



Supreme Court of the Philippines
Philippine Judicial Academy



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MEMORANDUM ORDER NO. 19-2004

TO : ALL TRIAL JUDGES
SUBJECT : IMMEDIATE ISSUANCE OF RELEASE ORDERS OF PRISONERS

WHEREAS, the Constitution safeguards the right of all persons to a speedy disposition of their cases before all courts;

WHEREAS, Despite the dismissal of their cases or their acquittal, a number of accused remain detained for days, if not for weeks or even months, because of the delay in the preparation, signing, or delivery to the Bureau of Jail Management and Penology (BJMP) of an Order for their release; and

WHEREAS, prisoners have the right to be released when (1) their cases are dismissed for any valid reason; (2) they are acquitted by the courts; or (3) they have undergone preventive imprisonment for a period equal to or more than the possible maximum imprisonment penalty for the offense charged to which they may be sentenced, but their cases are not yet terminated (Article 29, last paragraph, Revised penal Code).

NOW, THEREFORE, all trial judges are directed

1. To be ready with an Order of Release on the date set for the promulgation of a decision acquitting the accused; or dismissing the case and the dismissal amounts to an acquittal;
2. To sign the Order of Release immediately after the promulgation of the decision of acquittal or of the order of dismissal amounting to an acquittal; and
3. To direct the Sheriff or Process Server to forthwith serve in open court a copy of the Release Order to the BJMP escort of the prisoners. The escort shall be under strict orders to deliver the Release Order to the Jail Warden, who, in turn, shall immediately enforce it subject to the routinary verification of the prisoner's other pending cases, as well as the processing and recording of the prisoner's release.

This Memorandum shall take effect immediately. The Clerk of Court shall cause its publication in the newspaper of general circulation in the Philippines. The Court Administrator shall ensure compliance therewith by all concerned.

Issued this 2nd day of April 2004.


HILARIO G. DAVIDE, JR.
Chief Justice

Judges; Judicial error; remedy of aggrieved party

As a matter of policy, the acts of a judge in his judicial capacity are not subject to disciplinary action. He cannot be subjected to liability for any of his official acts no matter how erroneous as long as he acts in good faith. Only judicial errors tainted with fraud, dishonesty, gross ignorance, bad faith or deliberate intent to do an injustice will be administratively sanctioned.

Thus, the remedy of the aggrieved party is not to file an administrative complaint against the judge, but to elevate the assailed decision or order to the higher court for review and correction.

A perusal of the records failed to indicate any improper motive on the part of respondent. Case against him was dismissed. **(AM No. RTJ-03-1748, November 11, 2003)**

Judges; Respect for orders and decisions of higher tribunals especially the Supreme Court

A resolution of the Supreme Court is not to be construed as a mere request nor should it be complied with partially, inadequately or selectively.

Respondent's continued refusal to comply with the lawful orders of the Supreme Court underscores his lack of respect for authority and a defiance for law and order which is at the very core of his position. This is anathema to those who seek a career in the judiciary because obedience to the dictates of the law and justice is demanded of every judge.

Respondent was dismissed from the service. **(AM No. RTJ-03-1812, November 19, 2003)**

Judges; Fiduciary activities; when prohibited

The Code of Judicial Conduct lays down the guidelines with respect to fiduciary activities that judges may engage in. The thin line between what is allowed and what is not is set forth in Rule 5.06, and therein made very specific. As a general rule, judges cannot serve as executor, administrator, trustee, guardian or other fiduciary except if he acts in a fiduciary capacity for the estate, trust or person of a member of his immediate family which is limited to spouse, and relatives within the second degree of consanguinity.

The Code of Judicial Conduct has the force and effect of law. The Code itself provides that judges shall strictly comply with its provisions, otherwise, a judge may arrogate upon himself the discretion of determining when he may or may not act in a fiduciary capacity.

Respondent should have been more circumspect in accepting the appointment as attorney-in-fact for his paternal uncle. For violating Rule 5.06 of the Code of judicial Conduct, respondent was fined P3,000.00. **(AM No. MTJ-02-1338, January 21, 2004)**

Judges; Conduct required of; gross misconduct

The personal behavior of a judge, not only upon the bench but also in everyday life should be above reproach and free from the appearance of impropriety. The Code of Judicial Ethics dictates that a judge, in order to promote public confidence in the integrity and impartiality of the judiciary must behave with propriety at all times. Being the subject of constant public scrutiny, a judge should freely and willingly accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen. He should personify judicial integrity and exemplify honest public service.

Respondent's behavior fell short of the exacting standards required of him as a magistrate. He transacted business with a party litigant who had a pending case in his sala. He used his official position and authority as a judge to deliver a demand letter to the complainant. He also filed a case for estafa against the complainant in his own sala and assisted in the issuance of a warrant of arrest against the same. The respondent should have known that the more prudent thing to do was to file the case with the provincial prosecutor's office.

