

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
JUDGE HENRY J. TROCINO, PRESIDING JUDGE, JUDGE EDGARDO L.
CATILO, FORMER ACTING PRESIDING JUDGE, ATTY. JOSEPHINE
MUTIA- HAGAD...**

A.M. No. RTJ-05-1936. May 29, 2007

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This administrative case arose from a Memorandum submitted by an audit team of the Office of the Court Administrator (OCA), reporting on the judicial audit and physical inventory of cases conducted at the Regional Trial Court (RTC), Branch 62, Bago City, Negros Occidental (trial court) on 7 July 2003.

The Facts

Judge Marietta H. Alinio (Judge Alinio), who retired on disability on 27 December 1994, previously presided over the trial court. On 21 February 1995, Judge Edgardo L. Catilo (Judge Catilo) of the RTC, Branch 56, Himamaylan City was designated as Acting Presiding Judge until the appointment of Judge Henry J. Trocino (Judge Trocino) as Presiding Judge on 8 February 1999.

The audit team reported that the trial court had a total caseload of 669 cases consisting of 415 criminal cases and 254 civil and other cases. The audit team found that the trial court had 131 cases submitted for decision which had not been decided within the 90-day reglementary period.[1] The audit team also reported that the trial court had 24 motions for resolution and 119 cases which remained unresolved for a considerable length of time, and 25 cases with no initial action since the time of filing.

The audit team also observed that (1) the transcripts of stenographic notes in almost all of the cases were either lacking or incomplete; (2) the entries in the docket books for criminal, civil, and other cases were incomplete or not updated; (3) the records of disposed and archived cases were stockpiled together with the records of the active cases; (4) the monthly reports of cases and the docket inventory reports had erroneous and missing data; and (5) there was late submission of the docket inventory reports.

Thus, the audit team recommended to the OCA:

- To direct Judge Trocino to:
- explain his failure to take appropriate action in the cases pending before the trial court and to decide the cases submitted for decision and to resolve motions within the reglementary period;
- decide the 71 cases submitted for decision, as well as the 10 cases submitted for decision before Judge Alinio, resolve the 24 motions and take immediate and appropriate action on all other pending cases; and

- submit to the Court certified copies of the decisions/resolutions and report on the action taken on all other cases.
- To direct Judge Catilo to:
 - explain his failure to decide the 50 cases submitted for decision within the reglementary period;
 - decide the 50 cases submitted for decision; and
 - submit to the Court certified true copies of the decisions in these cases.
- To direct Atty. Josephine Mutia-Hagad (Atty. Mutia-Hagad), Clerk of Court, to:
 - explain her neglect of duty; and
 - take immediate and appropriate action on the matters brought to her attention.
- To direct Court Stenographers Mr. Emezer Arellano (Arellano), Ms. Ofelia Gorantes (Gorantes), Ms. Clarita Lamera (Lamera) and Ms. Evelyn Montoyo (Montoyo) to:
 - explain their failure to transcribe their respective stenographic notes in a total of 97 cases; and
 - complete and submit to Atty. Mutia-Hagad all the incomplete transcripts of stenographic notes.

The OCA sent a memorandum to Judge Trocino, Judge Catilo, Atty. Mutia-Hagad, Arellano, Gorantes, Lamera, and Montoyo detailing the audit team's recommendations.

In his reply, Judge Trocino stated that he only learned of the cases submitted for decision and the unresolved motions after the judicial audit. Judge Trocino explained that (1) the volume of cases in his sala, (2) the absence or incomplete transcripts of stenographic notes, (3) the limited time allotted for decision writing, (4) the absence of prosecutors, and (5) the prosecutor's late submission of pleadings made it a "Herculean task" to finish all his cases on time. Judge Trocino added that he was also appointed as acting presiding judge of the RTC, Branch 63, La Carlota City for eight months.

