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EN BANC

[A.M. No. 98-1-12-RTC. February 17, 1999]

RE: REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE REGIONAL TRIAL COURT-BRANCH 24, IPIL, ZAMBOANGA DEL SUR; Branch 2, ISABELA, BASILAN; and MUNICIPAL CIRCUIT TRIAL COURT, LABASON, ZAMBOANGA DEL NORTE.

SYNOPSIS

In pursuance of the Court's policy to conduct a judicial audit of all cases pending before the sala of retiring judges, the Office of the Court Administrator conducted judicial audits at Branch 24 of the Regional Trial Court of Ipil, Zamboanga del Sur, presided by Judge Sergio S. Apostol, Branch 2 of the RTC of Isabela, Basilan, presided by Judge Salvador A. Memoracion, and the Municipal Circuit Trial Court of Labason-Gutalac-Kalawit, Zamboanga del Norte, presided by Judge Jose B. Brillantes. The audit team discovered that Judge Apostol failed to decide 51 cases within the reglementary period and to act upon more than 500 cases pending in his sala. In RTC, Branch 2, Isabela, Basilan, the audit team found that there are 122 criminal cases with outstanding warrants and six (6) civil cases where no action had been taken since they were raffled/reraffled to the branch. It was also discovered that no further proceedings were taken for quite sometime on one (1) criminal case and four (4) civil cases. In MCTC, Labason Gutalac-Kalawit, Zamboanga del Norte, the audit team discovered that there were two election cases submitted for decision. However, no action had been taken for two months or more on Criminal Cases Nos. 2259 and 2251-K.

The Supreme Court directed Judge Sergio S. Apostol to explain why no administrative sanction should be imposed on him. The Court further directed the Clerk of Court of RTC, Branch 2, Isabela, Basilan to take appropriate action on several cases pending in that court. The Court further ordered the Clerk of Court of MCTC, Labason-Gutalac-Kalawit, Zamboanga del Norte to inform it of the status of election and criminal cases pending before the said court.

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In a letter to the OCA, Judge Apostol explained, among others, that the delay in the disposition or resolution was brought about by the bad health that has plagued him. On the other hand, the Clerk of Court of MCTC, Labason-Gutalac-Kalawit, Zamboanga del Norte informed the OCA that Criminal Case No. 2295 was ordered dismissed by the presiding judge. However, Criminal Case No. 2251-K is still pending and trial is still going on. The OCA recommended that a fine of P20,000.00 be imposed upon Judge Apostol.

Judge Apostol has clearly failed to live up to his duty as a judge and should be administratively dealt with accordingly. The Supreme Court, however, reduced the recommended fine to P10,000.00. The Court also found the explanation of the Branch Clerk of Court of MCTC, Labason-Gutalac-Kalawit, Zamboanga del Norte, to be satisfactory. However, no reply was received by the Court regarding its directive to the Clerk of Court of Branch 2, RTC, Isabela, Basilan. However, it cannot make any assessment as regards that court.

SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; DELAY IN THE ADMINISTRATION OF JUSTICE NEGATIVELY AFFECTS THE IMAGE OF THE JUDICIARY.**— Section 15(1) of Article VIII of the Constitution provides that all cases filed before lower courts after the effectivity of the constitution must be decided within three months. The Code of Judicial Conduct provides that a judge "should administer justice ... without delay" and directs a judge to "dispose of the court's business promptly and decide cases within the required periods." Needless to say, justice delayed is often justice denied. Any delay in the administration of justice not only results in depriving the litigant of his right to a speedy disposition of his case but it also negatively affects the image of the judiciary.

