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[A.M. No. MTJ-94-923. September 10, 1999]

ELENA E. JABAO, *complainant, vs.* **JUDGE MELCHOR E. BONILLA,** *respondent.*

[A.M. No. MTJ-95-11-125-MCTC. September 10, 1999]

JUDGE MELCHOR E. BONILLA, *complainant, vs.* **ELENA E. JABAO,** *respondent.*

SYNOPSIS

Elena E. Jabao filed an administrative complaint against her immediate superior, Judge Melchor E. Bonilla, for falsification of public document, graft and corruption, dishonesty, gross misconduct, grave abuse of authority and immorality. Judge Bonilla also filed an administrative complaint against his Branch Clerk, Elena E. Jabao, for dishonesty, disloyalty, abuse of confidence, gross insubordination and conduct unbecoming a Clerk of Court. The Court Administrator referred both complaints to the Executive Judge for investigation and report. The investigating judge concluded that Judge Bonilla committed falsification of public document by making it appear that Atty. Gianzon and Atty. Bedona, Jr. notarized the affidavits of cohabitation required under Article 34 of the Family Code to be able to solemnize marriages without need of a marriage license when in fact the two did not so notarize the documents. The Judge also made it appear in his decisions in criminal cases for violation of Fisheries Law that the accused entered a plea of guilty with the assistance of Atty. Bedona, Jr. when the latter never appeared and represented the accused. The Executive Judge also found that the administrative complaint against Clerk of Court Jabao should be dismissed there being no evidence to sustain conviction. The Court Administrator recommended the severest penalty to be imposed upon the Judge for the grave offense he committed.

The Supreme Court agreed with the recommendation of the Court Administrator. The false statement Bonilla repeatedly

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made in official documents in the performance of his judicial functions cannot be condoned. Such acts cannot be rationalized and doubtless showed Bonilla's propensity to transgress the law and to shield such transgression with his judicial authority. Judge Bonilla was dismissed from the service with forfeiture of all his retirement benefits and leave credits with prejudice to re-employment in any other government agency or instrumentality. The charges against Jabao were dismissed.

SYLLABUS

1. **JUDICIAL ETHICS; JUDGES ARE COMMANDED BY LAW TO EXHIBIT THE HIGHEST DEGREE OF MORAL CERTITUDE.** — A member of the judiciary is commanded by law to exhibit the highest degree of moral certitude and is bound by the strictest standards of honesty and integrity. Life, liberty and property are defined and molded as judges perform their sworn tasks to uphold the law and to administer justice.

2. **ID.; SERIOUS ADMINISTRATIVE CHARGES WHEN SUBSTANTIATED WARRANT DISMISSAL FROM SERVICE; CASE AT BAR.** — Upon an examination of the entire records of this case we are satisfied that there is sufficient evidence to establish that Judge Bonilla knew or even consented to the forgery of the signatures of the named notary public in the affidavit of cohabitation for purposes of solemnizing marriages without need of a license. xxx. It was shown that the affidavits of cohabitation are not registered in the notarial books of either Atty. Pedrito Guanzon or Atty. Zacharias Bedona and that the said documents do not state the PTR number of the named notary, an imprint of the notarial seal, a statement of the expiry date of the notary's commission, nor the page, document nor book number, as required by the notarial law. xxx The seventy-five affidavits presented in evidence are on their face irregular and should have caused Judge Bonilla to exercise extreme caution before solemnizing marriages without a license. But he did not. The fact that Judge Bonilla solemnized many marriages without a license based on visibly irregular affidavits of cohabitation in a span of three years signify either that he knew that the said affidavits were indeed forged or that he tolerated the irregularities. xxx. The

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admission made by Judge Bonilla that he falsely stated in his decisions that the accused pleaded "guilty" with the assistance of counsel and his attempt to rationalize it by saying that he did so for the speedy disposition of cases and for humanitarian reasons to forego incarceration of the accused when he can pay the fine and go back to his boat, do not excuse nor mitigate the infractions. The number of false statements made, totaling eighty (80) in two years, leaves no room for doubt that he systematically adopted the anomalous procedural shortcut. xxx. The respondent judge also admitted the charge against him for notarizing documents without prior authorization from this Court, his failure to register the said documents and to account for the notarial fees collected. xxx. The evidence before us is a sad testament to gross abuse of power and utter disregard for the constitutional rights of the accused. xxx. This Court has been watchful of dishonest judges and will not withhold penalty when called for to uphold the people's faith in the Judiciary. The severest penalty of dismissal from the service, as recommended by the Court Administrator, is hereby adopted.

