GIOVANNI A. FLAVIANO, COMPLAINANT, VS. HONORABLE JUDGE OSCAR E. DINOPOL, PRESIDING JUDGE, REGIONAL TRIAL COURT, 11TH JUDICIAL REGION, BRANCH 24, KORONADAL CITY, RESPONDENT.

A.M. No. RTJ-06-2003 (FORMERLY OCA IPI NO. 05-2245-RTJ). August 23, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

In a Complaint[1] dated March 28, 2005, complainant Giovanni A. Flaviano charged Executive Judge Oscar E. Dinopol of the Regional Trial Court (RTC), Branch 24, Koronadal City, with serious misconduct and gross inefficiency.

Complainant narrates that sometime in 2001, he and his family, in representation of New Mindanao Pioneer and People's Daily Forum respectively, filed Petitions for Accreditation to Publish Legal/Judicial Notices and Orders with Branch 24 presided by respondent. Similar petitions for accreditation were also filed by six other publications, namely, Newsmaker, Sarangani Journal, Southern Review, Mindanao Bulletin, New Dadiangas Times and Southern Recorder. On February 28, 2002, respondent issued an Order[2] granting provisional accreditation, pending completion of the study on the applications, to the six other applicants. As the order had no explanation for the exclusion of complainant's publications, on March 10, 2002, complainant sent respondent a letter[3] asking for reconsideration of the order. But respondent took no action.

On June 19, 2002, respondent extended the provisional accreditations, giving the six applicants until the end of the year to complete the deficiencies.[4] Later, when an opposition was filed against the application of Southern Recorder, respondent issued an Order[5] on July 4, 2002, shortening the period of provisional accreditation of Southern Recorder, but reiterated the grant as regards the other five publications.

Believing that no favorable action would result from their applications, complainant and his family decided to forego their pending applications. Complainant instead filed on October 17, 2003, a new application, docketed as Miscellaneous Case No. 1346-24, for their other publication The South Cotabato Forum. Thereafter, he filed a motion for inhibition, but did not attend the hearing which was set for April 19, 2004, since opposing counsel had manifested that the latter could not attend. On April 19, 2004, respondent dismissed Miscellaneous Case No. 1346-24 because of complainant's absence. Complainant immediately filed a motion for reconsideration.[6] The motion was submitted for decision on August 6, 2004, but respondent has not resolved the motion up to the time of the filing of the instant complaint, thus leaving to hang indefinitely complainant's application to publish judicial and legal notices.

Complainant further narrates that on June 17, 2002, the publishers of Newsmaker, Sarangani Journal, Southern Review, and Mindanao Bulletin filed a motion to cite complainant and his parents in indirect contempt of court.[7] Upon respondent's order, he and his parents filed an answer with motion to dismiss, contending that the motion to cite in contempt was patently defective.[8] The movants filed their reply on August 30, 2002,[9] but the

motion remained unresolved.

Complainant now alleges that by granting provisional accreditations pending study of the applications, respondent had violated A.M No. 01-1-07-SC, Re: Guidelines in the Accreditation of Newspapers and Periodicals Seeking to Publish Judicial and Legal Notices and Other Similar Announcements and in the Raffle Thereof,[10] which required evaluation and approval of applications for accreditation before a newspaper or periodical may be allowed to publish judicial or legal notices. Complainant likewise assails the provisional accreditations, arguing that none of the other applicants were entitled to it. The applications of the six grantees, according to him, were superseded by the requirements of A.M. No. 01-1-07-SC and should have been dismissed outright without further evaluation under Section 5[11] for being deficient. Further, OCA Circular No. 27-2002,[12] which clarified certain provisions of the guidelines, mandated Executive Judges to require newspapers and periodicals to file new applications under the new guidelines on or before July 31, 2002, and to evaluate such applications on or before September 15, 2002. New applications therefore should have been required from the six publications before they could be granted any new accreditations. Respondent however, not only failed to require the filing of new petitions, he also granted provisional accreditation notwithstanding a finding that all petitions were deficient.

