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EN BANC

[A.M. 99-9-141-MTCC. November 25, 1999]

HOLD DEPARTURE ORDER ISSUED BY JUDGE FELIPE M. ABALOS, MTCC - BRANCH 1, DIPOLOG CITY IN CRIMINAL CASES Nos. 15521 & 15522.

SYNOPSIS

Felipe M. Abalos, acting Presiding Judge of the Municipal Trial Court, issued a Hold Departure Order (HDO) for a certain Fe Cagatan, accused in a bouncing checks case pending before his court. The Secretary of Justice citing a court circular, which provides that an HDO may be issued only by a Regional Trial Court (RTC), in criminal cases within their exclusive jurisdiction, referred the HDO to the Court Administrator. The Court Administrator recommended that Judge Abalos be reprimanded and be advised to keep abreast of court issuance.

The Supreme Court found the recommendation well taken. Considering that only the RTC is mentioned in SC Circular 39-97 and applying the rule on legal hermeneutics of express mention implied exclusion, courts lower than the RTC — such as the MeTC, MTC, MTCC, and MCTC — has no authority to issue hold departure orders in criminal cases. The Supreme Court reprimanded Judge Abalos.

SYLLABUS

1. REMEDIAL LAW; SUPREME COURT CIRCULAR 39-97; LIMITS AUTHORITY TO ISSUE HOLD DEPARTURE ORDERS TO THE REGIONAL TRIAL COURTS. — SC Circular 39-97 dated June 19, 1997, as correctly cited by the Justice Secretary "limits the authority to issue hold departure orders to the Regional Trial Courts in criminal cases within their exclusive jurisdiction" (*Hold Departure Order issued by Judge Eusebio Barot, MCTC, Branch 2, Aparri, Calayan, Cagayan, A.M. 99-8-108-MCTC, August 25, 1999, — en banc Resolution per J. Mendoza*). Considering that only the RTC is mentioned in said Circular

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and by applying the rule on legal hermeneutics of express mention implied exclusion, courts lower than the RTC — such as the MeTC, MTC, MTCC and MCTC — has no authority to issue hold departure orders in criminal cases.

2. **LEGAL AND JUDICIAL ETHICS; JUDGES; SHOULD BE DILIGENT IN KEEPING ABREAST WITH DEVELOPMENTS IN LAW AND JURISPRUDENCE.** — The excuse proffered by the Judge herein contradicts the norm enshrined in the Code of Judicial Conduct which enjoins judges to be faithful to the law and maintain professional competence (*Canon 3, Rule 3.01*). Judges should be diligent in keeping abreast with developments in law and jurisprudence, and regard the study of law as never ending and ceaseless process (*Re: Hold departure order Dated April 13, 1998 issued by Judge Juan C. Nartatez, MTCC-Branch 3, Davao City, A.M. No. 98-10-141-MTCC, November 18, 1998*).

RESOLUTION

YNARES-SANTIAGO, *J.*:

Felipe M. Abalos, who was the Acting Presiding Judge of the Municipal Trial Court in the Cities (MTCC) of Dapitan and Dipolog issued an order dated November 20, 1998 directing the Bureau of Immigration to include in the Hold Departure List a certain Fe Cagatan, accused in a bouncing checks case pending before his court. The Hold Departure Order (HDO) was referred to the Court Administrator by the Justice Secretary citing a court circular which provides that an HDO may be issued only by a Regional Trial Court (RTC) in criminal cases within their exclusive jurisdiction. Required to Comment, Judge Abalos stated that it was an "honest inadvertence" since he was busy with his cases in both cities "which may have caused a little confusion." The Court Administrator recommended that Judge Abalos be reprimanded and be advised to keep abreast of court issuances.

The Court finds the recommendation to be well-taken. SC Circular 39-97 dated June 19, 1997, as correctly cited by the Justice Secretary "limits the authority to issue hold departure

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orders to the Regional Trial Courts in criminal cases within their exclusive jurisdiction" *(Hold Departure Order issued by Judge Eusebio Barot, MCTC, Branch 2, Aparri, Calayan, Cagayan, A.M. 99-8-108-MCTC, August 25, 1999, - en banc Resolution per J. Mendoza)*. Considering that only the RTC is mentioned in said Circular and by applying the rule on legal hermeneutics of express mention implied exclusion, courts lower than the RTC — such as the MeTC, MTC, MTCC and MCTC — has no authority to issue hold departure orders in criminal cases.

The excuse proffered by the Judge herein contradicts the norm enshrined in the Code of Judicial Conduct which enjoins judges to be faithful to the law and maintain professional competence *(Canon 3, Rule 3.01)*. Judges should be diligent in keeping abreast with developments in law and jurisprudence, and regard the study of law as never ending and ceaseless process *(Re: Hold departure order Dated April 13, 1998 issued by Judge Juan C. Nartatez, MTCC-Branch 3, Davao City, A.M. No. 98-10-141-MTCC, November 18, 1998)*.

WHEREFORE, Judge Felipe M. Abalos is hereby *REPRIMANDED* with *WARNING* that a repetition of the same or similar acts in the future will be dealt with more severely.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and *De Leon, Jr., JJ,* concur.