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administration of law into disrespect and constitutes a violation of the Code of Professional Responsibility, x x x.

WHEREFORE, the Court resolves to dismiss the Complaint dated 10 January 1999. Complainants are required to show cause within ten (10) days from receipt hereof why they should not be punished for contempt for using intemperate, offensive and libelous language against Justice Gutierrez and the other members of her division as above described, tending to cast aspersion on their honor and integrity and to degrade the administration of justice, as well as for making false and malicious imputations that this Court and Justice Benipayo are parties to the alleged delay committed by Justice Gutierrez in the resolution of CA-G.R. No. SP-46624.

SO ORDERED.

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

EN BANC

[A.M. No. MTJ-94-904. September 29, 1999]

JOSEPHINE C. MARTINEZ, *complainant, vs.* **JUDGE CESAR N. ZOLETA, MCTC, Maragondon-Ternate, Cavite,** *respondent.*

SYNOPSIS

This administrative matter stemmed from a sworn-letter complaint filed by Josephine C. Martinez charging respondent judge with misconduct for failure to forward, despite repeated demands, the records of Criminal Case No. 2506 to the Office of the Provincial Prosecutor for further proceedings. Several

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resolutions were issued by the Supreme Court requiring respondent judge to submit his Comment on the complaint against him. However, respondent judge failed to comply with the resolution. Beyond this, respondent judge had been fined thrice, adjudged guilty of contempt of court, incarcerated for ten days and suspended for six months without pay, on account of gross misconduct and insubordination. Despite all of these warnings and fines imposed upon him, respondent judge has yet to submit the required Comment. The Office of the Court Administrator recommended the dismissal of respondent judge from the service, with forfeiture of retirement benefits and leave credits to which he may be entitled to and with further prejudice to re-employment in the government service.

The Supreme Court agreed with the recommendations of the Office of the Court Administrator. A resolution of the Supreme Court requiring comment on an administrative complaint against officials and employees of the judiciary should not be construed as a mere request from the Court. Nor should it be complied with partially, inadequately or selectively. Respondents in administrative complaints should comment on all accusations or allegations against them in the administrative complaints because it is their duty to preserve the integrity of the judiciary. It is gross misconduct even outright disrespect for the Supreme Court for respondent judge to exhibit indifference to the resolution requiring him to comment on the accusations in the complaints thoroughly and substantially. The Court can never turn a blind eye, much less tolerate respondent judge's impiety and its odious effects on the administration of justice in this part of the judicial hemisphere. The Court, therefore, found respondent judge guilty of gross misconduct and insubordination.

SYLLABUS

1. **CONSTITUTIONAL LAW; SUPREME COURT; RESOLUTION REQUIRING COMMENT ON AN ADMINISTRATIVE COMPLAINT SHOULD NOT BE CONSTRUED AS A MERE REQUEST FROM THE COURT.—** With respondent judge's obstinate defiance and incessant refusal to submit his Comment despite several resolutions and stern admonitions requiring the same, he has to our mind, vividly exposed his incorrigibility in complying with lawful directives of this Court. Specifically,

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several resolutions issued by this Court requiring respondent to submit his Comment on the complaint against him were left unheeded. Beyond this, respondent judge has been fined thrice, adjudged guilty of contempt of court, incarcerated for ten days and suspended for six months without pay, on account of gross misconduct and insubordination. *Despite all of these warnings and fines imposed upon him, respondent has yet to submit the required Comment.* Certainly, this Court can never turn a blind eye, much less tolerate respondent's impiety and its odious effects on the administration of justice in this part of the judicial hemisphere. Again, we find the need and occasion to rule that a resolution of the Supreme Court requiring comment on an administrative complaint against officials and employees of the judiciary should not be construed as a mere request from the Court. Nor should it be complied with partially, inadequately or selectively. Respondents in administrative complaints should comment on all accusations or allegations against them in the administrative complaints because it is their duty to preserve the integrity of the judiciary. Moreover, the Court should not and will not tolerate future indifference of respondents to administrative complaints and to resolutions requiring comment on such administrative complaints.

2. **JUDICIAL ETHICS; JUDGES; MUST EXERCISE A HIGH DEGREE OF PROFESSIONALISM.—** As a judge, respondent is expected to behave at all times to promote public confidence in the integrity and impartiality of the judiciary. We have often said that every officer or employee in the judiciary is duty-bound to obey the orders and processes of this Court without the least delay and to exercise at all times a high degree of professionalism. Truly, there is no place in the judiciary for those who cannot meet the exacting standards of judicial conduct and integrity.