2. **ID.; ID.; CHARGE OF GROSS NEGLECT OF DUTY; RESPONDENT JUDGE FOUND ADMINISTRATIVELY LIABLE THEREOF; FINE IMPOSED WAS REDUCED TO TEN THOUSAND PESOS IN CASE AT BAR.**— We agree with the findings and conclusions of the Office of the Court Administrator as regards the administrative liability of Judge Apostol. Judge Apostol has clearly failed to live up to his bounden duty as a judge and should be administratively dealt with

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accordingly. However, we reduce the recommended fine to P10,000.00. The Office of the Court Administrator itself acknowledged that Judge Apostol "without doubt ... had spent a small fortune in medical bills and will continue to do so in the future." We are not inclined to further strain Judge Apostol's financial resources.

RESOLUTION

QUISUMBING, *J.*:

In pursuance of the Court's policy to conduct a judicial audit of all cases pending before the sala of retiring judges, the Office of the Court Administrator conducted judicial audits at Branch 24 of the Regional Trial Court of Ipil, Zamboanga del Sur, Branch 2 of the Regional Trial Court of Isabela, Basilan, and the Municipal Circuit Trial Court of Labason-Gutalac-Kalawit, Zamboanga del Norte. The presiding judges of these courts and their dates of retirement were: Judge Sergio S. Apostol, RTC-Branch 24, Ipil, Zamboanga del Sur, on May 20, 1998; Judge Salvador A. Memoracion, RTC-Branch 2, Isabela, Basilan, on August 14, 1997; and Judge Jose B. Brillantes, MCTC, Labason-Gutalac-Kalawit, Zamboanga del Norte, on October 29, 1997.

The audit team made the following findings:[1]

"I. RTC, Branch 24, Ipil, Zamboanga del Sur. — This branch is presided by Judge Sergio S. Apostol who is to compulsorily retire on May 20, 1998. He was on leave of absence when the undersigned team arrived in his court and was said to be suffering from some debilitating illness. The records from the Leave Section of this Court disclosed that from the time RTC Ipil was organized in 1990 up to the end of August 1997, Judge Apostol incurred a total absence of 560 days. In 1997 alone (up to the end of August), he had 84 absences.

The absences of Judge Apostol had serious effect on his performance. He failed to take any action at all on 280 cases since they were filed/transferred to his sala. Most of these cases (about 199) are criminal cases where no warrants of arrest were issued or any other action taken.

[1] *Rollo*, pp. 1-4.

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Some are ancient as in cadastral cases filed in Pagadian City in the 1960's that were transferred to RTC Ipil upon its organization in 1990 when he was appointed as its first Presiding Judge.

Also, Judge Apostol took no further actions on 268 cases for an unreasonable length of time. Civil Case No. 1078, entitled *'Cinco v. Quinal'* for Collection of Sum of Money, was not reset for Pre-Trial Conference after the schedule on November 1994 was cancelled. No further action had been taken since.

In sum, about 72% of the total caseload of Branch 24 (759 as of August 19, 1997-531 criminal and 228 civil cases) have not progressed for quite some time. It should be pointed out that the caseload of this branch is remarkably high considering that it has only eight (8) small municipalities under its territorial jurisdiction.

It was also discovered that 23 criminal cases and 36 civil cases were found submitted for decision/resolution. Of these numbers, 51 cases (21 criminal and 30 civil) are beyond the 90-day reglementary period with eight (8) criminal cases involving detention prisoners.

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Apparently because of the frail health of Judge Apostol, he has failed to attend to his duties in Pagadian City to the prejudice of many detention prisoners. The team had occasion to confer with Executive Judge Franklyn A. Villegas, RTC, Branch 19, Pagadian City who volunteered to be designated as Assisting Judge of RTC, Branch 24, Ipil for the purpose of hearing and deciding the criminal cases involving detention prisoners detained in Pagadian City pending in Branch 24. It is suggested that Judge Villegas be so designated.

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II. RTC, Branch 2, Isabela, Basilan. — This branch, presided by Judge Salvador A. Memoracion who compulsorily retired last August 14, 1997, has a caseload of 174 cases (153 criminal and 21 civil) as of the date of audit on August 22, 1997.

Of the 174 cases, 122 criminal cases (or 70.11% of the branch's total caseload) are with outstanding warrants of arrest.

