners. As we previously stressed, the unjustified delay in the dispensation of justice cuts both ways. On the part of the accused, since his liberty is at stake, his suffering is unduly prolonged on account of the judge’s failure to promptly render the judgment of acquittal. On the part of the offended party, the excruciating pain of waiting for the sentencing of the accused gives the offended party the impression of impropriety that could diminish his trust in the judicial system.[21]

We have always considered the failure of judge to decide a case within ninety (90) days as gross inefficiency and imposed either fine or suspension from service without pay for such. The fines imposed vary in each case, depending chiefly on the number of cases not decided within the reglementary period and other factors, to wit: the presence of aggravating or mitigating circumstances—the damage suffered by the parties as a result of delay, the health and age of the judge, etc. Thus, in one case,[22] we set the fine at ten thousand pesos (P10,000.00) for failure of a judge to decide 82 cases within the reglementary period, taking into consideration the mitigating circumstance that it was the judge’s first offense. In another case,[23] the fine imposed was sixty thousand pesos (P60,000.00), for the judge had not decided about 25 or 27 cases. Still in other cases, the fines were variably set at fifteen thousand pesos (P15,000.00), for nineteen (19) cases left undecided, taking into consideration that it was the judge’s first offense;[24] twenty thousand pesos (P20,000.00), for three (3) undecided criminal cases;[25] eight thousand pesos (P8,000.00), for not deciding a criminal case for three (3) years;[26] forty thousand pesos (P40,000.00), for not deciding 278 cases within the prescribed period, taking note of the judge’s failing health and age;[27] and ten thousand pesos (P10,000.00), for belatedly rendering a judgment of acquittal in a murder case, after one-half years from the date the case was submitted for decision.[28] In another case,[29] suspension without pay for a period of six (6) months was imposed since, besides the judge’s failure to timely decide an election protest for eight (8) months, the judge submitted false certificates of services and was found guilty of habitual absenteeism.

Judge Roque admitted that he failed to decide six (6) criminal cases and five (5) civil cases within the mandatory period. The delay will definitely create a negative public perception on the judicial system and will not be tolerated. Hence, we impose a fine of fifty thousand pesos (P50,000.00) on him.

(d) Clerk of Court Eustacia Marfil

We agree with the Deputy Court Administrator that Clerk of Court Eustacia Marfil should not be held administratively liable for assigning new docket numbers to cases assigned to Branch 59. Apparently, she adopted said system in good faith considering the many cases she was tasked to attend to due to the three (3) positions she held at that time. At any rate, no damage was done as the original docket numbers of the cases were retained in the records of cases. She also rectified the error upon being informed of the flaw she committed.

Be that as it may, she ought to be reminded that, as the person having control and supervision over all court records, she should not experiment with practices not authorized under the Manual for Clerks of Court to avoid any suspicion from the public that court officers are engaged in nefarious activities.

IN VIEW WHEREOF, the Court resolves as follows:

- a) Atty. Raul Cesar C. Bajarias, Branch Clerk of Court, RTC (Branch 29), Toledo City, is hereby FINED P1,000.00 for neglect of duty, and ADMONISHED to be more diligent in performing his duty, with warning that a repetition of the same offense shall be dealt with severely.

b) Mrs. Patrocinio V. Salazar is ABSOLVED from administrative liability in connection with the processing of the application for the optional retirement of Judge Gualberto P. Delgado, former presiding judge of Regional Trial Court of Toledo City, Branch 29, but is advised to coordinate her work more closely with OCA.

c) Judge Antonio R. Roque is declared administratively liable for failure to render the decision in the cases pending before his sala during his tenure as presiding judge, within ninety (90) days from the time the aforementioned cases were submitted for decision. Hence, he is ordered to pay a fine of fifty thousand pesos (P50,000.00), taking into consideration the number of cases he failed to decide within the reglementary period. The twenty thousand pesos (P20,000.00) retained by the Court from his retirement pay shall be applied to the fine herein imposed.

d) Clerk of Court Eustacia Marfil is ABSOLVED from any administrative liability for changing the docket numbers of the cases raffled to Branch 59, Regional Trial Court, Toledo City, but she is reminded to be more circumspect in handling court records.

SO ORDERED

Narvasa, C.J., Regalado, Davide Jr., Romero, Bellosillo, Melo, Vitug, Kapunan, Mendoza, Panganiban, Martinez, Quisumbing, and Purisima, JJ., concur.

