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FIRST DIVISION

[A.M. No. 01-9-245-MTC. December 5, 2001]

RE: HOLD-DEPARTURE ORDER ISSUED BY JUDGE AGUSTIN T. SARDIDO, MTC, KORONADAL, SOUTH COTABATO IN CRIMINAL CASE NO. 19418

SYNOPSIS

MTC Judge Agustin Sardido, on motion, issued a hold-departure order against accused Jinky A. Besorio in Criminal Case No. 19418 for estafa. This became the basis of the current administrative complaint. Respondent admitted that he issued the said order as he was unaware that he had no authority to do so but believed that he was authorized to do so.

Circular No. 39-97 provides that hold-departure orders shall be issued only in criminal cases within the exclusive jurisdiction of the Regional Trial Courts. Clearly, Municipal Trial Court Judges do not have jurisdiction to issue hold-departure orders.

Under Canon 3, Rule 3.01 of the Code of Judicial Conduct, judges are advised to be "faithful to the law and maintain professional competence." Circular No. 39-97 was circularized in 1997 and has been the subject of numerous cases before the Court. The respondent Municipal Trial Court judge, therefore, erred in issuing the said order.

SYLLABUS

1. **ADMINISTRATIVE LAW; SUPREME COURT; CIRCULAR NO. 39-79 ON HOLD-DEPARTURE ORDERS; ISSUED ONLY IN CRIMINAL CASES WITHIN THE EXCLUSIVE JURISDICTION OF REGIONAL TRIAL COURTS.**— Circular No. 39-97 provides that hold-departure orders shall be issued only in criminal cases within the exclusive jurisdiction of the Regional Trial Courts. Clearly then, Municipal Trial Courts do not have jurisdiction to issue hold-departure orders and it was an error on the part of MTC Judge Sardido to have issued one in the instant case.

Supreme Court E-Library

2. JUDICIAL ETHICS; JUDGES; ADVISED TO BE FAITHFUL TO THE LAW AND MAINTAIN PROFESSIONAL COMPETENCE.— Canon 3, Rule 3.01 of the Code of Judicial Conduct exhorts judges to be "faithful to the law and maintain professional competence." The Court, in exercising administrative supervision of all lower courts, has time and again reminded the members of the bench to exert due diligence in keeping abreast with the developments in law and jurisprudence. Besides, Circular No. 39-97 is not a new circular. It was circularized in 1997 and has been the subject of numerous cases before the Court. Herein judge, therefore, cannot be excused for his infraction.

RESOLUTION

KAPUNAN, *J.*:

This refers to an undated indorsement of Honorable Hernando B. Perez, Secretary of the Department of Justice, concerning a hold-departure order issued by Judge Agustin T. Sardido, Municipal Trial Court of Koronadal, South Cotabato in Criminal Case No. 19418 titled *"People of the Philippines v. Jinky A. Besorio"* for estafa. The said judge granted the motion of the private complainants and ordered the Bureau of Immigration to cause the issuance of a hold-departure order against the accused.

When required to comment on the matter, herein judge explained that at the time he issued the hold-departure order, he was unaware that he had no authority to do so. He further explained that he issued the questioned order based on his belief that he was authorized to do so.

Deputy Court Administrator Jose P. Perez, after finding that MTC Judge Sardido erred in issuing the subject hold-departure order, recommended that he be (a) reprimanded with a warning that a repetition of the same or similar acts in the future will be dealt with more severely, and (b) advised to keep himself abreast with the latest issuances of the Court.

The recommendation of the Deputy Court Administrator is well-taken.

Supreme Court E-Library

Circular No. 39-97 provides that hold-departure orders shall be issued only in criminal cases within the exclusive jurisdiction of the Regional Trial Courts. Clearly then, Municipal Trial Courts do not have jurisdiction to issue hold-departure orders and it was an error on the part of MTC Judge Sardido to have issued one in the instant case.