On the other hand, Judge Catilo explained that he lacked sufficient time to decide the cases because it was his practice to conduct hearings the whole day. Judge Catilo believed it was best to finish the hearings and have the case ready for decision than to "let it sleep to await further proceedings." Judge Catilo added that the heavy pressure of work and the absence or incomplete transcripts of stenographic notes made it difficult for him to decide the cases on time. Judge Catilo also relied on the "Mabunay Doctrine"[2] in justifying his failure to decide the cases. Judge Catilo explained that after his designation as acting presiding judge, he was not notified by the trial court that there were parties who requested that he decide the cases which he partly or wholly heard.

Atty. Mutia-Hagad insisted that she was not remiss in her duties as clerk of court and that she took measures to remedy the situation. Atty. Mutia-Hagad claimed that she reminded the stenographers and other court employees of their obligations, although some of them remained unresponsive. Atty. Mutia-Hagad added that it was Judge Trocino's duty to impose administrative sanctions on erring court employees. On the incomplete entries in the docket books, Atty. Mutia-Hagad pointed out that this was the duty of the clerks of criminal and civil cases. On her failure to indicate the correct entries in the Monthly Inventory Report, Atty. Mutia-Hagad blamed Mrs. Isabelita Tijon (Mrs. Tijon), clerk in charge of civil cases. Mrs. Tijon allegedly admitted before the audit team that she intentionally omitted to include the list of cases submitted for decision in the monthly report of cases for November 2002 and December 2002.

Lamera and Gorantes both claimed that they have transcribed all their stenographic notes and attached a certification from Atty. Mutia-Hagad to this effect. They explained that the transcripts of stenographic notes were

filed in a separate folder and had they known that the audit team was also interested in the transcripts of stenographic notes, the transcribed notes would have been presented to them.

Montoyo admitted that she was remiss in her duties as stenographer because of her obligations to her family. Montoyo added that she had no serviceable typewriter from February to August 2003.

Arellano explained that he failed to transcribe his stenographic notes because of his termination from the service from August 1998 to January 2000 for lack of eligibility. Arellano also stated that his obligations to his family and additional work assignments were other reasons for his failure to transcribe his notes.

After an evaluation of their explanations, the OCA directed Judge Trocino to decide the cases submitted for decision within 120 days from receipt of the memorandum and to submit a monthly accomplishment report. The OCA reminded Atty. Mutia-Hagad to be more conscientious of her duties as clerk of court. The OCA also directed the stenographers to transcribe all their stenographic notes within 15 days from receipt of the memorandum, warning them that their failure to comply would cause the withholding of their salaries.

Montoyo and Arellano failed to transcribe all their stenographic notes on time. In a Resolution dated 11 October 2004, the Court, upon the OCA's recommendation, ordered the withholding of the salaries of Montoyo and Arellano.

In July 2004, the OCA conducted a follow-up judicial audit. The report of the audit team, dated 17 January 2005, indicated that the trial court had 111 cases submitted for decision, 53 motions for resolution, 86 cases with no further action for a considerable length of time and 25 cases with no initial action from the time of filing.

A comparison of the first and second audit shows that 33 of the 71 cases submitted for decision before Judge Trocino remained undecided, while 43 of the 50 cases submitted for decision before Judge Catilo have not been decided. Similarly, 8 of the 10 cases submitted before Judge Alinio have remained undecided by Judge Trocino.

The OCA's Report and Recommendation

In its 22 April 2005 Report, the OCA submitted the following recommendations:

- To suspend Judge Trocino from office for six months for submitting false Certificates of Service and to fine him P20,000 for failure to decide and resolve cases within the 90-day reglementary period.
- To suspend Judge Catilo from office for three months for failure to decide and resolve cases within the 90-day reglementary period.
- To direct Judge Trocino and Judge Catilo to decide all cases subject of the audit within 120 days from receipt of the Court's order and to submit a monthly accomplishment report.
- To fine Atty. Mutia-Hagad P2,000 for her failure to discharge effectively her duties as clerk of court.
- To consider the case against Lamera and Gorantes closed because they had already transcribed all their stenographic notes, with the reminder that they comply strictly with their duties as stenographers.
- To suspend Montoyo and Arellano from office for one month for failure to transcribe their stenographic notes, and to direct Montoyo and Arellano to transcribe all their stenographic notes subject of the audit within 120 days from notice and to submit to the Court a monthly accomplishment report.