3. **ID.; ID.; GROSS MISCONDUCT AND INSUBORDINATION; RESPONDENT JUDGE FOUND GUILTY THEREOF IN CASE AT BAR.—** It is gross misconduct even outright disrespect for the Supreme Court for a respondent judge to exhibit indifference to the resolution requiring him to comment on the accusations in the complaints thoroughly and substantially. Need we to remind respondent that benevolence is not limitless and patience, to be sure, is not without boundaries. These virtues must, at a definite point, yield to the higher considerations of

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justice and public service, ideals which respondent has sworn to maintain and uphold. The Court finds respondent Judge Cesar N. Zoleta guilty of gross misconduct and insubordination.

DECISION

PER CURIAM:

This administrative matter stems from a sworn-letter complaint[1] dated 04 January 1994, filed by Josephine C. Martinez, charging Judge Cesar N. Zoleta of the MCTC, Maragondon-Ternate, Cavite with misconduct relative to Criminal Case No. 2506 for rape entitled, *"People of the Philippines vs. Elranie Martinez."*

Based on the memorandum[2] submitted by Deputy Court Administrator Zenaida N. Elepaño, the antecedents and proceedings of the instant administrative case are quoted and summarized hereunder:

"Initially filed with this court is a letter dated 31 May 1993 (should be 1994) of Josephine C. Martinez bringing to the attention of Deputy Court Administrator Reynaldo L. Suarez the predicament of her brother-in-law who is detained at the Provincial Jail at Trece Martires City. Allegedly, no action could be taken by the Office of the Provincial Prosecutor of Cavite City on Criminal Case No. 2506 entitled, 'People of the Philippines *vs.* Elranie Martinez,' for Rape since the records have not yet been forwarded to the said office for further proceedings by the MCTC, Maragondon-Ternate, Cavite presided over by Judge Cesar N. Zoleta.

The aforesaid letter was referred by DCA Suarez to Judge Zoleta for APPROPRIATE ACTION in a 1st Indorsement dated 2 June 1993. With no advice received from respondent on the action taken by him, this Office required the former to submit his comment in a letter dated 13 July 1993. Again respondent failed to comply therewith so that a 3rd Tracer dated 7 September 1993 was sent to him reiterating

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[1] *Rollo*, p. 1.

[2] *Ibid.*, pp. 23-26.

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the directive with a warning that appropriate action would be taken should he fail to submit his comment.

Meanwhile on 4 January 1994, Ms. Martinez filed a sworn letter-complaint charging respondent judge with failure to forward the records of Criminal Case No. 2506 to the Office of the Provincial Prosecutor for further proceedings despite repeated demands. As a consequence, her brother-in-law remained in detention at the Trece Martires City Provincial Jail since his case had not been heard as the records were still with respondent judge.

The Second Division of this Court in its Resolution dated 16 February 1994 required respondent judge to COMMENT on the complaint.

Because respondent failed to file the required comment, he was ordered in the Resolution dated 23 May 1994 to SHOW CAUSE why he should not be disciplinarily dealt with or held in contempt for such failure and to COMPLY with the aforesaid resolution of 16 February 1994.

Despite this, respondent judge still failed to comply with the show-cause resolution. Hence in the Resolution dated 8 August 1994 a FINE of P500.00 was imposed by the Court on respondent judge payable within ten (10) days from notice, otherwise, he would suffer imprisonment of five (5) days. Respondent was again ordered to COMPLY with the resolution of 16 February 1994 within ten (10) days from notice.

Respondent failed to comply with the Resolution dated 8 August 1994 thus, the Second Division of this Court in its Resolution dated 3 July 1995 INCREASED the fine imposed on respondent judge to P1,000.00 payable within ten (10) days from notice and failing payment, ordered imprisonment of ten (10) days, and to COMPLY with the Resolution of 16 February 1994.

For respondent's failure to comply with the aforesaid directive, the Second Division of this Court in its Resolution dated 20 November 1995 ADJUDGED respondent Judge Cesar N. Zoleta GUILTY of contempt of court under Rule 71, Section 3(b) of the Rules of Court; ORDERED his IMPRISONMENT for ten (10) days pursuant to the Resolution of 3 July 1995; required him to COMPLY with the resolution of 16 February 1994 and directed the ISSUANCE of the Order for his Arrest and Commitment for immediate service by the National Bureau of Investigation.

