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SECOND DIVISION

[A.M. No. 899-MJ. July 31, 1975]

MELQUIADES UDANI, JR., *complainant, vs.* **MUNICIPAL JUDGE ALFONSO T. PAGHARION of San Remigio, Antique,** *respondent.*

SYLLABUS

LEGAL AND JUDICIAL ETHICS; DISCIPLINARY PROCEEDINGS; ADMINISTRATIVE COMPLAINT RENDERED MOOT AND ACADEMIC; CASE AT BAR.— A study of the matter, according to the Judicial Consultant, would indicate the absence of a *prima facie* case to warrant a formal investigation of the charges thus filed. Moreover, there was a resolution of this Court on April 24, 1975 to this effect: "Considering the request of Municipal Judge Alfonso T. Pagharion of San Remigio, Antique for approval of his application for optional retirement under R. A. No. 910, as amended, as well as the memorandum dated April 14, 1975 of the Judicial Consultant recommending the consideration of the aforesaid application, the Court Resolved to [approve] Judge Pagharion's application for optional retirement." WHEREFORE, the complaint against respondent Municipal Judge Alfonso T. Pagharion is dismissed for being moot and academic.

R E S O L U T I O N

FERNANDO, *J.*:

The basis of the complaint by one Melquiades Udani, Jr. against respondent Municipal Judge Alfonso T. Pagharion of San Remigio, Antique, is that he allowed the preliminary investigation of a criminal complaint to drag for a period of more than three years and two months, after which it was dismissed for insufficiency of evidence. Such a grave delay, according to the complainant, was productive of injustice, aggravated by the fact that from his viewpoint there was clear and positive evidence to warrant prosecution of the accused. The delay was admitted by respondent Judge, but in his defense,

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he alleged that the fault was due to repeated motions for postponement not only on the part of private prosecutor, a close relative of complainant, but also on the part of the defense counsel, then busy campaigning for the Provincial Board. His record would reveal however that there were more motions of that nature from the private prosecutor himself.

A study of the matter, according to the Judicial Consultant, would indicate the absence of a *prima facie* case to warrant a formal investigation of the charges thus filed. Moreover, there was a resolution of this Court on April 24, 1975 to this effect: "Considering the request of Municipal Judge Alfonso T. Pagharion of San Remigio, Antique for approval of his application for optional retirement under R. A. No. 910, as amended, as well as the memorandum dated April 14, 1975 of the Judicial Consultant recommending the consideration of the aforesaid application, the Court Resolved to [approve] Judge Pagharion's application for optional retirement."[1]

WHEREFORE, the complaint against respondent Municipal Judge Alfonso T. Pagharion is dismissed for being moot and academic.

Makalintal, C.J., Barredo, Aquino, and *Concepcion, Jr., JJ.,* concur.

Antonio, J., is on official leave.

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[1] Resolution dated April 24, 1975.