The Court's Ruling

The Court finds the report of the OCA well-taken except as to the penalty.

On the Delay in Rendering Judgment

Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary provides that judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly, and with reasonable promptness. Section 15(1) of the 1987 Constitution states that all cases or matters must be decided or resolved by the lower courts within three months from date of submission.

In this case, Judge Trocino failed to decide 71 cases submitted for decision during the first audit, 33 of which remained undecided during the second audit. On the other hand, Judge Catilo failed to decide 50 cases submitted for decision during the first audit, which was later reduced to 43 cases during the second audit. On the inherited cases, Judge Trocino failed to decide 8 of the 10 cases as of the second audit. Despite directives from the OCA, Judge Trocino and Judge Catilo failed to decide the cases. Judge Trocino also failed to resolve pending motions and dormant cases.

The absence or incompleteness of the transcript of stenographic notes is not a valid excuse for the delay in rendering judgment. Judges should personally take notes of the salient portions of the hearings and proceed to prepare decisions without waiting for the transcript of stenographic notes.[3]

On the inherited cases with incomplete transcript of stenographic notes, Judge Catilo and Judge Trocino, upon their assumption to office, should have directed the stenographers to speed up the transcription of the stenographic notes and report to the Court their non-compliance.[4] A judge's failure to take appropriate action shows incompetence in the supervision of court personnel.

Judge Trocino also claimed that he had no knowledge of the cases submitted for decision because Atty. Mutia-Hagad did not remind him of these cases. This is no excuse. Judges and branch clerks of court should conduct personally a physical inventory of the pending cases in their courts and examine personally the records of each case at the time of their assumption to office, and every semester thereafter on 30 June and 31 December.[5] Judges ought to know which cases are submitted for decision and they are expected to keep their own record of cases so that they may act on them promptly.[6] Moreover, judges cannot be excused by the acts of their subordinates because court employees are not the guardians of a judge's responsibility.[7] Judges should not rely on their clerks of court for the proper management of the court's business. Judge Trocino should have devised an efficient recording and filing system in his sala so that he would personally know the status of each case and be guided accordingly.

The designation of Judge Catilo and Judge Trocino as Acting Presiding Judges in other branches of the RTC and their heavy caseloads are not excuses for the delay.[8] They could have asked the Court for an extension of time to decide the cases but they never did.[9] Worse, Judge Trocino waited for the audit team to find out his gross inefficiency.

Undue delay in rendering a decision or order, a less serious charge, 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.[10]

On the Falsification of the Monthly Certificate of Service

A certificate of service is an instrument essential to the fulfillment by the judges of their duty to dispose of their cases speedily as mandated by the Constitution.[11] A judge who fails to decide cases within the reglementary period and continues to collect his salaries upon his certification that he has no pending matters to resolve transgresses the constitutional right of the people to the speedy disposition of their cases.[12] Judges are expected

to be more diligent in preparing their Monthly Certificates of Service by verifying every now and then the status of the cases pending before their sala.[13]

The OCA found that Judge Trocino falsified his Monthly Certificate of Service for the months of November 2004, December 2004, January 2005, and February 2005. The OCA reported that Judge Trocino stated in his Monthly Certificates of Service that he had decided "all special proceedings, applications, petitions, motions, and all civil and criminal cases which had been under submission for decision or determination for a period of ninety (90) days or more." But the Monthly Report of Cases showed that, as of October 2004, Judge Trocino had 46 cases submitted for decision, 8 inherited cases, and 8 submitted motions which have all remained undecided or unresolved.