D E C I S I O N

***PER CURIAM*:**

Before us are the 1) Administrative Complaint dated January 8, 1994 docketed as A.M. No. MTJ-94-923 filed by Elena E. Jabao, Branch Clerk of Branch 16, MCTC, Jordan-Buenavista-Nueva Valencia, Guimaras against her immediate superior Judge Melchor E. Bonilla, Presiding Judge of the same branch of the said MTCC for falsification of public document, graft and corruption, dishonesty, gross misconduct, grave abuse of authority and immorality; and the 2) Complaint dated January 13, 1994 filed by Judge Bonilla against the Branch Clerk of Court of his sala, Elena Jabao, docketed as A.M. No. 95-11-125 for dishonesty, disloyalty, abuse of confidence, gross insubordination and conduct unbecoming a Clerk of Court.

Elena Jabao alleges in her Complaint that Judge Bonilla committed the following unlawful acts:

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1. That Judge Bonilla forged the signatures of the named notaries public in the affidavits of cohabitation required of marriages solemnized under Art. 34 of the Family Code to dispense with the required marriage license for a fee commonly known as the "package deal";

2. That without proper authorization from this Court, Judge Bonilla notarized documents beyond the territorial jurisdiction of his official station. Further he instructed the Clerk of Court, Jabao not to report the number of marriages solemnized nor the documents notarized by the respondent judge to the City Treasurer's office;

3. That he falsely stated in several decisions he rendered regarding violations of Bureau of Fisheries Administrative Orders on illegal fishing that the accused pleaded "guilty" with the assistance of counsel when no such counsel was present during arraignment to assist the accused in making his plea. Jabao also alleged that Judge Bonilla misappropriated the fishes confiscated from the alleged violators;

4. That he is maintaining an illicit affair with the court stenographer, Mila Alerta.

On the other hand, Judge Bonilla alleged in his Complaint against Jabao that the unfounded allegations made by Jabao undermined the public's trust and confidence in the judiciary and tarnished Judge Bonilla's reputation. He added that Jabao did not report for work in spite of notice that her application for vacation leave was disapproved by Judge Bonilla.

The contentions of both parties as summarized by the Court Administrator in his memorandum are as follows:

"In answer to the complaint of his clerk of court, respondent (Judge Bonilla) declared that:

1. While all the charges against him are serious, they are not supported by evidence; the charge of falsification before the Office of the Provincial Prosecutor of Guimaras was not acted upon for want of probable cause, because mere discovery of difference between two (2) signatures is not proof of falsification or forgery;

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2. Complainant Jabao had been a Clerk of Court for eighteen (18) years. As such, she cannot easily yield to his instructions to falsify court records and then keep the matter to herself for years without telling anybody about it. Her accusations have no basis since it is she who prepares the monthly reports, keeps the records of marriages, notarial documents and other court records while he just signs these to certify their correctness as he has trust and confidence in her;

3. At the beginning, he was hesitant to notarize a document presented to him but it was Jabao who assured him that he has authority from the Supreme Court. She then presented to him several documents notarized by then Acting Presiding Judge Ernesto Mediodia and duly entered in the Notarial Register as inspected by RTC Judge Julio Villanueva on 13 November 1991. But later on, with the presence of new lawyers commissioned as notaries public for Guimaras, he stopped notarizing documents;

4. The Rules of Court do not require that arraignment of cases must always be calendared for hearing nor held in the courtroom, for this can be held in court chambers, as long as the same is open to the public. The Presiding Judge himself, without the presence of the Clerk of Court, can arraign the accused;

5. He does not collect attorney's fees nor appropriate for himself the confiscated fish, for the media and NGOs closely monitor the actions of judges nowadays;

6. He is not a fool to conduct an illicit relationship with his neighbor and court employee Mila Alerta. The latter is happily married to Jimmy Alerta who is also his trusted man and househelper; and

7. The charges of Jabao are not of her own making as she is being used by three (3) disgruntled individuals in Guimaras who want to destroy the justice system in the province.

