



# Supreme Court of the Philippines Philippine Judicial Academy



## ***PHILJA Fax/Electronic Alerts***

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### **Judges: Gross ignorance of the law**

MTC judges are no longer authorized to conduct preliminary investigation.

A.M. No. 05-8-26-SC which took effect on October 3, 2005 removed from judges of the first level courts the authority to conduct preliminary investigation.

Respondent judge in violation of said A.M. No. 05-8-26-SC conducted a preliminary investigation in a criminal case for direct assault filed against complainant, instead of forwarding the records of the case to the office of the Provincial Prosecutor.

For gross ignorance of the law, respondent was suspended from office for a period of six (6) months without salary and other benefits and sternly warned that a repetition of the same or similar acts will be dealt with more severely. **(A.M. No. MTJ-09—1737, February 9, 2011)**

### **Judges: Gross ignorance of the law**

Section 4 (c) of Rule 58 of the Rules of Court provide:

“x x x

(c) When an application for a writ of preliminary injunction or a temporary restraining order is included in a complaint or any initiatory pleading, the case, if filed in a multiple-sala court, shall be raffled only after notice to and in the presence of the adverse party or the person to be enjoined. In any event, such notice shall be preceded, or contemporaneously accompanied by service of summons, together with a copy of the complaint or initiatory pleading and the applicant's affidavit and bond, upon the adverse party in the Philippines.

However, where the summons could not be served personally or by substituted service despite diligent efforts, or the adverse party is a resident of the Philippines temporarily absent therefrom or is a nonresident thereof, the requirement of prior or contemporaneous service of summons shall not apply.

Respondent judge directly assumed jurisdiction over the civil case filed against complainant in disregard of the mandatory requirements of 4 (c), Rule 58 relative to the raffle in the presence of the parties and service summons, inasmuch as the RTC thereat is a multi-sala court.

For gross ignorance of the law and procedure respondent judge was fined P25,000 and sternly warned. **(A.M. No. RTJ-10-2255, January 17, 2011)**

### **Judge: Gross misconduct**

The conduct of a judge should be beyond reproach and reflective of the integrity of his office.

Section 1 of Canon 2; Section 2 of Canon 3; and Sections 1 and 2 of Canon 4 of the New Code of Judicial Conduct for the Philippine Judiciary provide:

CANON 2

INTEGRITY

Integrity is essential not only to the proper discharge of the judicial office but also to the personal demeanor of judges.

SECTION 1. Judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer.

x x x

### CANON 3

#### IMPARTIALITY

Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

x x x

SEC. 2. Judges shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.

### CANON 4

#### PROPRIETY

Propriety and the appearance of propriety are essential to the performance of all the activities of a judge.

SECTION 1. Judges shall avoid impropriety and the appearance of impropriety in all of their activities.

SECTION 2. As a subject of constant public scrutiny, judges must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, judges shall conduct themselves in a way that is consistent with the dignity of the judicial office.

The respondent judge's acts of (1) talking to a prospective litigant in his court, (2) recommending the counsel to handle the case, and (3) preparing the Motion to Withdraw as Counsel of the lawyer he recommended which pleading was filed in his court and was acted upon by him, are violations of the above-stated canons of judicial conduct.

For gross misconduct, respondent judge was fined P25,000 to be deducted from his retirement benefits. **(A.M. No. MTJ-09-1734, January 19, 2011)**

#### **Sheriff: Simple misconduct**

In *Bautista vs. Orque, Jr.*, A.M. No. P-05-2099, October 31, 2006, the Court ruled that the duty of a sheriff in enforcing writs is ministerial and not discretionary; and in *Malmis vs. Bungabong*, A.M. No. P-03-1721, September 30, 2004, the Court explained the proper conduct that sheriffs must exercise when performing their functions, viz:

While it is true that sheriffs must comply with their mandated ministerial duty to serve court writs, execute all processes and carry into effect all court orders promptly and expeditiously, **it needs to be pointed out that this ministerial duty is not without limitation.** In the performance of their duties, they are deemed to know what is inherently right and inherently wrong and are bound to discharge such duties with prudence, caution and attention which careful men usually exercise in the management of their affairs. **As agents of the law, sheriffs are called upon to discharge their functions with due care and utmost diligence** because, in serving the court's processes and implementing its order, they cannot afford to err without affecting the integrity of their office and the efficient administration of justice. (Emphasis supplied)

Respondent sheriff's act of seizing the two trucks of complainant who is not a party to the case was inexcusable. She should have first checked from the LTO the true owners of the trucks before seizing them.

For simple misconduct, respondent sheriff was fined P11,000 and sternly warned. **(A.M. No. P-10-2817, January 26, 2011)**

**Sheriff: Gross neglect of duty**

The Supreme Court issued on January 30, 2001 a resolution amending paragraph 5 of A.M. No. 99-10-05-0 dispensing with the “two-bidder rule” in extrajudicial foreclosure of mortgage.

Respondent sheriff failed to apprise himself of the current developments in the rules concerning his duties and responsibilities as a sheriff particularly with respect to extrajudicial foreclosure. Worse, his erroneous and stubborn reliance on the old rule resulted in the unwarranted postponements of the auction sale to the prejudice of complainant.

For gross neglect of duty, respondent sheriff was dismissed from the service with forfeiture of all benefits. **(A.M. No. P-10-2825, December 7, 2010)**

**Interpreter: Simple neglect of duty**

A court interpreter is duty bound to prepare and sign the minutes of the court sessions which is an important document, for it gives a brief summary of the events that take place thereat including a statement of the date and time of the session; the name of the judge, clerk of court, court stenographer, and court interpreter who are present; the names of the counsels of the parties; the parties presenting evidence; the names of the witnesses who testified; the documentary evidence marked; and the date of the next hearing.

Respondent interpreter failed to reflect in the minutes of the April 7 and August 4, 2006 hearings in Civil Case No. 1349 the correct documentary evidence offered in evidence.

For simple neglect of duty, respondent was fined P3,000 and sternly warned. **(A.M. No. P-09-2696, January 12, 2011)**

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