Making untruthful statements in the certificate of service, also a less serious charge, 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.[14]

On Neglect of Duty

Clerks of court perform vital functions in the prompt and sound administration of justice. Their office is the hub of adjudicative and administrative orders, processes, and concerns. Clerks of court are charged not only with the efficient recording, filing, and management of court records but also with administrative supervision over court personnel.[15] A clerk of court is the personnel officer of the court who exercises general supervision over all court personnel, enforces regulations, initiates investigations of erring employees, and recommends appropriate action to the judge.[16] They play a vital role in the complement of the court.[17]

In this case, Atty. Mutia-Hagad was negligent in the discharge of her duties. Atty. Mutia-Hagad failed to supervise the stenographers and follow-up their submission of the transcript of stenographic notes. The incomplete entries in the docket books, the disarrayed stockpiling of the records, the erroneous and missing data in the monthly reports of cases and the docket inventory reports, and the late submission of the docket inventory reports also show Atty. Mutia-Hagad's lack of diligence in her administrative functions.

Simple neglect of duty, a less grave offense, is punishable by suspension for one month and one day to six months for the first offense.[18]

On the Failure to Transcribe Stenographic Notes

Clerks of court and stenographers should comply faithfully with Rule 136, Section 17, paragraph 1 of the Rules of Court which reads:

SEC. 17. Stenographer. - It shall be the duty of the stenographer who has attended a session of a court either in the morning or in the afternoon, to deliver to the clerk of court, immediately at the close of such morning or afternoon session, all the notes he has taken, to be attached to the record of the case; and it shall likewise be the duty of the clerk to demand that the stenographer comply with said duty. The clerk of court shall stamp the date on which such notes are received by him. When such notes are transcribed, the transcript shall be delivered to the clerk, duly initialed on each page thereof, to be attached to the record of the case.

Administrative Circular No. 24-90[19] requires all stenographers to transcribe all stenographic notes and to attach the transcripts to the record of the case not later than 20 days from the time the notes were taken. Stenographers are also required to accomplish a verified monthly certification to monitor their compliance with this directive. In the absence of such certification or for failure or refusal to submit the certification, the stenographer's salary shall be withheld.

The explanations of Montoyo and Arellano are not acceptable. Montoyo claimed she did not have a serviceable typewriter from February to August 2003. However, most of the untranscribed notes date back as far as 1992. Besides, the other stenographers were able to transcribe their notes during the same period. Arellano's separation from the service from August 1988 to January 2000 does not also excuse his failure to transcribe his notes. Both Montoyo and Arellano were given sufficient time by the OCA to finish the transcription of their notes but they still failed to accomplish their task. The failure of Montoyo and Arellano to transcribe their stenographic notes, absent any allegation and proof of fraud or bad faith on their part, constitutes simple neglect of duty.[20]

The Court agrees with the OCA that the charges against Lamera and Gorantes should be dismissed because they have submitted all their transcripts of stenographic notes.

A Final Note

The Court reminds judges, clerks of court, and all other court employees that they share the same duty and obligation to dispense justice promptly. They should strive to work together and mutually assist each other to achieve this goal.[21] But judges have the primary responsibility of maintaining the professional competence of their staff.[22] Judges should organize and supervise their 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.[23]

WHEREFORE, the Court finds Judge Henry J. Trocino, Presiding Judge, Regional Trial Court, Branch 62, Bago City, Negros Occidental, guilty of undue delay in rendering decision and accordingly SUSPENDS him from office for three (3) months, the maximum suspension for the offense. The Court also finds Judge Trocino guilty of making untruthful statements in his Certificates of Service but this constitutes an aggravating circumstance to the offense of undue delay in rendering decision.[24]

The Court finds Judge Edgardo L. Catilo, former Acting Presiding Judge, Regional Trial Court, Branch 62, Bago City, Negros Occidental, guilty of undue delay in rendering decision and FINES him P20,000.

The Court DIRECTS Judge Trocino and Judge Catilo to decide all the cases subject of the audit within 120 days from receipt of the Court's resolution and to submit to the Court a monthly accomplishment report.

The Court finds Atty. Josephine Mutia-Hagad, Clerk of Court, guilty of simple neglect of duty and FINES her P5,000.[25]

The Court finds Mr. Emezer Arellano and Ms. Evelyn Montoyo, Court Stenographers, guilty of simple neglect of duty and SUSPENDS them from office for ONE MONTH without salary and other benefits. The Court also DIRECTS Arellano and Montoyo to transcribe all their notes subject of the audit within 60 days from receipt of the Court's resolution and to submit to the Court a monthly accomplishment report.

