



# Supreme Court of the Philippines Philippine Judicial Academy



## *PHILJA Fax/Electronic Alerts*

Issue 05-04  
April 2005

ADMINISTRATIVE CIRCULAR NO. 14-2005

AMENDING SECTION 4, LETTER H OF AMENDED  
ADMINISTRATIVE CIRCULAR NO. 35-2004

WHEREAS, the Court of Tax Appeals has pointed out that Section 4, letter H of the Amended Administrative Circular No. 35-2004 (Guidelines in the Allocation of the Legal Fees Collected Under Rule 141 of the Rules of Court, As Amended, Between the Special Allowance for the Judiciary Fund (SAJ) and the Judiciary Development Fund (JDF) has failed to provide for the sharing between both for the filing fee of P10.00 for each P1,000.00 in excess of P7,500,000.00 but not beyond P50 Million. The sharing should be: (1) JDF-P1; SAJ-P9.

NOW, THEREFORE, Section 4, letter H of the Amended Administrative Circular No. 35-2004 promulgated on 20 August 2004 is hereby amended to read as follows:

Sec. 4	JDF	SAJ
H – P7,500,000.00 OR MORE ON THE FIRST P7,500,000.00 THE FEE SHALL BE p50,500.00, AND FOR EACH P1,000.00, IN EXCESS OF P7,500,000.00, THE FEE SHALL BE P10.00: PROVIDED THAT FOR ASSESSMENTS BEYOND P50 MILLION, THE FILING FEE FOR THE EXCESS SHALL BE EQUIVALENT OF ONE-HALF (1/2) OF ONE (1%) PER CENTUM	50,300.00	200.00
	1.00	9.00
		1/2

This amendment shall be retroactive to the date of effectivity of Amended Administrative Circular No. 35-2004.

The Court of Tax Appeals may make the corresponding correction or adjustment of the sharing covered by this amendment on legal fees heretofore collected

(Sgd.) HILARIO G. DAVIDE, JR.  
Chief Justice

ADMINISTRATIVE ORDER)  
NO. 52-2005 )

For a more effective administration of justice and pursuant to Section 5 (3) Art. VIII of the Constitution, the Presiding Judges of the Metropolitan Trial Courts in Manila shall preside over the mobile court when the latter will operate in the City of Manila. They shall conduct hearings of cases assigned to their respective courts, especially those cases where the accused are detained at the City Jail of Manila. They shall be assisted by their respective Clerks of Court and one (1) Court Stenographer.

The judges shall be entitled to an expense allowance of Five Hundred Pesos (P500) while the Clerks of Court and Court Stenographer shall be entitled to an expense allowance of Two Hundred (P200), for each day served in the mobile court.

14 April 2005.

(Sgd.) HILARIO G. DAVIDE, JR.  
Chief Justice

OCA CIRCULAR NO. 28—2005

TO: ALL JUDGES OF THE REGIONAL TRIAL COURTS  
SUBJECT: DISMISSAL OF DRUG CASES FOR LACK OF AUTHORITY OF OPERATING PERSONNEL

It has come to the attention of this Office that drug cases are being dismissed on the ground that the operating personnel involved therein are not members of the Philippine Drug Enforcement Agency (PDEA), which is the authorized agency to conduct drug operations under R.A. 9165.

For the information and guidance of all concerned, on 02 June 2003, the PDEA has entered into a Memorandum of Agreement with the Philippine National Police (PNP) for the latter's support in the anti-drug campaign. Under Section 4 (B) of the MOA, the PNP has the following specific roles on operational matters:

- (a) Continue to conduct general law enforcement operations against illegal drugs through supply/demand reduction programs pursuant to its LOI BANAT I in conformity with the pertinent provisions of RA 9165 and in close coordination with the Barangay Anti-Drug Abuse Councils (BADACs);
- (b) Create a PNP Task Force to be headed by a ranking/qualified police officer which will assist the PDEA in its anti-illegal drugs operations down to barangay level to be operationalized during the transition period;
- (c) Ensure that all operations against illegal drugs shall be carried out in coordination with and/or under the direction and control of the PDEA;
- (d) Assist the PDEA in collecting, processing and analyzing information on illegal drug activities by submitting periodic reports to the PDEA through the PDEA Regional Offices;
- (e) Support the National Drug Intelligence System maintained by the PDEA and allow its integration with PNP databases;
- (f) Assist in intelligence operations conducted by the PDEA through the utilization of its personnel, informants and other resources on a case-to-case basis;
- (g) Assist in the counter-intelligence and investigation of the PDES especially regarding PNP personnel involved in illegal drug activities;
- (h) Assist the PDEA in investigation and prosecution of Drug cases;
- (i) Assist the PDEA in the examination and custody of all seized, confiscated, and surrendered dangerous drugs, precursors and essential chemicals through the PNP Crime Laboratory until such time that the PDEA has established its own forensic laboratory in every province and city as provided for in Republic Act No. 9165;
- (j) Assist the PDEA in the formation of a nationwide organization, which shall coordinate and supervise all activities against drug abuse in every province, city, municipality and barangay;
- (k) Assist the PDEA in coordinating with foreign counterparts through the utilization of the Police Attaches until such time that the Agency can field its own foreign liaison officers;
- (l) Support the National Anti-Drug programs of Action (NADPA) as mandated by Presidential Letter of Instruction Number 1 issued by President Gloria Macapagal-Arroyo and updated by the Dangerous Drugs Board; and
- (m) Extend other operational assistance as may be necessary or upon request of PDEA.

