ISSUANCE OF HOLD DEPARTURE ORDER OF JUDGE LUISITO T. ADAOAG, MTC, CAMILING, TARLAC.

A.M. No. 99-8-126-MTC. September 22, 1999

Ponente: MENDOZA, J.

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MENDOZA, J.:

This refers to the endorsement, dated March 31, 1999, of the Secretary of Justice concerning a "hold-departure" order issued on January 29, 1999 by Judge Luisito T. Adaoag, Municipal Trial Court, Camiling, Tarlac, in Criminal Case Nos. 98-131 and 98-132, entitled "People of the Philippines v. Nestor Umagat y Campos." The Secretary of Justice calls attention to the fact that the order in question is contrary to Circular No. 39-97, dated June 19, 1997, of this Court.

Indeed, the said circular limits the authority to issue hold departure orders to the Regional Trial Courts in criminal cases within their exclusive jurisdiction. It provides the following guidelines on the issuance of hold departure orders:

> In order to avoid the indiscriminate issuance of Hold-Departure Orders resulting in inconvenience to the parties affected, the same being tantamount to an infringement on the right and liberty of an individual to travel and to ensure that the Hold-Departure Orders which are issued contain complete and accurate information, the following guidelines are hereby promulgated:
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> 1.
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> Hold-Departure Orders shall be issued only in criminal cases within the exclusive jurisdiction of the Regional Trial Courts;
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> 2.
>
> The Regional Trial Courts issuing the Hold-Departure Order shall furnish the Department of Foreign Affairs (DFA) and the Bureau of Immigration (BI) of the Department of Justice with a copy each of the Hold-Departure Order issued within twenty-four (24) hours from the time of issuance and through the fastest available means of transmittal;
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> 3.
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> The Hold-Departure Order shall contain the following information:
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> a.
>
> The complete name (including the middle name), the date and place of birth and the place of last residence of the person against whom a Hold-Departure Order has been issued or whose departure from the country has been enjoined;
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> b.
>
> The complete title and the docket number of the case in which the Hold-Departure Order was issued;

c.

The specific nature of the case; and

d.

The date of the Hold-Departure Order.

If available, a recent photograph of the person against whom a Hold-Departure Order has been issued or whose departure from the country has been enjoined should also be included.

4.

Whenever (a) the accused has been acquitted; (b) the case has been dismissed, the judgment of acquittal or the order of dismissal shall include therein the cancellation of the Hold-Departure Order issued. The courts concerned shall furnish the Department of Foreign Affairs and the Bureau of Immigration with a copy each of the judgment of acquittal promulgated or the order of dismissal twenty-four (24) hours from the time of promulgation/issuance and through the fastest available means of transmittal.

All Regional Trial Courts which have furnished the Department of Foreign Affairs with their respective lists of active Hold-Departure Orders are hereby directed to conduct an inventory of the Hold-Departure Orders included in the said lists and inform the government agencies concerned of the status of the Orders involved.

In his comment, Judge Adaoag admits his mistake and pleads ignorance of the circular. He explains:

1. The order of the court dated January 29, 1999 is a mere request from the Commission on Immigration to issue a Hold Departure Order;

2. The questioned order was issued in two criminal cases within the Jurisdiction of the Court and was issued with malice towards none and in the interest of the state upon motion of the Department of Justice thru its Assistant Prosecutor Venancio Ovejera, Office of the Provincial Prosecutor, Tarlac, Tarlac;

3. The court was misled into believing that the court could issue an order requesting the Bureau of Immigration for a Hold Departure Order because the motion for the issuance of a hold departure order was filed and prayed for by the Office of the Provincial Prosecutor at Tarlac, Tarlac;

4. The court has no copy of Circular No. 39-97 and upon research, it found out for the first time that Hold Departure Orders shall be issued only in criminal cases within the exclusive Jurisdiction of the Regional Trial Courts.

How about criminal cases within the exclusive Jurisdiction of first level courts?

Rest assured that from this moment and thereafter, the court will no longer issue such order.

The Code of Judicial Conduct[1] enjoins judges to be “faithful to the law and maintain professional competence.” They can live up to their duties only by diligent effort to keep themselves abreast of developments in our legal system. The process of learning the law is a never ending and ceaseless one. In two recent cases[2] involving similar violations, this Court imposed the penalty of reprimand on the offending judges. Hence, the same penalty should be imposed on Judge Adaoag.

WHEREFORE, Judge Luisito T. Adaoag is hereby REPRIMANDED with the WARNING that a repetition of the same or similar act will be dealt with more severely.

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SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.

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[1] Canon 3, Rule 3.01.

[2] Re: Hold Departure Order dated April 13, 1998 issued by Judge Juan C. Nartatez, Municipal Trial Court, Branch 3, Davao City, A.M. No. 98-10-141-MTCC, Nov. 18, 1998; Hold Departure Order issued by Judge Eusebio M. Barot, MCTC, Branch 2, Aparri, Calayan, Cagayan, A.M. No. 99-8-108-MCTC, Aug. 25, 1999.

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