[1] Criminal Case Nos. TCS-989 (Murder), TCS-2009 (Robbery), TCS-1747 (Murder), TCS-1821 (Murder), TCS-1613 and 1614 (Kidnapping), TCS-2259 (Murder), TCS-788 (Theft), and Civil Case Nos. T-161 (Quieting of Title) and T-262 (Annulment of Deed of Sale).

[2] Rollo, p. 12; Administrative Matter No. 9092, dated November 29, 1996.

[3] Docketed as A.M. No. 9092 (Re: Application for Optional Retirement of Judge Gualberto P. Delgado).

[4] Criminal Case Nos. TCS-T-039 (TCS-2161); TCS-T-075 (TCS-1768); TCS-T-908 (TCS-2103); TCS-T-170 (TCS-2300); TCS-T-183 (TCS-2325); TCS-T-270 (TCS-2410); TCS-T-466 (TCS-4078) and TCS-T-498 (TCS-2738), and Civil Case Nos. T-T-32 (T-454); T-T-42 (T-480); T-T-46 (T-483); T-T-48 (T-463); T-T-65 (T-509), T-T-67 (T-505), T-T-71 (T-492); T-T-92 (T-541) and T-T-94 (T-548).

[5] TCS-T-012, TCS-T-013, TCS-T-145, TCS-T-184, TCS-T-194, TCS-T-197, TCS-T-232, TCS-T-242, TCS-T-240, TCS-T-275, TCS-T-278, TCS-T-298, TCS-T-438, TCS-T-471, TCS-T-472, TCS-T-474, TCS-T-500, TCS-T-505 and TCS-T-507.

[6] Nos. SP-58-TT, SP-59-TT, SP-61-TT, SP-62-TT, LRC-T-48 LRC-T-49, and LRC-T-50.

[7] The amount of twenty thousand pesos (P20,000.00) was withheld from Judge Roque's retirement pay to answer for any fine which the Court might impose on him.

[8] Rollo, pp. 12-13.

[9] The records were finally forwarded to this Court on September 26, 1997; Rollo, p. 16.

[10] Letter-explanation of Atty. Bajarias dated November 3, 1997, Rollo, pp. 12-13.

[11] Section 8 of Rule 122 of the 1985 Rules on Criminal Procedure, as amended. See also Section L (4), Chapter VI of Manual for Clerks of Court.

[12] Section 10, Rule 41 of the Rules of Court as amended by Circular No. 22-92 dated April 1, 1992.

[13] Circular No. 22-92, *supra*.

- [14] Ramos vs. Gregorio, A.M. P-91-600, July 21, 1993, 224 SCRA 652.
- [15] Juntilla vs. Calleja, A.M. Mo. P-96-1255, September 23, 1996, 262 SCRA 291.
- [16] Juntilla vs. Calleja, *supra*.
- [17] Cf. Administrative Circular No. 4-95, dated January 16, 1995.
- [18] Report on the Judicial Audit Conducted in the Regional Trial Court, Branch 27, Naga City, A.M. No. 96-11-402-RTC, August 21, 1997.
- [19] *Ibid*.
- [20] Re: Judge Danilo M. Tenerife, A.M. No. 95-5-42-MTC, March 20, 1996, 255 SCRA 184.
- [21] Lopez vs. Alon, A.M. No. 95-95-RTJ, February 28, 1996, 254 SCRA 166.
- [22] See note 20.
- [23] A.M. No. 93-2-1001-RTC, Re: Report of the Judicial Audit Conducted in the Regional Trial Court Branches 61, 134 and 147, Makati, Metro Manila, September 5, 1995, 248 SCRA 5.
- [24] Report on the Judicial Audit and Physical Inventory of the Reports of Cases in MTCC-Br. 2, Batangas City, A.M. No. 94-10-96-MTCC, September 5, 1995, 248 SCRA 36.
- [25] Baguio vs. Torres, Adm. Matter No. MTJ-90-490, July 3, 1992, 211 SCRA 1.
- [26] Navarro vs. Judge del Rosario, Adm. Mat. No. MTJ-96-1091, March 21, 1997, 270 SCRA 264.
- [27] Report on the Judicial Audit and Physical inventory of the Cases in RTC-Br. 138, Makati City, Adm. Mat. No. RTJ-94-4-156, March 13, 1996, 254 SCRA 644.
- [28] Lopez vs. Alon, *supra*.
- [29] Bolallin vs. Judge Occiano, A.M. No. MTJ-96-1104, January 14, 1997, 266 SCRA 203.

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