



Supreme Court of the Philippines
Philippine Judicial Academy



PHILJA Fax/Electronic Alerts

Issue 06-07
July 2006

OCA CIRCULAR NO. 107-2006

TO: All Judges of Special Drug Courts and Other Judges of the Regional Trial Courts

SUBJECT: Duties and Responsibilities of the Department of Health Under Section 76, R.A. 9176 otherwise known as "The Comprehensive Dangerous Drugs Act of 2002"

Under R.A. 9165, otherwise known as "Comprehensive Dangerous Drugs Act of 2002", the conduct of drug dependency examination originally reposed to the Dangerous Drugs Board (DDB) under R.A. 6425 has been transferred to the Department of Health (DOH). Section 76, thereof provides:

"SECTION 76. Duties and Responsibilities of the Department of Health (DOH) under this Act. – The Department of Health shall:

"1. Oversee and monitor the integration, coordination and supervision of all drug rehabilitation, intervention, after-care and follow-up programs, projects and activities as well as the establishment, operations, maintenance and management of privately-owned drug treatment rehabilitation centers and drug testing networks and laboratories throughout the country in coordination with DSWD and other agencies.

"2. License, accredit, establish and maintain drug test network and laboratory, initiate, conduct and support scientific research on drugs and drug control;

X X X

"5. Charge reasonable fees for drug dependency examination, other medical and legal services provided to the public."

X X X

Henceforth, all referrals for drug dependency examination should be addressed to Undersecretary JADE F. DEL MUNDO, Office of Special Concerns, Department of Health, Santa Cruz, Manila.

Strict compliance is hereby enjoined.

July 31, 2006

(SGD.) CHRISTOPHER O. LOCK
Court Administrator

OCA CIRCULAR NO. 103-2006

TO: ALL JUSTICES OF THE COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS AND JUDGES OF THE FIRST AND SECOND LEVEL COURTS

SUBJECT: REVISED PROVISION OF CANON 4, SECTION 9 OF THE NEW CODE OF JUDICIAL CONDUCT

The Supreme Court En Banc in its Resolution dated 6 June 2006 in A.M. No. 03-05-01-SC, Re: New Code of Judicial Conduct for the Philippine Judiciary – Resolved, upon the recommendation of the Philippine Judicial Academy, to **REVISE** the provision of Canon 4, Section 9 of the New Code of Judicial Conduct, as distributed to judges and court personnel, so as to read as follows:

"Confidential information acquired by judges in their judicial capacity shall not be used or disclosed for any other purpose NOT related to their judicial duties."

For your information and guidance.

28 July 2006

(SGD.) CHRISTOPHER O. LOCK
Court Administrator

OCA CIRCULAR NO. 77-2006

TO: ALL JUDGES OF THE 1ST AND 2ND LEVEL COURTS

RE: IMPLEMENTATION OF THE PERFORMANCE EVALUATION SYSTEM FOR 1ST AND 2ND LEVEL JUDGES

Pursuant to OCA Circular No. 29-2003 as amended by OCA Circular NO. 29-A-2003 dated January 31, 2005, judges are required to accomplish the Performance Evaluation Form to indicate their performance rating for the six-month period (January to July; July to December) and submit the same to the Office of the Court Administrator every end of semestral period.

However, it appears that there is a need to further study the measures in the determination of the judge's performance.

In view thereof, the implementation of the above circular is hereby **SUSPENDED** effective immediately until this Office could come up with appropriate measures to gauge the performance of a judge.

May 15, 2006.

(SGD) CHRISTOPHER O. LOCK
Court Administrator

OCA CIRCULAR NO. 80-2006

TO: ALL REGIONAL TRIAL COURT JUDGES

RE: SUBMISSION OF COMMENTS, OBSERVATIONS, AND PROPOSED REVISIONS TO THE PROVISIONS OF THE REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002.

We have received reports that some judges have been encountering problems in the implementation of the various provisions of R.A. No. 9165 while others have observed that certain provisions of the Act, especially those concerning penalties imposed on various violations, actually defeat the purpose for the enactment of the law instead of giving it life.

The foregoing concerns give rise to an urgent need to re-examine the provisions of R.A. No. 9165. The result of such review could help strengthen the provisions of this law and enable the Office of the Court Administrator to propose appropriate recommendatory measures that would render the courts more effective in handling and disposing of drugs cases.

In view of all the foregoing, **ALL** Regional Trial Court judges (including those who are not presiding over special courts for drugs cases) are hereby directed to submit to the Office of the undersigned within thirty (30) days from receipt of this Circular their comments on, proposed revisions to, and recommendations concerning the Comprehensive Dangerous Drugs Act of 2002.

FOR STRICT COMPLIANCE.

16 May 2006.

(SGD) CHRISTOPHER O. LOCK
Court Administrator

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 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)

Chancellor, Philippine Judicial Academy

Ameurfina 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.

If you have any Fax No. or E-mail address, please let us know so we could send direct to you the "Alerts."