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Elena Jabao submitted her answer to Judge Bonilla's complaint dated 2 May 1994, stating among others that:

1. The complaint of Judge Bonilla was pure fabrication and concoction, filed against her to retaliate for the charges she filed against him;

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2. The complaint did not describe specific instances of her alleged dishonesty, disloyalty, abuse of confidence, gross insubordination and conduct unbecoming a Clerk of Court;

3. In public service, loyalty is to the Republic of the Philippines, the Constitution and its duly constituted authorities and not to the judge, who in this case is her superior, for he is abusive and does not act in accordance with law;

4. She filed her complaint to bring the matter to the attention of proper authorities so that the integrity and prestige of the judiciary may be preserved;

5. Certification from five (5) judges she worked with during her eighteen (18) years of service show that she is not wanting in her performance as Clerk of Court;

6. Respondent judge showed vindictiveness by recalling his earlier approval of her vacation leave, after he learned that she filed a criminal complaint against him, and after Mila Alerta, his paramour, failed to convince her to withdraw the complaint;

7. Respondent judge practices law at his private office at Sto. Rosario, Buenavista, Guimaras with Mila Alerta, his former private secretary, now court stenographer of the court; and

8. Concerning the Judiciary Development Fund she could not remit the same because, Judge Bonilla did not turn over to her the amounts corresponding to the JDF for 1992-1993 as well as the notarial fees he collected from the time he assumed office up to January 1994. These documents are still in his possession including the notarial books of the court, and the amount of ₱2,550.00 which she advanced to cover up for these fees were never reimbursed to her by the judge."

On February 28, 1994 the Court Administrator referred both complaints to Executive Judge Tito Gustilo of the Regional Trial Court, Iloilo City for investigation and report. On June 18, 1998 Executive Judge Gustilo filed his report with the following findings:

1. Both Atty. Pedrito A. Gianzon and Atty. Zacharias Bedona, Jr. testified under oath during the investigation that their commissions are only for the City and Province of Iloilo and that they never signed nor notarized Affidavits of Cohabitation. Therefore, their signatures

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appearing in the Affidavits used by respondent Judge Bonilla in solemnizing marriages exempt from license were forged;

2. While Judge Bonilla had no authority from the Court to act as notary public, yet he notarized the questioned affidavits, using his court seal;

3. Atty. Gianzon and Atty. Bedona, Jr. also testified under oath that they never appeared in court and represented any of the accused during the arraignment of cases involving violations of the Fisheries Law, contrary to the claim of Judge Bonilla;

4. Complainant Jabao failed to satisfactorily establish the charge of immorality against Judge Bonilla as well as the falsification of documents allegedly done by Court Stenographer, Mila Alerta; and

5. Judge Bonilla filed the case against Jabao to get even with her.

The Investigating Judge concluded that Judge Bonilla committed falsification of public documents by making it appear that Atty. Gianzon and Atty. Bedona, Jr. notarized the Affidavits of Cohabitation required under Article 34 of the Family Code to be able to solemnize marriages without need of a marriage license when they did not so notarize the documents, and by making it appear in his decisions in criminal cases for violation of the Fisheries Law that the accused entered a "plea of guilty" with the assistance of Atty. Bedona, Jr. when the latter never appeared and represented the accused. By reason of these transgressions, Judge Gustilo recommended the severest administrative sanction, short of dismissal from the service against Judge Bonilla. He also found that a dismissal of the administrative complaint of Judge Bonilla against Jabao would be appropriate, there being no evidence to sustain liability.