There are no cases submitted for decision or resolution but the team found six (6) civil cases where no action had been taken since they were raffled/re-raffled to this branch, to wit:

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Case No.	Title	Date Raffled/ Re-raffled
1. 659	Derek *vs.* Cuadra, Jr.	April 21, 1997
2. 653	Tayo *vs.* Flores	April 21, 1997
3. 131	Ramos *vs.* Ramos	July 11, 1997
4. 634	Fernandez *vs.* Cuadra, Jr.	April 21, 1997
5. 255-111	Petition for Change of Name Sigfredo Tolero, Petitioner	May 28, 1997
6. 7-97	Petition for Issuance of Duplicate OCT-Morales, Petitioner	May 13, 1997

There are also one (1) criminal case and four (4) civil cases where no further proceedings were taken for quite some time:

Case No.	Title	Latest Incident
1. 2588-637	People *vs.* Abundol	Order of release dated June 6, 1997
2. 639	Mateo *vs.* dela Cruz	Order dated June 11, 1997 dismissing Motion to Dismiss and giving defendant 8 days to file answer. No answer filed.
3. 648	Castillo *vs.* Quisano	Order dated September 6, 1996 approving amended complaint and giving defendant 5 days to file answer. No answer filed.
4. 538-66	Ramirez *vs.* Escarian	Order dated December 12, 1996 giving plaintiff 5 days to file formal offer of evidence. None filed.
5. 16-96	Petition for Issuance of new TCT, Pamaran, Petitioner	Notice of hearing for June 27, 1997.

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II. MCTC, Labason-Gutalac-Kalawit, Zamboanga del Norte. — Presided by Judge Jose B. Brillantes who is due to compulsorily retire on October 29, 1997, this Court has a caseload of 50 cases (37 criminal and 13 civil and other cases) as of August 19, 1997. It was said that this low caseload may partly be attributed to the numerous inhibitions of Judge Brillantes, Jr. from cases where his nephew, said to be the only practicing lawyer in Labason, is counsel.

Of these 50 cases, two election cases (358 and 359, entitled '*Ladion vs. Jumawan'* and *'Timol vs. Timol,'* respectively) are submitted for decision. Both are still within the reglementary period for deciding cases and there is already a signed decision for Case No. 358 though not yet promulgated.

In the following criminal cases, no action had been taken for two months or more: 1) Criminal Case No. 2259, entitled 'People *vs.* Villacorta,' where no further proceedings were had after the accused was released on recognizance on June 26, 1997; and 2) Criminal Case No. 2251-K, entitled *'People vs. Realiza,'* where no further setting were made after the April 10, 1997 Order setting the case for hearing on June 11, 1997 which was later postponed.

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On March 10, 1998,[2] this Court resolved to:

(a) DIRECT Judge Sergio S. Apostol, Regional Trial Court, Branch 24, Ipil, Zamboanga del Sur, to explain why no administrative sanction should be imposed on him for his failure to: (a-1) act on 280 cases since they were filed/transferred to his sala; (a-2) further take action on 268 cases for an unreasonable length of time; and (a-3) decide within the reglementary period the following cases: Criminal Cases Nos. 1-101; 1-161; 1-205; 1-212; 1-234; 1-123; 1-372; 1-177; 1-183; 1-242; 1-329; 1-580; 1-804; 1-882; 1-145; 1-522; 1-25; 1-460; 1-383 and 1-239 and Civil Cases Nos. 1-90; 1-145; 1-85; 1-120; 1-170; 1-95; 1-50; 1-39; 1-14; 1-83; 1-133; 1-114; 1-77; 1-65; 1-131; 1-51; 1-79 and Special Civil Action Nos. 1-22; 1-25; 1-28; 1-21; 1-14; 1-33; 1-2; 1-18 and 1-11 and LRC Nos. 1-14 and 1-16 and Cadastral Cases Nos. 12 (Lot 2589) and 8 (Lot No. 4174); (b) DESIGNATE Executive Judge Franklyn Villegas, Regional Trial Court, Branch 19, Pagadian City, as Assisting Judge of Regional Trial Court, Branch 24, Ipil, Zamboanga del Sur to hear and decide criminal cases pending in Branch 24 involving detention prisoners

[2] *Id.*, pp. 28-29.