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Verification from the Disbursement and Collection Division of the Finance Management and Budget Office of this Court (FMBO) disclosed that on 9 September 1994 respondent judge paid the P500.00 FINE imposed in the resolution dated 8 August 1994, as shown in the certified photocopy of Official Receipt No. 077122.

In view of respondent's failure to file a notice of compliance regarding the matter, the P500.00 was increased to P1,000.00 in the Resolution of 3 July 1995.

On the other hand, verification from the Documentation Unit of the Office of the Court Administrator disclosed that respondent judge up to the present has not yet filed his Comment on the complaint, as shown in the Certification dated 3 May 1996 issued by Atty. Celso M. Gabalones, Chief, Documentation Unit.

A scrutiny of the records show that copies of the Resolutions dated 16 February 1994, 23 May 1994 and 8 August 1994 were personally received by respondent judge while copy of the Resolution dated 3 July was received by one Monseur Maganto."

In its resolution of March 25, 1996, the Court required the Director, National Bureau of Investigation (NBI) to submit the return of compliance of the Order of Arrest and Commitment issued against respondent judge on November 20, 1995 within five (5) days from notice thereof. The same resolution also directed that the case be referred to the Office of the Court Administrator for evaluation, report and recommendation.[3]

A return of said order was submitted by Supervising Agent Ferdinand A. Garcia of the NBI on May 10, 1996, wherein the Court was informed that respondent judge was arrested in Maragondon, Cavite on May 9, 1996 and was detained at the NBI at Taft Avenue, Manila.[4]

On May 10, 1996, respondent judge filed a manifestation and motion seeking the reconsideration and recall of the order for his arrest and commitment. He insisted that he duly complied with the resolution of August 8, 1994 by paying the fine imposed therein on September 9, 1994, hence he contends that it was

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[3] *Rollo*, pp. 41-45; *Martinez vs. Zoleta*, 257 SCRA 49.

[4] *Ibid.*

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erroneous for the Court to issue another resolution on July 3, 1995 increasing the fine and the period of imprisonment in case of non-payment thereof.[5]

On 22 May 1996, this Court's Second Division rendered a decision,[6] the decretal portion of which reads:

"ACCORDINGLY, and as correctly recommended by Deputy Court Administrator Elepaño, respondent Judge Cesar N. Zoleta is hereby declared GUILTY of gross misconduct and insubordination for his deliberate and continuous failure and refusal to comply with the aforesaid resolutions of the Court.

He is ordered to pay a fine of FIVE THOUSAND PESOS (P5,000.00) within ten days from notice hereof and to comply with the resolution of February 16, 1994 requiring him to submit his COMMENT on the complaint as he has now undertaken to do, with the STERN WARNING of a more severe sanction in case of non-compliance or a repetition of the misconduct herein repressed.

Judge Napoleon V. Dilag of the Regional Trial Court, Branch 15, Naic, Cavite is DIRECTED to conduct an inspection and verification of the docket and calendar of the Municipal Circuit Trial Court, Maragondon-Ternate, Cavite presided over by respondent judge, and to submit a report thereon to this Court within sixty (60) days from receipt of a copy of this decision.

SO ORDERED."

In a resolution[7] dated 10 July 1996, this Court noted the payment by respondent of the fine of P5,000.00 and further required the latter to comply with the resolution of 16 February 1994, within a non-extendible period of ten days from notice, under pain of another contempt citation.

On 02 December 1996, this Court, as a result of respondent's failure to comply with the resolution dated 10 July 1996,

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[5] *Ibid.*

[6] Decision of Supreme Court's Second Division, in A.M. No. MTJ-94-904, promulgated on 22 May 1996, and penned by Mr. Justice Florenz Regalado; *Rollo*, pp. 34-40; *Martinez vs. Judge Zoleta*, 257 SCRA 49.

[7] *Rollo*, p. 51.

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resolved[8] to impose upon respondent judge a fine of ₱5,000.00 payable within 10 days from notice or to suffer ten days imprisonment in case of failure to pay the fine within the prescribed period. Further, this Court required respondent to comply with the resolutions of 16 February 1994 and 10 July 1996, specifically by submitting the required comment on the administrative complaint within ten days from notice.

On 20 January 1997, respondent judge received a copy of the resolution dated 02 December 1996.[9] In his Compliance,[10] respondent judge manifested that the ₱5,000.00 fine was already paid, as evidenced by an attached photocopy of Official Receipt No. 6691969; dated 30 January 1997; yet no mention was made of the Comment required from him.