On March 29, 1999 the Office of the Court Administrator filed its Memorandum containing the following findings:

"Respondent judge had no authority to notarize documents even as *ex-officio* Notary Public. His explanation that he merely followed the practice of his predecessor judge in notarizing documents and that he stopped notarizing after knowing that there were lawyers

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commissioned as notaries public in Guimaras is neither convincing nor exculpatory. The judge should have verified if he was indeed authorized by the Supreme Court to do so. He never did. Worse, he notarized documents outside his judicial jurisdiction using the seal of his court. That he collected the notarial fees himself and did not register nor account for it is demonstrated by his depositing with the Office of the Municipal Treasurer of Buenavista the sum of One Thousand Five Hundred Pesos (₱1,500.00) under Official Receipt No. 6135149 on 5 May 1994 representing notarial fees after almost four (4) months from the filing of the instant complaint. "A judge's failure to properly account for and turn over the fees collected by him as *ex-officio* notary to the municipal government as required by law raises the presumption that he had put such fund to his personal use." (*Abadilla vs. Tabiliran, Jr.,* 249 SCRA 447). Respondent's alibi that he deposited the amount which is his personal money, after knowing that Jabao did not remit to the Court the notarial fees she collected, is too shallow. He ought to know that MTC and MCTC judges acting as *ex-officio* notaries public in municipalities that have neither lawyers nor notaries public have the legal duty to (1) register all documents notarized, (2) turn over to the municipal treasurer all notarial fees collected, and (3) certify to the lack of any lawyer or notary public therein. This he failed to do.

In relation to the alleged falsification committed by respondent judge by making it appear that Atty. Gianzon and Atty. Bedona, Jr. notarized affidavits of cohabitation which he used in solemnizing marriages, although both lawyers testified under oath during the investigation that their signatures appearing therein were forged, it was not sufficiently established that it was respondent judge who forged the questioned signatures. Except for the lone testimony of Jabao that she learned that respondent was collecting fees and that he was forging the signatures of the lawyers, the rest of the witnesses presented *i.e.* two (2) Local Civil Registrars of the province and William Sevillo, process server of the court, attested only to the procedure in the registration of marriages and not to the forgery. As a matter of fact, Sevillo testified that it is Jabao who turns over to him the marriage documents for notarization at the Mayor's office and registration with the Civil Registrar's Office.

What appalls this Court, however, is respondent judge's misrepresentation that lawyers appear as counsel for the accused during the arraignment of cases involving violations of municipal ordinances and the Fisheries Law. His excuse that he did so to dispose

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of the case as soon as possible as requested by the accused is no license for his abuse of judicial power and discretion. Short-cuts in judicial processes are not countenanced by this Court because speed is not the principal objective of a trial. The speedy disposition of the case should not be done at the expense of the basic right of the accused to be informed of the nature and cause of accusation against him. This is so to enable the accused to be assisted properly especially as to the nature of his plea on arraignment. *If respondent honestly believed that the arraignments could proceed legitimately without the accused being represented by counsel, why did he have to misinterpret that they were?* Section 6 of Rule 116 of the Revised Rules of Criminal Procedure imposes upon the trial court the duty to inform the accused before arraignment of his right to counsel and the correlative duty to assign him a counsel *de officio*, if he has none and if he so desires. "At the arraignment, the court must act of its volition regardless of whether the accused requests it to inform the accused of his right to counsel before being arraigned if the latter *appears thereat without counsel.*" (*U.S. vs. Binayoh,* 35 Phil. Reports 23).

It is thus evident under the circumstances obtaining that respondent judge falsified an official and public document which in administrative cases is a grave offense that warrants the severest penalty. By his conduct, Judge Bonilla has tainted the image of the judiciary, for he deceived not only the Court but the public as well. Respondent judge should bear in mind that those involved in the administration of justice from the highest to the lowest level must live up to the strictest standards of honesty and integrity in the public service. Under the Civil Service Rules, dishonesty and falsification of public document is penalized with dismissal from service.

With respect to the charges that he instructed Jabao not to indicate in her monthly report the number of marriages he solemnized and documents notarized, no proof was adduced in support thereof. This holds true with the accusation of immorality. Both must perforce be dismissed."