To ensure the strict implementation of the Circular, the following guidelines were promulgated:

In order to avoid the indiscriminate issuance of Hold-Departure Orders resulting in inconvenience to the parties affected, the same being tantamount to an infringement on the right and liberty of an individual to travel and to ensure that the Hold-Departure Orders which are issued contain complete and accurate information, the following guidelines are hereby promulgated:

1. Hold-Departure Orders shall be issued only in criminal cases within the exclusive jurisdiction of the Regional Trial Courts;
2. The Regional Trial Courts issuing the Hold-Departure Order shall furnish the Department of Foreign Affairs (DFA) and the Bureau of Immigration (BI) of the Department of Justice with a copy each of the Hold-Departure Order issued within twenty-four (24) hours from the time of issuance and through the fastest available means of transmittal;
3. The Hold-Departure Order shall contain the following information:
    a. The complete name (including the middle name), the date and place of birth and the place of last residence of the person against whom a Hold-Departure Order has been issued or whose departure from the country has been enjoined;
    b. The complete title and the docket number of the case in which the Hold-Departure Order was issued;
    c. The specific nature of the case; and
    d. The date of the Hold-Departure Order.

    If available, a recent photograph of the person against whom a Hold-Departure Order has been issued or

Supreme Court E-Library

whose departure from the country has been enjoined should also be included.

4. Whenever (a) the accused has been acquitted; (b) the case has been dismissed, the judgment of acquittal or the order of dismissal shall include therein the cancellation of the Hold-Departure Order issued. The courts concerned shall furnish the Department of Foreign Affairs and the Bureau of Immigration with a copy each of the judgment of acquittal promulgated or the order of dismissal twenty-four (24) hours from the time of promulgation/issuance and through the fastest available means of transmittal.

All Regional Trial Courts which have furnished the Department of Foreign Affairs with their respective lists of active Hold-Departure Orders are hereby directed to conduct an inventory of the Hold-Departure Orders included in the said lists and inform the government agencies concerned of the status of the Orders involved.

Canon 3, Rule 3.01 of the Code of Judicial Conduct exhorts judges to be "faithful to the law and maintain professional competence." The Court, in exercising administrative supervision of all lower courts, has time and again reminded the members of the bench to exert due diligence in keeping abreast with the developments in law and jurisprudence. Besides, Circular No. 39-97 is not a new circular. It was circularized in 1997 and has been the subject of numerous cases before the Court. Herein judge, therefore, cannot be excused for his infraction.

In recent cases[1] involving similar violations, this Court imposed the penalty of reprimand on erring judges. Hence, the same penalty should be imposed on Judge Sardido.

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[1] *Office of the Court Administrator v. Judge Salvador B. Mendoza*, A.M. No. 00-1281-MTJ, September 14, 2000; *Issuance of Hold-Departure Order of Judge Luisito T. Adaoag, MTC, Camiling, Tarlac*, A.M. No. 98-8-126-MTC, September 22, 1999; *Hold-Departure Order issued by Judge Eusebio M. Barot, MCTC, Branch 2, Aparri, Calayan, Cagayan*, A.M. No. 98-8-108-MCTC, August 25, 1999; *Re: Hold-Departure Order dated April 13, 1998 issued by Judge Juan C. Nartatez, Municipal Trial Court, Branch 3, Davao City*, 298 SCRA 710 (1998).

Supreme Court E-Library

WHEREFORE, Judge Agustin T. Sardido is hereby *REPRIMANDED* with the warning that a repetition of the same or similar acts in the future will be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Pardo, and *Ynares-Santiago, JJ.,* concur.

FIRST DIVISION

[A.M. No. 01-3-64-MTC. December 5, 2001]

IN RE: NOTICE ISSUED BY JUDGE AGAPITO K. LAOAGAN, JR., MTC, LA TRINIDAD, BENGUET SUSPENDING THE HEARING OF CASES IN HIS COURT

SYNOPSIS

In preparation to the assumption of office as Regional Hearing Officer of NCIP-CAR but prior to his request for permission for an authority to transfer from the Chief Justice, Judge Agapito Laoagan, Jr. issued, without authority, a notice suspending all trials and hearings of cases in his *sala* until the designation of an acting judge except for promulgation of judgments, hearings pertaining to provisional remedies and criminal cases involving detention prisoners. A copy of said notice of suspension was sent by Executive Judge Nelsonida Marrero to the Office of the Chief Justice, which was eventually forwarded to the Office of the Court Administrator (OCA). The OCA required Judge Laoagan to explain the unauthorized suspension of trials and hearings of cases pending before his *sala.* After Judge Laoagan filed his answer, the Court Administrator found him to be administratively liable.

The Court adopted the recommendation of the Court Administrator. It cannot be overemphasized that judges have the