Complainant further argues that respondent was manifestly hostile to them, and unduly favored the six other publications. He points out (1) that respondent allegedly excluded their publications from provisional accreditation without justification, since no evaluation of the applications had yet been completed at the time; (2) that respondent never acted on their letter of reconsideration; (3) that respondent entertained the patently defective motion to cite them in indirect contempt and unduly refused to resolve the said motion, thus prolonging their anxiety; (4) that respondent summarily dismissed Miscellaneous Case No. 1346-24 although complainant was only absent during the hearing of an incidental motion to inhibit; and (5) that respondent unduly delays the resolution of the pending motion for reconsideration to their prejudice.[13]

Complainant further charges respondent with gross inefficiency and violation of Canon 1, Rule 1.02[14] and Canon 3, Rule 3.05[15] of the Code of Judicial Conduct for failing to resolve the motion to cite in contempt and the motion for reconsideration.

In his comment[16] dated July 21, 2005, respondent counters that he afforded complainant and his family due process in all their applications for accreditation. He alleges that on June 27, 2001, he scheduled the application for the People's Daily Forum for initial hearing to take place on September 21 and 26, 2001. Complainant, however, did not take further action. Likewise, according to respondent, on June 4, 2002, he directed complainant to submit proof of continuous publication of the New Mindanao Pioneer and of The South Cotabato Forum, for which complainant had also filed an application. Although complainant received the order on June 19, 2002, he did not comply. Thus, in two separate orders, both dated March 22, 2005, he dismissed their applications for manifest lack of interest, after the lapse of more than three (3) years.[17] Complainant neither moved for reconsideration of either the order of provisional accreditation or the order of dismissal, nor filed an appeal with the Office of the Court Administrator (OCA) pursuant to A.M. No. 01-1-07-SC. In Miscellaneous Case No. 1346-24, respondent alleges that said application was dismissed because complainant, as movant, failed to prove the grounds relied upon.

On the issue of provisional accreditation, respondent denies having violated A.M. No. 01-1-07-SC and asserts that his granting accreditations provisionally was correct precisely because the applications were deficient. Respondent adds that even before his assumption to office in January 2002, the six other applicants have been recognized by the court, sans accreditation, and were the only ones allowed to participate in the raffling of notices for publications. It would be unfair and inequitable to deny them accreditation. Since there were no accredited newspapers for his court, he provisionally accredited the six publications to obviate disruption of publication of

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notices. Complainant's newspapers were never recognized previously and have not participated in the raffle of notices.[18]

Respondent further alleges that he had already granted the motion for reconsideration of the dismissal in an Order[19] issued on April 4, 2005. Miscellaneous Case No. 1346-24 was set for further hearing in the same order, but the records have been transferred to the new Executive Judge at RTC, Branch 25, Koronadal City.[20]

On the matter of contempt charges against the complainant and his parents, respondent claims that his failure to resolve the charges was not relevant to complainant's application for the accreditation of his publications. Neither has it substantially prejudiced complainant.

The OCA found respondent liable for violating A.M. No. 01-1-07-SC and recommended that he be fined P5,000.[21]

We deemed this case submitted for resolution when both parties kept silent on whether we should decide on the basis of their pleadings.

We find respondent liable.

By his own admission, respondent did not decide the indirect contempt charge from the time it was submitted for resolution up to the time of the filing of the instant complaint, two (2) years and (8) eight months later, thus, unduly prolonging the anxiety of complainant and his family. He likewise resolved complainant's motion for reconsideration in Miscellaneous Case No. 1346-24 only on April 4, 2005, or nearly eight (8) months from the time it was submitted for resolution on August 6, 2004. He is demonstrably guilty of undue delay which, under Section 9, Rule 140[22] of the Rules of Court, is classified as a less serious offense punishable by either suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months, or a fine of more than P10,000 but not exceeding P20,000.[23]

That judges should dispose of court business promptly within the period prescribed by law or the extended time granted them by this Court, is mandated by Canon 3, Rule 3.05 of the Code of Judicial Conduct, and by no less than the Constitution itself.[24] Delay in the disposition of cases erodes the faith and confidence of the public in the institution of justice. Notably, it does not appear that respondent asked this Court to approve an extension of time to resolve the pending incidents, if truly he were overburdened with existing duties and a heavy caseload.