In AM No. MTJ-01-1383, March 5, 2003, the Supreme Court dismissed respondent from the service for violation of RA 3019, the Anti-Graft and Corrupt Practices Act, and thereafter issued a Resolution dated July 17, 2003 denying respondents motion for reconsideration with finality and disbaring him from the practice of law.

For misconduct in this case, respondent was fined P40,000.00. **(AM No. MTJ-02-1418, December 10, 2003)**

Judges; Conduct required of; improper conduct

A magistrate should avoid impropriety and the appearance of impropriety in all activities and should be the embodiment of competence, integrity and independence.

Respondent's order releasing complainant after he had been arrested "to serve sentence" finds no support in the records. Section 4 of Rule 114 of the Rules of Court grants bail as a matter of right to all persons in custody even after conviction by the municipal trial court and Section 7 of Rule 120 provides that a judgment in a criminal case becomes final after the lapse of the period for perfecting an appeal, or when the sentence has been partially or totally satisfied or served, or the accused has expressly waived in writing his right to appeal, or the accused has applied for probation.

Respondent judge was suspended without pay for four (4) months for violating the Code of Judicial Conduct. **(AM No. MTJ-04-1520, January 21, 2004)**

Judges; simple misconduct

In pending or prospective litigations before them, judges should be scrupulously careful to avoid anything that may tend to awaken the suspicion that their personal, social, or sundry relations could influence their objectivity. Not only must judges possess proficiency in law; they must also act and behave in such manner that would assure litigants and their counsels of the judges' competence, integrity and independence.

Respondent held a private meeting with a counsel who was then accused of multiple murder before his sala and who was the private prosecutor in criminal cases pending with another court to facilitate a settlement which could not be done as the cases involved grave felonies.

For simple misconduct, respondent judge was fined P20,000.00. (AM No. RTJ-01-1638, December 8, 2003)

Judges; Failure to decide a case within the prescribed time

Failure to decide cases submitted for decision within the period fixed by law constitutes a serious violation of Article III, Section 16 of the Constitution.

The honor and integrity of the judicial system is measured not only by the fairness and correctness of decisions rendered, but also by the efficiency with which disputes are resolved. Thus, judges must perform their official duties with utmost diligence if public confidence in the judiciary is to be preserved. There is no excuse for mediocrity in the performance of judicial functions. The position of judge exacts nothing less than faithful observance of the law and the Constitution in the discharge of official duties.

Respondent judge violated Rule 70, Section 11 of the Rules of Court for undue delay in rendering judgment. The record shows that the parties in Special Civil Action Case No. 137 had filed their respective position papers as early as February 2, 2000. Thus, respondent had until March 4, 2000 to render judgment. But he decided said case 2 years and 3 months beyond the reglementary period.

Respondent was fined P10,000.00. (AM No. MTJ-03-1484, January 15, 2004)

Judges; Issuance of TRO and writs of preliminary injunction; need for hearing and prior notice

Rule 58, Section 4 and Section 5, of the 1997 Rules of Civil Procedure, incorporating Administrative Circular No. 20-95 made effective October 1995 and providing for special rules in the issuance of temporary restraining orders and writs of preliminary injunction emphasizes the need for hearing and prior notice to the party or person sought to be enjoined.

A disregard of the rules would not just be ignorance of the law; to a large extent, it would be grave abuse of judicial authority, and an act prejudicial to the proper administration of justice. Judges should not be disciplined on account merely of occasional mistakes or errors of judgment; however, it is equally imperative that they should be conversant with basic rules in order to merit the confidence of the citizenry.

Respondent judge issued the temporary restraining order in favor of the plaintiffs in view of the perceived urgency of the case, but he, however, failed to conduct a hearing on the prayer for the issuance of a writ of preliminary injunction within the time prescribed therefor.

For grave abuse of authority or misconduct, respondent was fined P5,000.00. (AM No. RTJ-02-1712, December 8, 2004)

Clerks of Court; Performance of judicial functions; liability for commission thereof

The determination of whether to require a cash bond, approval of bail or release of the accused is purely a judicial function.

Respondent by her own admission required complainant to post cash bond even though she was not instructed to do so by the judge. She thereby arrogated judicial powers unto herself. It is not among her mandated duties.

Respondent was suspended for six (6) months without pay for misconduct. ((AM No. MTJ-04-1520, January 21, 2004)

Clerks of Court; Stenographer; Clerk; Dishonesty

The administration of justice is a sacred task and persons who are involved in it ought to live up to the strictest standard of honesty, integrity and uprightness.

Respondents were positively identified by the complainants as the persons who overcharged the latter for court clearance fees, and who issued official receipts for lesser amounts.

Respondents were suspended for one year for acts of dishonesty. (AM No. MTJ-03-1507, January 20, 2004)

Chancellor, Philippine Judicial Academy
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Head, Research and Linkages Office
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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

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