The Court DISMISSES the administrative case against Ms. Ofelia Gorantes and Ms. Clarita Lamera, Court Stenographers, for lack of merit.

The Court STERNLY WARNS all those involved in this administrative case that repetition of the same or similar act in the future will merit a more severe sanction.

SO ORDERED.

Quisumbing, (Chairperson), and Tinga, J., concur.

Carpio-Morales, J., on official leave.

Velasco, Jr., J., no part due to prior action in OCA

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- [1] Of the 131 cases submitted for decision, 71 cases were submitted before Judge Trocino, 50 cases before Judge Catilo, and 10 cases before Judge Alinio.
- [2] Re: Cases Left Undecided by Judge Sergio D. Mabunay, RTC, Branch 24, Manila, 354 Phil. 698 (1998).
- [3] Re: Report on the Judicial Audit Conducted in the RTC, Branch 69, Silay City, A.M. No. 99-5- 162-RTC, 11 May 2001, 357 SCRA 798.
- [4] Re: Report on the Judicial Audit and Physical Inventory of Cases in the RTC, Branch 54, Bacolod City, A.M. No. 06-4-219-RTC, 2 November 2006.
- [5] Administrative Circular No. 10-94, as amended by Administrative Circular 2-2001, regarding the "Docket Inventory and Monthly Posting of List of Submitted Cases," dated 29 June 1994.
- [6] Office of the Court Administrator v. Sayo, Jr., 431 Phil. 413 (2002).
- [7] Id.
- [8] Gallego v. Doronila, 389 Phil. 677 (2000).
- [9] Gonzalez-Decano v. Siapno, 405 Phil. 752 (2001).
- [10] RULES OF COURT, Rule 140, Sections 9(1) and 11(B).
- [11] SABITSANA, JR. V. VILLAMOR, RTJ No. 90-474, 4 October 1991, 202 SCRA 435.
- [12] LAMBINO V. DE VERA, 341 Phil. 62 (1997).
- [13] Request of Peter Restig for Assistance Regarding the Delay in the Proceedings of Criminal Case No. 95227-R, MTCC Branch 6, Cebu City, A.M. No. 02-5-107-MTCC, 9 December 2004, 445 SCRA 538.
- [14] RULES OF COURT, Rule 140, Sections 9(6) and 11(B).
- [15] Re: Report on the Judicial Audit and Physical Inventory of Cases in the MCTC Sara-Ajuy- Lemery, Iloilo, A.M. No. 05-10-299-MCTC, 14 December 2005, 477 SCRA 659.
- [16] Manual on Clerks of Court, pp. 383-384.
- [17] See Lloveras v. Sanchez, A.M. No. P-93-817, 18 January 1994, 229 SCRA 302.
- [18] Uniform Rules on Administrative Cases in the Civil Service, Section 52(B)(1).
- [19] "Revised Rules on Transcription of Stenographic Notes and their Transmission to Appellate Courts," dated 12 July 1990.
- [20] Alcover, Sr. v. Bacatan, A.M. No. P-05-2043, 7 December 2005, 476 SCRA 607.
- [21] Re: Report on the Judicial Audit and Physical Inventory of Cases in the RTC, Branch 54, Bacolod City, supra note 4.
- [22] CODE OF JUDICIAL CONDUCT, Rule 3.08.
- [23] CODE OF JUDICIAL CONDUCT, Rule 3.09.
- [24] Section 17, Rule XIV of the CSC Omnibus Rules Implementing Book V of Executive Order No. 292 provides that when the respondent is guilty of two or more charges, the penalty for the most serious charge should

be imposed and the other charges may be considered as aggravating circumstances. See *Betguen v. Masangcay*, Adm. Case No. P-93-822, 1 December 1994, 238 SCRA 475.

[25] Re: Report on the Judicial Audit at the MTCC (Branch 1), Surigao City, A.M. No. P-04-1835, 11 January 2005, 448 SCRA 13.

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