The provincial, city and municipal chiefs of police are concurrently the PDEA provincial, city and municipal officers, respectively, during the transition period stated in R.A. No. 9165 considering that the PDEA still lacks the required personnel at this phase. Based on the said MOA, the anti-drug operations of the law enforcement agencies covered by said agreement are clearly in support of the Implementing rules and Regulations of R.A. No. 9165, specifically Section 86 thereof, which states that other law enforcement agencies may conduct drug operations in coordination with the PDEA, to wit:

"Sec. 86. Transfer, Absorption, and Integration of All Operating Units on Illegal Drugs into the PDEA and transitory provisions

xxx

xxx

xxx

- (a) Relationship/Coordination between PDEA and other Agencies – The PDEA shall be the lead agency in the enforcement of the Act, while the PNP, the NBI and other law enforcement agencies shall continue to conduct anti-drug operations in support of the PDEA; Provided, that the said agencies shall, as far as practicable, coordinate with the PDEA prior to anti-drug operations; *Provided, further*, that, in any case, said agencies shall inform the PDEA of their anti-drug operation within twenty-four (24) hours from the time of the actual custody of the suspects or seizure and said substances, as well as paraphernalia and transport equipment used in illegal activities involving such drugs and/or substances, and shall regularly update the PDEA on the status of the cases involving the said anti-drug operations conducted by the PNP, the NBI, and other law enforcement agencies prior to the approval of this IRR shall be valid and authorized; *Provided, finally*, that nothing in this IRR shall deprive the PNP, the NBI, and other law enforcement personnel and the personnel of the Armed Forces of the Philippines (AFP) from affecting lawful arrests and seizures in consonance with the provisions of Section 5, Rule 113 of the Rules of Court."

From the foregoing, members of the PNP, NBI and other law enforcement agencies who are working in coordination with PDEA are considered as authorized PDEA personnel in anti-drug operations

Please be guided accordingly.

28 March 2005

(Sgd.) PRESBITERO J. VELASCO, Jr.  
Court Administrator

**Judges: Duties of a judge in case an application for bail is filed; authority of a municipal judge to grant bail**

In the recent case of Managuelod versus Judge Paclibon, the Supreme Court enumerated the duties of a judge in case an application for bail is filed.

- (1) notify the prosecutor of the hearing on the application for bail or require him to submit his recommendation;
- (2) conduct a hearing on the application for bail whether or not the prosecution presents evidence to show that the guilt of the accused is strong to enable the court to exercise its discretion;
- (3) decide whether the evidence of guilt of the accused is strong based on the summary of evidence of the prosecution; and
- (4) if the guilt of the accused is not strong, discharge the accused upon the approval of the bail bond.

Applying the foregoing, respondent judge has more than sufficiently complied with the requirements of the law before his approval of the bail application of the accused.

On the authority of respondent to grant bail, the long settled rule is that a municipal judge conducting a preliminary investigation of a person in custody and charged with a capital offense has the authority to grant bail. In sum, the acts of respondent judge were all in accordance with law and jurisprudence.

The case against him was dismissed for lack of merit. **(A.M. No. MTJ-05-1582, February 2, 2005)**

**Judges: mandatory requirements of Administrative Circular No. 20-95**

Complainant faults respondent judge for violating Administrative Circular No. 20-95 for failure to call for a hearing on its application for a TRO within twenty four (24) hours after the case had been raffled to his sala. What is mandatory in the circular is the giving of notice and opportunity for the adverse party to be heard and interpose objections in a summary hearing before a prayer for a TRO is acted upon. The period within which to conduct a summary hearing is not 24 hours after the record has been raffled but 24 hours after the records are transmitted to the branch to which it is raffled.

The case against respondent was dismissed. **(A.M. No. RTJ-65-1904, February 18, 2005)**

**Judges: Failure to decide case within the prescribed period**

A judge must first seek from the Supreme Court an extension of the period within which to decide, without such extension, his failure to decide a case within the prescribed period constitutes gross inefficiency that warrant administrative sanction. The records show that respondent failed to decide within the reglementary period thirteen (13) cases.

He also failed to resolve 3 motions on time for which he was found guilty of gross inefficiency. He was fined P11,000.00. **(A.M. No. 00-4-09-SC, February 23, 2005)**

**Judges: Acts of impropriety**

Canon 2 of the Code of Judicial conduct decrees that a judge should avoid impropriety and the appearance of impropriety in all his activities. In writing to the administrative officials of the university respondent judge obviously sought to influence or put pressure on them with regards to the actions to be taken against the four professors. His wife could have written the letter herself as she is the complainant in the criminal cases against the four professors. Instead, it was respondent judge who did and he even used and stated his judicial position in his letter, thereby insinuating that it should not be ignored or trifled with. It cannot be gainsaid that respondent judge is aware that his judicial position alone could exert influence or authority over the university officials, and he took advantage of such authority.

For violating Canons 2 of the Code of Judicial Conduct, respondent was reprimanded. **(A.M. No. RTJ-04-1876, February 23, 2005)**

**Sheriffs: Simple misconduct**

While respondent correctly asserts that it is his ministerial duty to act on a writ of execution, this duty has its limitations. He carried out the writ of execution despite the complainants assertions that the writ issued by the court was unenforceable against her. Respondent should have brought the matter to the attention of the issuing judge. For his imprudent act, he was found guilty of simple misconduct and fined P10,000.00. **(A.M. No. P-04-1832, February 23, 2005)**

***Chancellor, Philippine Judicial Academy***

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