As regards the charges against Jabao, the Court Administrator noted that her failure to timely remit to this Court her Judiciary Development Fund collections totaling ₱23,584.00 has been resolved by this Court in a decision dated November 24, 1998 in A.M. No. 98-2-30-MCTC wherein a fine of ₱8,000.00 was

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imposed on her with warning that a repetition of the same act will be dealt with more severely.

We have examined the evidence presented before the investigating judge to determine the gravity of the offenses committed that would justify imposition of the severest penalty for a member of the judiciary.

Upon an examination of the entire records of this case we are satisfied that there is sufficient evidence to establish that Judge Bonilla knew or even consented to the forgery of the signatures of the named notary public in the affidavit of cohabitation for purposes of solemnizing marriages without need of a license. During the investigation hearings conducted by Judge Gustilo, Jabao presented in evidence documentary exhibits to show that from 1991 to 1993 a total of seventy-five (75) affidavits of cohabitation[1] signed either by Atty. Pedrito Gianzon (41 affidavits) or Atty. Zacharias Bedona (34 affidavits) with the corresponding contracts of marriage solemnized by respondent judge. It was shown that the affidavits of cohabitation are not registered in the notarial books of either lawyer and that the said documents do not state the PTR number of the named notary, an imprint of the notarial seal, a statement of the expiry date of the notary's commission, nor the page, document nor book number, as required by the notarial law. Both lawyers Attys. Gianzon and Bedona testified that the signatures appearing therein are not theirs. Atty. Bedona testified that he could not have notarized a document in Guimaras because it is beyond his jurisdiction.[2] William Sevillo, testified in court that he has been the court process server of Branch 16 of MCTC Guimaras since 1985 and that aside from his duties as process server he was assigned by respondent Jabao to prepare the required marriage documents and their supporting papers when there are parties who come to court to get married.[3] Sevillo stated that Judge

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[1] Pp. 1-29, Folder of Exhibits.

[2] Gianzon, tsn., July 14, 1994, pp. 2-18; Bedona, tsn., *Ibid.*, pp. 21-34.

[3] Sevillo, tsn., August 4, 1995, pp. 5-10.

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Bonilla and his predecessor-in-office at Branch 16 of the said court adopted the procedure of having the affidavits of cohabitation notarized after solemnizing the marriage.[4] The more serious evidence of forgery of the questioned affidavits by Judge Bonilla himself was raised by Jabao when she identified in court thirty-five (35) affidavits of cohabitation with their corresponding marriage contracts and testified that she was present when these marriages were solemnized and that she actually saw Judge Bonilla signing the name of the named notary in the affidavits of cohabitation.[5]

The seventy-five affidavits presented in evidence are on their face irregular and should have caused Judge Bonilla to exercise extreme caution before solemnizing marriages without a license. But he did not. The fact that Judge Bonilla solemnized many marriages without a license based on visibly irregular affidavits of cohabitation in a span of three years signify either that he knew that the said affidavits were indeed forged or that he tolerated the irregularities.

We also agree with the finding of the Court Administrator that the false statements made by the respondent judge in his decisions that the accused were assisted by counsel during arraignment when no counsel was present are inexcusable and no justification on the pretense of speedy disposition of cases may condone nor reduce the gravity of the offense committed.

The evidence on record shows the appalling number of false statements made by Judge Bonilla. From 1992-1993 there were 23 decisions rendered by the respondent judge, all for violation of fishing laws, wherein a fine of ₱500.00 was imposed on each of the accused and another 45 cases wherein each of the accused was imposed a fine of ₱1,000.00. All 68 decisions state that the accused with the assistance of Atty. Pedrito Gianzon pleaded "guilty" to the crime charged. The parties stipulated in court that Atty. Gianzon actually handled only two of the sixty

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[4] *Ibid.*, p. 45.

[5] Jabao, tsn., March 29, 1995, pp. 4-31.

