



Supreme Court of the Philippines
Philippine Judicial Academy



PHILJA Fax/Electronic Alerts

Issue 06-08
August 2006

We're turning 5 !!!
We would like to hear from you.

Feedback from the readers:
(Participants from the 42nd Orientation Seminar-Workshop for Newly Appointed Judges – August 21-September 1, 2006, Tagaytay City)

This is excellent and must be continued!

I hope all the judges especially from the different provinces, be furnished copies of said "Alerts" promptly and regularly.

May it be operational for one hundred years more! Thank you!!!

The Fax Alerts are very helpful in educating the judges of the recent decisions of the Supreme Court

Okey, very helpful to judges

Request that every copy of the Fax Alerts be given to my Station.

Justices: unreasonable delay in the disposition of motions for reconsideration

In an unsigned letter dated 17 February 2006, the "Aggrieved Party" requests for a judicial audit on an Associate Justice of the Court of Appeals. The Court sees the need for the Court of Appeals to study systematic ways and means to expedite the adjudication of pending cases and to implement measures to achieve as much as possible zero backlog. The Court **RESOLVED** to refer the letter-complaint to a Retired Supreme Court Justice for investigation, report and recommendation, within 90 days from receipt hereof. The Presiding Justice of the Court of Appeals, is likewise **DIRECTED** to form a Committee on Zero Backlog of Cases to study the number of pending cases before said court and to determine how this problem can be addressed to ensure that cases will be decided expeditiously within the reglementary period. A report shall be submitted to this Court within 60 days from receipt hereof. **(A.M. No. 06-6-8-CA, July 18, 2006)**

Judges: grave abuse of authority

It is well-settled that the power to declare a person in contempt is inherent in all courts so as to preserve order in judicial proceedings and to uphold the administration of justice. Judges, however, are enjoined to exercise such power judiciously and sparingly, with utmost restraint, and with the end in view of utilizing the same for correction and preservation of the dignity of the court, and not for retaliation or vindication. The salutary rule is that the power to punish for contempt must be exercised on the preservative, not vindictive principle, and on the corrective and not retaliatory idea of punishment. The courts must exercise the power to punish for contempt for purposes that that are impersonal, because the power is intended as a safeguard not for the judges as persons but for the functions that they exercise. "

x x x In the present case, respondent Judge may not have been urged by ulterior motives in citing complainant in contempt and in subsequently sending him to jail for putting off the lights in the 12th floor including his sala; nevertheless, his actuation can easily be perceived as being a repository of arbitrary power. His actuation must never serve to fuel suspicion over a misuse of the prestige of his office to enhance his personal interest."

" We cannot simply shrug off respondent Judge's failure to exercise that degree of care and temperance required of a judge in the correct and prompt administration of justice; more so in this case where the exercise of the power of contempt resulted in complainant's detention and deprivation of liberty. Respondent Judge's conduct amounts to grave abuse of authority. Respondent was **FINED** Php5,000 for improperly citing complainant for contempt and ordering his detention without legal basis and **STERNLY WARNED** that a repetition of the same or similar acts in the future will be dealt with more severely. **(A.M. No. RTJ-06-1972, June 21, 2006)**

Judges: knowingly rendering an unjust order, ignorance of the law, bias and partiality

The Court **NOTES** the Report of the Court Administrator, finding, among others, that complainant failed to show any proof or evidence indicating bad faith on the part of the respondent judge; and that the remedy of complainant is not the filing of instant administrative case against respondent judge but to challenge the assailed order before a court of competent jurisdiction. The Court Resolved to **DISMISS** the instant administrative complaint against respondent for lack of merit. (**Administrative Matter OCA IPI No. 05-228-RTJ, June 26, 2006**)

Judges: conduct prejudicial to the interest of the service, grave misconduct and dishonesty

A circumspect scrutiny of the records at hand failed to support the allegations in the complaint. Respondent has admitted the issuance of the two (2) warrants with the second one to augment the first. We find no impropriety or irregularity in the issuance of the warrant of arrest from respondent's chamber, considering that he presides over said court. Moreover, the warrant is clearly issued pursuant to the order. Thus, we cannot agree with the complainant's assertion that its issuance is without rhyme and reason. As recommended in the Report of the Office of the Court Administrator, the Court Resolved to **DISMISS** the instant administrative complaint and **REMINDED** respondent to be more circumspect in issuing court processes so as not to be misinterpreted or misconstrued in its propriety, timeliness or his partiality. (**Administrative Matter OCA IPI No. 05-2267-RTJ, June 26, 2006**)