Eventually, Deputy Court Administrator Zenaida Elepaño sent telegrams[11] to Judge Zoleta and Judge Dilag, inviting them to a conference regarding the Comment and inventory list required of Judge Zoleta and Judge Dilag, respectively.

Thus on 21 February 1997, a conference was held between Deputy Court Administrator Elepaño and the two judges, where the latter were asked to explain their non-compliance with the directives of the Court.[12] In the conference, Judge Dilag stated that he never received copy of the 22 May 1996 Decision of the Court but promised to immediately submit the report and inventory list of cases in MCTC Maragondon-Ternate, Cavite.

Respondent Judge Zoleta claiming that he was not furnished a copy of the sworn complaint dated 04 January 1994, was handed a photocopy thereof. Further, respondent presented to Deputy Court Administrator Elepaño a letter[13] dated 18 February

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[8] *Ibid.*, p. 52.

[9] *Ibid.*, p. 91.

[10] Compliance dated 30 January 1997; *Rollo*, p. 48.

[11] *Rollo*, p. 91.

[12] *Ibid.*

[13] Photocopy of letter dated 18 February 1994; *Ibid.*, p. 62.

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1994, purportedly written and signed by the complainant, requesting respondent not to forward the records of Criminal Case No. 2506 to the Office of the Provincial Prosecutor of Cavite pending negotiation and settlement by the parties of the criminal case for rape.

On 11 March 1997, the Office of the Court Administrator received a letter[14] from respondent Judge Zoleta submitting the inventory list[15] of pending cases in the MCTC Maragondon-Ternate, Cavite, as prepared and conducted by Judge Dilag pursuant to the decision of the Court dated 22 May 1996. A perusal of the inventory list would however reveal that Criminal Case No. 2506, subject matter of the instant administrative complaint, was not among those listed in the report.

In a resolution[16] dated 29 June 1998, this Court found respondent judge guilty of gross misconduct and insubordination, meted out the penalty of six months suspension from office without pay and directed respondent to file his Comment to the complaint within five days from notice. Further, the Court designated Judge Emil G. Urbi of MTC, Naic, Cavite as acting judge of MCTC Maragondon-Ternate, Cavite, in addition to his regular duties, for the duration of the suspension period or until further orders from the Court.

Likewise, the High Court's Second Division directed the Office of the Court Administrator to investigate the following matters and submit a report thereon:[17]

1) Whether the letter dated 18 February 1994 was written, signed and given by complainant Josephine Martinez to the respondent;

2) Whether the records of Criminal Case No. 2506 have already been forwarded by the MCTC of Maragondon-Ternate-

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[14] *Ibid.*, p. 64.

[15] *Ibid.*, pp. 65-75.

[16] *Ibid.*, p. 95.

[17] *Ibid.*, p. 97.

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Cavite to the Office of the Provincial Prosecutor of Cavite City and the exact date of the transmittal of such records x x x;

3) Whether the accused Elranie Martinez is still detained at the Provincial Jail in Trece Martires City and if already released, when and under whose authority.

Acting pursuant to the Court's order, the Office of the Court Administrator conducted an investigation on 10 September 1998 and submitted the following findings, as summarized in a memorandum[18] dated 25 March 1999, *viz.*:

"a) The letter dated 18 February 1994 was prepared and signed by Josephine Martinez in the presence of Judge Zoleta and Ms. Monserat P. Magante, then Clerk of Court of MCTC Maragondon, and was submitted to respondent's court on the same date;

b) The certification dated 20 December 1993 of Cristina T. Quignana, Clerk II, Office of the Provincial Prosecutor of Cavite City that the records of Criminal Case No. 2506 had not been forwarded to their office is authentic. *The records were received by the Prosecutor's Office only on 04 April 1994;*

c) The Information for Rape filed with RTC, Branch 15, Cavite City was decided on 30 April 1997 by Judge Napoleon Dilag who found the accused Elranie Martinez *y* Digos guilty of the crime of rape, sentencing him to suffer *Reclusion Perpetua;*

d) The accused Elranie Martinez was detained in the Cavite Provincial Jail since 30 September 1991 and was transferred to the Bureau of Corrections, Muntinlupa City only on 26 June 1997."

Consequently, the Office of the Court Administrator recommended the dismissal of respondent judge from the service, with forfeiture of retirement benefits and leave credits to which he may be entitled and with further prejudice to re-employment in the government service, including government owned or controlled corporations.[19]

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[18] Memorandum dated 25 March 1999, submitted by Deputy Court Administrator Zenaida N. Elepaño; *Rollo*, pp. 137-142.