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detained in Pagadian City, conducting the hearing in his own sala, in addition to his regular duties; (c) REVOKE the authority of Judge Sergio Apostol to conduct trials of cases in Pagadian City pursuant to resolution of August 9, 1990 as amended in the resolution of September 13, 1994 in A.M. No. 90-7-1678-0; (d) DIRECT the Fiscal Management Officer, this Office, to determine if there was overpayment of the salary of Regional Trial Court, Ipil, former Clerk of Court, Atty. Marcelo Rabosa, Jr., who transferred to the Public Attorney's Office of Ipil sometime February 1997 and if so, to take necessary action thereon; (e) ORDER Judge Sergio S. Apostol to cease and desist from hearing cases and instead, concentrate on disposing cases submitted for decision/resolution in his sala; (f) DESIGNATE Judge Mariano S. Marcias, Regional Trial Court, Branch 28, Liloy, Zamboanga del Norte, as Assisting Judge of Regional Trial Court, Branch 24, Ipil, Zamboanga del Sur, to try and decide cases in that sala from Mondays to Wednesdays, in addition to his regular duties in his own sala, effective immediately, until further orders from this Court.

The Court further Resolved to : (a) DIRECT: (a-1) Clerk of Court Roncesvalles B. Filoteo, Regional Trial Court, Branch 2, Isabela, Basilan, upon the assumption of the Acting Presiding Judge, to take appropriate action on: (aa) the following six (6) civil cases where no action had been taken since they were raffled/re-raffled to Branch 2, to wit: Ordinary Civil Cases Nos. 634, 653, 659 and 131 and Special Proceedings Nos. 7-97 and 255-111; and (bb) the following five (5) cases which have no further proceedings for a considerable length of time, to wit: Criminal Cases Nos. 2588-637; Ordinary Civil Cases Nos. 639-648 and 538-66; and Special Proceedings No. 16-96; and (a-2) Clerk of Court Virginia L. Amistoso, Municipal Circuit Trial Court, Labason-Gutalac-Kalawit, Zamboanga del Norte, to inform this Court, through the Office of the Court Administrator, and the successor of Judge Jose B. Brillantes, the present status of Election Cases Nos. 358-359, and Criminal Cases Nos. 2295 and 2251-K so that proper action could immediately be taken thereon.

In a letter to the Office of the Court Administrator,[3] Judge Apostol offered the following explanation:

"a) part of the 280 cases adverted in (a-1) of the Resolution was inherited by the undersigned. Some of these cases have already been resolved by the undersigned;

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[3] *Id.*, p. 31.

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b) the delay in the disposition/resolution of the 268 cases referred to in a-2 and on the criminal cases enumerated A-3 were brought about by the bad health that has plagued the undersigned. He has been suffering from diabetes mellitus, renal failure, hypertension, cardiovascular infraction and others. Attached are the medical certificates in support of this. This has hampered by action/disposition of these cases. Then too there was the peace and order problem which at times has caused a paralysis of our processes and has severely hampered my efficiency and lastly, for most of my tenure. I had no clerk of court nor a researcher. I had to act as my own clerk of court and my own researcher. This again contributed to the delay in my functioning as a Magistrate."

According to the Office of the Court Administrator, it received reports that Judge Apostol tried to report for work despite his failing health. While we take note of Judge Apostol's seeming dedication to duty, we cannot simply overlook his failure to act upon majority of the cases in his sala. He could have opted for early retirement when it became apparent that he could no longer perform the duties demanded of him as a judge, for his own good and for the proper administration of justice.