Clerks of Court: dishonesty and misconduct

Clerks of Court, in particular, are the chief administrative officers of their respective courts who must show competence, honesty and probity, having been charged with safeguarding the integrity of the court and its proceedings. Furthermore, they are judicial officers entrusted to perform delicate functions with regard to the collection of legal fees, and are expected to correctly and effectively implement regulations. Hence, as custodians of court funds and revenues, they have always been reminded of their duty to immediately deposit the various funds received by them to the authorized government depositories for *they are not supposed to keep funds in their custody*. In this case, respondent's act of requesting for additional time to produce the funds leads to no other conclusion than that the questioned funds were not in his possession. Respondent clerk of court was found **GUILTY** of dishonesty and gross misconduct. He was **DISMISSED** from the service and he was likewise **DIRECTED** to pay the amount of interest which the Court failed to earn had the collections been deposited on time. (**A.M. No. P-06-2167, June 27, 2006**)

Stenographers : misconduct, partiality and violation of professional conduct

In the present case, there was no showing that the acts complained of were corrupt or motivated by an intention to violate the law. No proof was presented to substantiate the allegation that respondent had made undue influence or used her position to interfere with the dispute between the side of complainant the and child's father. In fact, the child custody and the rape case were not filed before the court where the respondent was working. Likewise, the charges of partiality and violation of professional responsibility against respondent, being based on the same factual allegations, must fail for not having been established with clear, solid and convincing proof.

In administrative proceedings, the complainant has the burden of proving the allegations in the complaint with substantial evidence. Complainant failed to discharge said burden and records do not show that respondent committed acts meritorious of administrative sanctions. The complaint was **DISMISSED** for lack of merit. She, however, is **ADVISED** to be extra-careful in her conduct in order to avoid being misinterpreted and/or perceived to be using her official position to secure in warranted benefits or privileges for herself or for others. (**A.M. No. P-06-2174, July 25, 2006**)

OCA CIRCULAR NO. 79-2006

TO: THE JUDGES AND CLERKS OF COURTS OF THE REGIONAL TRIAL COURTS, THE METROPOLITAN TRIAL COURTS, THE MUNICIPAL TRIAL COURTS IN CITIES, THE MUNICIPAL TRIAL COURTS AND THE MUNICIPAL CIRCUIT TRIAL COURTS.

RE: SUBMISSION OF OBSERVATIONS, COMMENTS AND PROBLEMS ENCOUNTERED IN THE IMPLEMENTATION OF THE RULE ON GUIDELINES TO BE OBSERVED BY TRIAL COURT JUDGES AND CLERKS OF COURTS IN THE CONDUCT OF PRE-TRIAL AND THE USE OF DEPOSITION-DISCOVERY MEASURES

On 13 July 2004, the Court in its Resolution in A.M. No. 03-1-09-SC re: "PROPOSED RULE ON THE GUIDELINES TO BE OBSERVED BY TRIAL COURT JUDGES AND CLERKS OF COURT IN THE CONDUCT OF PRE-TRIAL AND USE OF DEPOSITION AND DISCOVERY MEASURES," approved the said Guidelines. The same took effect on 16 August 2004.

The Guidelines seek to abbreviate court proceedings, ensure prompt disposition of cases and decongest court dockets through the maximum use of pre-trial and deposition-discovery measures.

After more than a year of implementation and to address concerns that OCA stakeholders may have with respect to the said Guidelines, you are hereby directed to submit to the Office of the undersigned not later than 31 May 2006 your observations, comments and problems encountered in the implementation of the Guidelines.

For strict compliance.

16 May 2006.

(**SGD**) CHRISTOPHER O. LOCK
Court Administrator

OCA CIRCULAR NO. 86-2006

TO: ALL JUDGES OF THE FIRST AND SECOND LEVEL COURTS

RE: AMENDMENT TO OCA CIRCULAR NO. 12-2002 AS AMENDED

Pursuant to OCA Circular No. 12-2002 dated June 3, 2002 as amended by OCA Circular No. 28-2003 dated March 17, 2003, each court was directed to constitute a Judicial Service Team (JST) in line with the Total Quality Management strategy. The JST shall hold regular monthly meetings and the minutes of the meeting shall be submitted to the Court Management Office within ten (10) days from the date of the meeting.