In addition, we find respondent also liable for violating the simple and clear provisions of A.M. No. 01-1-07-SC. Noteworthy, A.M. No. 01-1-07-SC, prescribing the guidelines in the accreditation of newspapers and periodicals, explicitly provides that only accredited newspapers or periodicals may publish judicial and legal notices.[25] Section 5 thereof provides that any application for accreditation that fails to comply with any of the requirements prescribed by the guidelines shall be denied without further evaluation. The use of the word "shall" gives no discretion on the part of the Executive Judge regarding the denial. Having determined that the applications of the Newsmaker, Sarangani Journal, Southern Review, Mindanao Bulletin, New Dadiangas Times and Southern Recorder were deficient, respondent should have dismissed them outright without need of further evaluation. His reason for granting provisional accreditation--to obviate disruption of publication--does not authorize him to disregard the mandatory guidelines. This is especially so since the guidelines in Section 7[26] authorize the accreditation of a qualified publication in the nearest city or province in the event that there is no newspaper or periodical qualified to be accredited in the station of the RTC. Respondent likewise disregarded OCA Circular No. 27-2002, which mandated all Executive Judges to require newspapers and periodicals to file new petitions under the guidelines, when he continued to act on the old applications in his Order of July 4, 2002.

WHEREFORE, for undue delay in rendering a decision or order and for violating the clear provisions of A.M.

No. 01-1-07-SC, respondent Executive Judge Oscar E. Dinopol of the Regional Trial Court, Branch 24, Koronadal City, is FINED in the amount of P11,000. He is sternly warned that a repetition of the same or similar act in the future shall be dealt with by the Court more severely.

SO ORDERED.

Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.
Tinga, J., no part.

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[1] Rollo, pp. 1-17.

[2] Id. at 19-19-A.

[3] Id. at 20-22.

[4]Id. at 57-58.

[5]Id. at 68.

[6]Id. at 96-100.

[7]Id. at 23-26.

[8] Id. at 31-42.

[9]Id. at 47-51.

[10]Promulgated on October 16, 2001.

[11] SEC. 5. Non-compliance with requirements.-Any application for accreditation that fails to comply with any of the requirements prescribed by the preceding provisions shall be denied without further evaluation.

[12] Clarification on the Guidelines in the Accreditation of Newspapers and Periodicals (Issued on June 25, 2002).

[13] Rollo, pp. 4 and 7.

[14]Rule 1.02.-A judge should administer justice impartially and without delay.

[15] Rule 3.05.-A judge shall dispose of the court's business promptly and decide cases within the required periods.

[16] Rollo, pp. 111-119.

[17]Id. at 121 and 124.

[18] Id. at 112-113.

[19] Id. at 129-132.

[20] Id. at 116.

[21] Id. at 171-174.

[22] As amended by A.M. No. 01-8-10-SC which took effect on October 1, 2001.

[23] Rule 140, Section 11, par. (B).

SEC. 11. Sanctions. - ...

x x x x

B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:
1. Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or
2. A fine of more than P10,000.00 but not exceeding P20,000.00.

x x x x

[24] CONSTITUTION, Art. VIII, Section 15, par (1).

Section 15. (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all lower courts.

x x x x

[25]SEC. 2. Requirement of accreditation. - Only accredited newspapers or periodicals may publish judicial or legal notices.

[26] SEC. 7. Absence of qualified newspapers or periodicals.-In the event that there is no newspaper or periodical qualified to be accredited in the station of the Regional Trial Court, the qualified publication in the nearest city or province may be accredited.

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