[19] *Rollo*, p. 142.

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COURT'S RULING

We are in full accord with the clear findings, incisive observations and apt recommendations of the Office of the Court Administrator, which we quote hereunder[20]

"An examination of the records of Criminal Case No. 2506 discloses that the complaint for rape was filed on 09 May 1991. Judge Zoleta conducted the preliminary investigation on the same day. After finding probable cause, he immediately ordered the issuance of a warrant of arrest against Elranie Martinez. The accused was arrested on 06 August 1991 and detained at the Provincial Jail of Cavite on 30 September 1991. Judge Zoleta however delayed action on the case by withholding the release of the Resolution and signing it only on 18 March 1994 or almost two and one half (2/12) years after the preliminary investigation was terminated. Clearly, the proceeding of this case was delayed by the judge—for reasons only known to him.

Verification from the Documentation Unit, Legal Office, Office of the Court Administrator shows that Judge Zoleta has not complied with the numerous resolutions of this Court directing him to file his comment on the complaint of Josephine Martinez. *Up to the present he has not filed any explanation whatsoever, despite the fact that he had been suspended for his misdeeds.* Since he has obstinately refused to comment on the charge against him, he may now be considered as having waived his right to explain his side and the case against him submitted for resolution.

There is no question that Judge Cesar Zoleta unduly delayed the proceedings in Criminal Case No. 2506. His last action on the matter, presumably after finding probable cause, was to issue a warrant of arrest against the accused Elranie Martinez. Meanwhile, having been arrested, the accused languished in jail for two and a half (2/12) years the reason being that respondent judge would not sign the resolution and release this together with the case records to the Office of the Provincial Prosecutor. x x x

On 21 February 1997 Judge Zoleta and Judge Napoleon Dilag conferred with Deputy Court Administrator Zenaida N. Elepaño at the latter's office to discuss their report on the Inspection and Verification of the Docket of Judge Zoleta's court subject of the decision

[20] *Ibid.*, pp. 139-141.

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of the Court dated 22 May 1996 in A.M. No. MTJ-94-904 (Martinez *vs. Zoleta*). At this meeting the undersigned also discussed with Judge Zoleta his refusal to comply with the order of the Court directing him to comment on the administrative charge. Judge Zoleta explained that the reason he delayed submission of the records of the criminal case to the Prosecutor's Office of Cavite City was the written request by complainant that he delay the forwarding of the records to the Prosecutor because of the possibility of amicable settlement. A photocopy of the letter allegedly prepared and signed by complainant Martinez was handed over by respondent to the undersigned. The judge added that complainant promised him that she will be the one to explain to the Supreme Court about the delay. The undersigned however advised Judge Zoleta that he should not leave it to another person to file a Comment with the Court since he himself was the one ordered by the Court to do so. Respondent thereafter committed to the undersigned that he would file his explanation. *Up to the present he has not yet done so, despite several reminders conveyed to him.*

With regard to the letter of complainant requesting respondent judge to 'delay' the transmittal of the records to the Prosecutor's Office, we note that it was dated 18 February 1994. This means that it was only written seven (7) months after Judge Zoleta was twice directed by Deputy Court Administrator Reynaldo Suarez to comment on the letter of Martinez complaining about the delay, one (1) month after complainant filed this instant charge against respondent, and two (2) days after he was directed by the Court to file his Comment thereto. *It is therefore obvious that this was a delay committed after the complaint was filed against him not delay prior to the complaint which was the basis for its filing.*

Our investigators disclosed that this letter was prepared and signed by complainant in court in the presence of Judge Zoleta and his branch clerk. *But this was after she had already charged respondent judge with undue delay.* It would seem therefore that as soon as respondent judge received the directives of DCA Suarez to comment on the complaint, Judge Zoleta called on complainant to his court to prepare and sign a letter-request to delay the submission of the records of the preliminary investigation to the Provincial Prosecutor, in order to provide him a legitimate reason, nay, a veritable cover-up, for his delay in the transmittal of the criminal case records to the Prosecutor for review. But in using this strategy, he overlooked the fact that the letter was dated 18 February 1994, after a period of two (2) years and nine months that the case hibernated in his court." (italics ours)

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With respondent judge's obstinate defiance and incessant refusal to submit his Comment despite several resolutions and stern admonitions requiring the same, he has to our mind, vividly exposed his incorrigibility in complying with lawful directives of this Court.