Considering the reports that judges and staff spend so much time preparing these minutes, submission of the same is no longer mandatory. Judges may hold staff meetings anytime at their discretion and the minutes of the meeting as well as the Performance Inventory form need not be submitted to this Office.

This circular takes effect immediately.

June 8, 2006.

(SGD) CHRISTOPHER O. LOCK
Court Administrator

OCA CIRCULAR NO. 92-2006

TO: ALL JUDGES AND CONCERNED PERSONNEL OF THE REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS AND SHARI'A CIRCUIT COURTS.

RE: AFFIXING THE DATE OF HEARING IN THE REGISTRY RETURN CARD/RECEIPT ATTACHED TO EACH REGISTERED MAIL OF THE COURT

WHEREAS, Presidential Decree No. 26 extends franking privilege to papers connected with judicial proceedings;

WHEREAS, the Philippine Postal Corporation, through its Postmaster General Dario C. Rama, has brought to the attention of the Office of the Court Administrator (OCA) the matter of the continuing delays in the delivery of mail matters despite existing orders enjoining postal employees to attend to such mails with dispatch;

WHEREAS, Postmaster General Rama advances the suggestion that the registry return card/receipt attached to each registered mail sent out by the trial courts should include the date of hearing to alert postal employees of the urgency of the mails they are receiving;

WHEREAS, the OCA finds merit in the suggestion propounded by Postmaster General Rama;

WHEREFORE, all concerned personnel of the trial courts are hereby directed to indicate/affix the date of hearing (if the subject court document requires the appearance of the parties in the branch) in the registry return card/receipt attached to each registered mail sent out to the litigants.

For strict compliance.

June 29, 2006

(SGD) CHRISTOPHER O. LOCK
Court Administrator

OCA CIRCULAR NO. 100-2006

TO: ALL JUDGES AND CLERKS OF COURTS OF THE REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A DISTRICT COURTS, SHARI'A CIRCUIT COURTS

RE: GUIDELINES ON THE REDUCTION OF BOND LIABILITY

In line with the policy of the Court to ensure the efficient and effective collection of liabilities under surety bonds and expedite the administration of justice, the Court sets forth hereunder the following guidelines:

1. **REDUCTION OF BOND LIABILITY** - Following an Order of Forfeiture, the Court may reduce or otherwise mitigate the liability of the bondsmen, PROVIDED, the accused has been surrendered or is acquitted. Only in these two instances may Judges reduce or mitigate the liability of the bondsmen. (*RULE 114, SEC. 21*)
2. All Judges shall resolve all motions for reconsideration filed by the bondsmen from an Order of Forfeiture within thirty (30) days from the time it is submitted for resolution. (*RULE 37, SEC. 4*)
3. An Order granting or denying a motion for reconsideration from an Order of Forfeiture must state clearly the reason for its grant or denial and specifying therein the facts and the law on which it is based.
4. Corollarily, all Judges shall furnish the Office of the Court Administrator a copy of their Order of Forfeiture and the motions for reconsideration submitted by the parties.

Strict compliance is hereby enjoined.

19 July 2006

(SGD) CHRISTOPHER O. LOCK
Court Administrator

Chancellor, Philippine Judicial Academy
Ameurфина A. Melencio Herrera

Head, Research and Linkages Office
Prof. Sedfrey M. Candelaria

Editors

Dean Eulogia M. Cueva

Atty. Orlando B. Cariño

Editorial Assistant

Atty. Amelia T. Guillamun

Staff

Nennette G. Zaldivar
Rodrigo G. Javier

The *PHILJA Fax/Electronic Alerts* is issued monthly by the Research and Linkages Office of the Philippine Judicial Academy with offices at the 3rd Floor of the Supreme Court Centennial Building, Taft Avenue, Manila. Tel. No. (02)552-9518; Telefax; (02)552-9526 E-mail address: research_philja@yahoo.com. For e-library: www.supremecourt.gov.ph link to e-library.

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