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eight (68) cases purportedly handled by him.[6] Another lawyer, Atty. Vicente de Asis, who was named as one of the lawyers who assisted the accused in entering a plea of "guilty" in twelve (12) decisions rendered by the respondent judge in cases for violation of fishing laws, testified that he only handled two, docketed as CR Nos. 2725 and 2728.[7] The court interpreter, Leo Nabe testified for respondent judge and stated that during most of the arraignment proceedings no counsel was present to assist the accused but that the Chief of Police and his assistants were usually present.[8] The admission made by Judge Bonilla that he falsely stated in his decisions that the accused pleaded "guilty" with the assistance of counsel and his attempt to rationalize it by saying that he did so for the speedy disposition of cases and for humanitarian reasons to forego incarceration of the accused when he can pay the fine and go back to his boat, do not excuse nor mitigate the infractions. The number of false statements made, totaling eighty (80) in two years, leaves no room for doubt that he systematically adopted the anomalous procedural shortcut.

The false statements Bonilla repeatedly made in official documents in the performance of his judicial functions cannot be condoned. Such acts cannot be rationalized and doubtless show Bonilla's propensity to transgress the law and to shield such transgressions with his judicial authority.

The respondent judge also admitted the charge against him for notarizing documents without prior authorization from this Court, his failure to register the said documents and to account for the notarial fees collected. The Court Administrator aptly stated in his memorandum that the respondent judge ought to have known the legal duties of judges acting as *ex-officio* notaries and that he should have first verified from the Court Administrator

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[6] Folder of Exhibits, pp. 33-36, 47-54; Gianzon, tsn., June 20, 1995, pp. 5, 13-14.

[7] TSN., pp. 4-6, June 29, 1995.

[8] TSN., pp. 7-9, August 23, 1995.

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if he was authorized to notarize documents. It was also found by the Court Administrator that respondent judge even notarized documents beyond his judicial jurisdiction.

As regards the charge for immorality we also adopt the finding of the Court Administrator that the evidence presented by complainant Jabao to support such charge is insufficient. The other charge for corruption was not mentioned either in the report of the investigating judge nor in the memorandum of the Court Administrator. We examined the testimonies of Atty. De Asis and SPO3 Albercito Huyan[9] that they saw the respondent judge take possession of the fishes supposedly confiscated for violation of fishing laws and found that the said testimonies cannot by themselves sustain the charge for corruption and in view of the penalty imposed on respondent Bonilla for falsification of official documents the charge for corruption need not be discussed at length.

The evidence before us is a sad testament to gross abuse of power and utter disregard for the constitutional rights of the accused. A member of the judiciary is commanded by law to exhibit the highest degree of moral certitude and is bound by the strictest standards of honesty and integrity. Life, liberty and property are defined and molded as judges perform their sworn tasks to uphold the law and to administer justice. This Court has been watchful of dishonest judges and will not withhold penalty when called for to uphold the people's faith in the Judiciary.[10] The severest penalty of dismissal from the service, as recommended by the Court Administrator, is hereby adopted.

With respect to Administrative Matter No. 95-11-125 MCTC, we affirm the finding of the Investigating Judge and the Court Administrator that Jabao is absolved of liability for allegedly

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[9] De Asis, tsn., June 29, 1995, pp. 7-10; Huyan, tsn., August 30, 1995, pp. 7-13.

[10] *Sadik vs. Casar*, 266 SCRA 01; *Ortigas and Co. vs. Velasco*, 277 SCRA 342.

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filing a malicious complaint against respondent judge in view of our above conclusions finding respondent judge guilty. Her liability for failure to timely remit her collections for the Judiciary fund has been resolved by this court in the decision dated November 24, 1998 in AM No. 98-2-30 MCTC.

WHEREFORE, respondent Judge Melchor Bonilla is hereby dismissed from the service with forfeiture of all retirement benefits and leave credits with prejudice to re-employment in any other government agency or instrumentality. Immediately upon service on him of this decision, he is deemed to have vacated his office and his authority to act as a judge is considered automatically terminated.

The charges against Branch Clerk of Court Elena Jabao in A.M. No. 95-11-125 are dismissed.

SO ORDERED.

Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and *Ynares-Santiago, JJ.,* concur.

Davide, Jr., C.J., abroad, on official business.

Panganiban, J., on official leave.