Specifically, several resolutions issued by this Court requiring respondent to submit his Comment on the complaint against him were left unheeded. Beyond this, respondent judge has been fined thrice,[21] adjudged guilty of contempt of court, incarcerated for ten days and suspended for six months without pay, on account of gross misconduct and insubordination. *Despite all of these warnings and fines imposed upon him, respondent has yet to submit the required Comment.*

Certainly, this Court can never turn a blind eye, much less tolerate respondent's impiety and its odious effects on the administration of justice in this part of the judicial hemisphere. Again, we find the need and occasion to rule that a resolution of the Supreme Court requiring comment on an administrative complaint against officials and employees of the judiciary should not be construed as a mere request from the Court. Nor should it be complied with partially, inadequately or selectively. Respondents in administrative complaints should comment on all accusations or allegations against them in the administrative complaints because it is their duty to preserve the integrity of the judiciary. Moreover, the Court should not and will not tolerate future indifference of respondents to administrative complaints and to resolutions requiring comment on such administrative complaints.[22]

As a judge, respondent is expected to behave at all times to promote public confidence in the intergity and impartiality of the judiciary.[23] We have often said that every officer or employee in the judiciary is duty-bound to obey the orders and processes

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[21] Resolution dated 08 August 1994 (₱500.00); Resolution dated 22 May 1996 (₱5,000.00); Resolution dated 02 December 1996 (₱5,000.00).

[22] *Josep vs. Abarguez*, 261 SCRA 629.

[23] Canon 2, Rule 2.01, Code of Judicial Conduct.

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of this Court without the least delay and to exercise at all times a high degree of professionalism.[24] Truly, there is no place in the judiciary for those who cannot meet the exacting standards of judicial conduct and integrity.[25]

It is gross misconduct even outright disrespect for the Supreme Court for a respondent judge to exhibit indifference to the resolution requiring him to comment on the accusations in the complaints thoroughly and substantially.[26]

In fine, this Court in *Grefaldeo vs. Judge Lacson, et al.*,[27] declared:

"xxx What really sealed the fate of respondent judge is her continued defiance of no less than four (4) resolutions from this Court and two (2) letters from the OCA ordering her to comment on the complaint. As we have said before, this contumacious conduct merits no compassion. Any disregard or cavalier attitude towards this Court's lawful directives will not be tolerated. Hence, the supreme penalty of dismissal has been unhesitatingly imposed on those who have persistently failed to comply with orders requiring them either to file comment or show cause and comply. Respondent's obstinate refusal to abide by the lawful directives of this Court must similarly taken to mean as her own utter lack of interest to remain with, if not her contempt of the system to which she unfittingly belongs. xxx"

Need we to remind respondent that benevolence is not limitless and patience, to be sure, is not without boundaries. These virtues must, at a definite point, yield to the higher considerations of justice and public service, ideals which respondent has sworn to maintain and uphold.

WHEREFORE, the Court finds respondent Judge Cesar N. Zoleta guilty of gross misconduct and insubordination.

ACCORDINGLY, the Court resolves to *DISMISS* respondent judge from the service, with forfeiture of retirement benefits

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[24] *Grefaldeo vs. Lacson*, 293 SCRA 524.

[25] *Borja vs. Bercasio*, 74 SCRA 355.

[26] *Tabao vs. Espina*, 257 SCRA 298.

[27] 293 SCRA 524, 529.

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and leave credits to which he may be entitled, if any, with prejudice to re-employment in the government service, including government-owned and controlled corporations. This judgment is immediately executory and respondent is directed to cease and desist from performing the functions of the office of Judge of the Municipal Circuit Trial Court, Maragondon-Ternate upon receipt of this Decision except to turn over all of his cases and property accountability to the Clerk of Court or whoever is officially designated in charge of said court.

SO ORDERED.

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

FIRST DIVISION

[G.R. No. 105374. September 29, 1999]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **MAXIMO (DAGIT) RABANG, JR.,** *accused-appellant.*

SYNOPSIS

This is an appeal filed by herein appellant from the decision of the Regional Trial Court of Aparri, Cagayan, convicting him of murder and sentenced him to suffer the penalty of *reclusion perpetua* and to pay the heirs of the victim the amount of fifty thousand pesos as death compensation, without subsidiary imprisonment in case of insolvency and to pay the costs. In this appeal, herein appellant questioned the credibility of the prosecution witness who positively identified him as assassin. Likewise, he assailed the trial court's finding that treachery qualified the killing to murder. He also interposed the defense of alibi.