The Office of the Court Administrator recommended that a fine of P20,000.00 be imposed upon Judge Apostol, for his failure to decide 51 cases within the reglementary period and to act upon more than 500 cases pending in his sala.[4]

We agree with the findings and conclusions of the Office of the Court Administrator as regards the administrative liability of Judge Apostol.

Section 15 (1) of Article VIII of the Constitution provides that all cases filed before lower courts after the effectivity of the constitution must be decided within three months. The Code of Judicial Conduct provides that a judge "should administer justice ... without delay"[5] and directs a judge to "dispose of the court's business promptly and decide cases within the required periods."[6]

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[4] *Id.*, p. 91.

[5] CODE OF JUDICIAL CONDUCT, Rule 1.02.

[6] *Id.*, Rule 3.05.

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Needless to say, justice delayed is often justice denied. Any delay in the administration of justice not only results in depriving the litigant of his right to a speedy disposition of his case but it also negatively affects the image of the judiciary.

Judge Apostol has clearly failed to live up to his bounden duty as a judge and should be administratively dealt with accordingly. However, we reduce the recommended fine to P10,000.00. The Office of the Court Administrator itself acknowledged that Judge Apostol "without doubt... had spent a small fortune in medical bills and will continue to do so in the future."[7] We are not inclined to further strain Judge Apostol's financial resources.

With regard to the MCTC of Labason-Gutalac-Kalawit, Zamboanga del Norte, Clerk of Court Virginia L. Amistoso, informed the Office of the Court Administrator thus:[8]

> Criminal Case No. 2295, entitled: *People of the Philippines versus Federico Villacorta* for "Estafa" was ordered dismissed on February 6, 1998 by Hon. Alejandro T. Canda, Presiding Judge of this Court on Special Detail for the reason that complaining witness has submitted his Affidavit of Desistance with Motion to Dismiss by the Chief of Police of Labason, Zamboanga del Norte (copy of Order is hereto attached), however Criminal Case No. 2251-K, entitled: *People of the Philippines versus George Realiza* for "Direct Assault Upon a Person in Authority" as amended, is still pending and Trial is still going on, in fact said case has been set for hearing on May 14, 1998.

We find this explanation of the Branch Clerk of Court satisfactory.

On the other hand, no reply was received by the Court regarding its directive to the Clerk of Court of Branch 2, RTC, Isabela, Basilan, Roncesvalles B. Filoteo, to take appropriate action on several cases pending in that court. Thus, we cannot make any assessment as regards that court. Neither has the Court received any reply from the Court's Fiscal Management Officer

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[7] *Supra,* at note 4.

[8] *Id.,* p. 78.

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regarding our directive to determine if there was overpayment of the salary of Atty. Marcelo Rabosa, Jr., former Clerk of Court of Branch 24, RTC, Ipil. Atty. Rabosa, has reportedly transferred to the Public Defenders' Office.

IN VIEW OF THE FOREGOING, Judge Sergio S. Apostol is hereby found *GUILTY* of gross neglect of duty and is hereby ordered to pay a *FINE of TEN THOUSAND PESOS* (P10,000.00), to be deducted from retirement benefits due him.

Clerk of Court Roncesvalles B. Filoteo, of Branch 2, RTC, Isabela, Basilan is DIRECTED to submit to this Court, within 10 days from receipt of a copy of this resolution, a report detailing the actions taken on the following cases as well as their present status: Civil Cases Nos. 634, 653, 659, 131, 639, 648, and 538-66; Special Proceedings Nos. 7-97, 255-111 and 16-96; and Criminal Case No. 2588-637.

The Fiscal Management Officer of the Court is DIRECTED to submit within ten (10) days from receipt of a copy of this resolution, a report on the result of its investigation as to whether there was any overpayment of the salary of Atty. Marcelo Rabosa, Jr., former Clerk of Court of Branch 24, Regional Trial Court, Ipil, Zamboanga del Sur.

SO ORDERED.

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