

**DENNIS B. ADRE, PETITIONER, VS. OFFICE OF THE
OMBUDSMAN,-MINDANAO, BERNADITH J. IPANAAG, FLORENCE C.
MANANES AND LADY BEE GO, RESPONDENTS.**

Ponente: PEREZ, J.

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PEREZ, J.:

Petitioner seeks the review of the Decision of the Office of the Ombudsman-Mindanao dated 28 July 2014[1] imposing on him the penalty of reprimand for violation of Section 5 (a) of R.A. 6713. Petitioner alleged that he received the Order denying his Motion for Reconsideration on 3 December 2014.[2] Thus, he had until 18 December 2014 within which to file his Petition for Review.[3]

On the last day to file the petition, or on 18 December 2014, petitioner filed a Motion for Extension of Time to File Petition for Review under Rule 43 of the Rules of Court, praying for an extension of 15 days from 18 December 2014 or until 2 January 2015 within which to file his petition,[4] attaching thereto photocopies of postal money orders he intends to pay to this Court upon the filing of his petition.

No petition for review was filed on or before 2 January 2015. Instead, petitioner filed before Us on 5 January 2015 a Second Motion for Extension of Time to File Petition for Review asking this Court for another extension of 15 days from 5 January 2015 or until 20 January 2015 to file his petition.[5]

The petition for review was subsequently filed on 15 January 2015 with the original postal money orders submitted to pay for the docket and other fees.

The petition is out of time.

Rule 43, Section 3 of the Rules of Court provides:

Section 4. Period of appeal. – The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order, or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner’s motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agent a quo. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days. (Emphasis supplied)

A plain reading of the above rule leaves no room for interpretation, as it explicitly provides that the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review upon a proper motion before the expiration of the reglementary period together with the full payment of the docket fees. The petitioner timely moved for an extension of the original period to file his petition until 2 January 2015 although without payment of the docket fees, hence the motion was undocketed (UDK). After the lapse of this extended period, petitioner moved for a second extension only on 5 January 2015. In this case, no more extension can be granted as the petitioner only filed his motion for extension on 5 January 2015, or 3 days after the expiry of

the first extended period to file the petition.

In *Vda. de Victoria v. Court of Appeals*,^[6] the Supreme Court has laid down the basic rule that a motion for extension of time must be filed before the expiration of the period sought to be extended. Where a motion for extension of time is filed beyond the period for appeal, the same is of no effect since there would no longer be any period to extend, and the judgment or order to be appealed from will have become final and executory.

Further, the excuses given by petitioner – that due to the holiday season he failed to hire a new counsel to represent him and his counsel of choice took a holiday vacation- are not compelling reasons to justify a request for extension of time to file his petition. Compelling, when defined, means something strong and forceful, causing a person to do something, or in this case, preventing a person from doing something.^[7] In the exercise of this Court's sound discretion, We do not believe that the reasons given by petitioner are "compelling" enough to justify a grant of a second extension to file his petition.

WHEREFORE, the Second Motion for Extension of Time to File Petition for Review is DENIED. This petition is hereby DISMISSED.

SO ORDERED.

Camello, J., Chairperson, and Inting, JJ., concur.

[1] Rollo, pp 8-13.

[2] Rollo, p 2.

[3] See Rule 43, Section 4 of the Rules of Court.

[4] Rollo, pp 2-5.

[5] Rollo, pp 22-24.

[6] G.R. No. 147550, January 26, 2005.

[7] Merriam-Webster.com.2015 <http://www.merriamwebster.com> (22 January 2015).

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