



PHILJA Bulletin



October to December 2002

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From the Chancellor's Desk

Activities in the last quarter of 2002 continued at high gear.

Regular courses like the Regional Judicial Career Enhancement Programs (RJCEPs) and the Orientation seminars were conducted. So were Personnel Seminars which covered Court Stenographers and Family Court Social Workers. Special Focus Programs centered on Terrorism and Human Rights, Domestic Violence, Rape Case Management, the Drugs Act, and a Tele-Video Conference on Psychological Incapacity, to boot. PHILJA publications, namely, the PHILJA Bulletin, the PHILJA Judicial Journal, and the PHILJA Fax/Electronic Alerts came out for the corresponding periods, albeit a little late.

Faculty development received its share of attention with the 2nd Plenary Assembly of the Corps of Professors in October, 2002. The Plenary dwelt with perspectives on the nature, ends and purposes of judicial education, and looked into practices and methodologies used in other countries, particularly, the U.S., Canada, and France.

To strengthen the Faculty, the Metrobank Foundation, Inc. has generously given a donation for two (2) Professorial Chairs annually for the Faculty. The Academic Council will select the holders shortly upon recommendation of the Professorial Chair Committee.

The pilot-testing of Mediation in the Court of Appeals has been completed, with Focus Group Discussions now being conducted to determine cost and benefit, positive and negative experiences, and its eventual and possible institutionalization in the Appellate Court.

As a twin effort to Mediation, the Academy will be embarking on Caseflow Management which will be pilot-tested in the Regional Trial Courts and Metropolitan Trial Courts of Pasay City, beginning February, 2003.

Caseflow Management aims to move cases efficiently from filing to disposition. Where mediation fails and cases are returned to court for trial, caseflow management, including the new technique of differentiated case management, and the critical path analysis or tracking systems will come in.

Continued on page 3

Ex
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e
l
l
e
n
c
e

i
n

t
h
e

j
u
d
i
c
i
a
r
y

Table of Contents

From the Chancellor's Desk.....	1	A.C. No. 53-2002- Singing of the SC and Judiciary Hymns.....	14
PHILJA News.....	2	<i>Office of the Court Administrator</i>	
New Rulings of the Supreme Court.....	8	OCA Cir. No. 37-2002- Unsatisfactory or Poor Performance.....	14
Doctrinal Reminders.....	10	OCA Cir. No. 39-2002- Clarification of Amendment to Sec. 5, Rule 110 of the Revised Rules on Criminal Procedure.....	15
Resolutions, Orders and Circulars		OCA Circ. No. 49-2002- Submission of Copies of Court Summons, Subpoenae, and other documents to DFA.....	15
Supreme Court		PHILJA Events.....	16
A.M. No. 02-11-09-SC- Amendment of the Revised Rule on Summary Procedure.....	12		
A.O. No. 145-2002- Inventory of Confiscated Dangerous Drugs.....	12		
A.C. No.14-2002- CSC's Policy on Habitual Absenteeism.....	13		

3RD PTJLI ANNUAL CONVENTION

The 3rd Annual National Seminar Convention of the Philippine Trial Judges League, Inc. (PTJLI) was held on October 3 to 5, 2002, at the Prince Plaza Hotel, Baguio City. The convention was keynoted by Senior Associate Justice Josue N. Bellosillo who spoke on "A Moral Renaissance For A Lasting Peace," which was well-received not only because of his concern about the plight of presiding judges, but also because of his previous stint as Court Administrator. In attendance were 243 judges – 127 judges from Luzon, 62 judges from the Visayas, and 54 judges from Mindanao.

THE AUSTRALIAN-PHILIPPINE EXCHANGE PROGRAM

The Philippine delegation composed of Senior Associate Justice Josue N. Bellosillo as Head of the delegation, Justice Antonio M. Carpio, Justice Alicia Austria Martinez, all incumbent Supreme Court justices, Justice Delilah Magtolis of the Court of Appeals, Dean Pacifico A. Agabin, and Judge Ralph Lee attended the *Australian-Philippine Exchange Program* on October 8 to 18, 2002, in Melbourne, Australia. Dean Agabin reported on the concept of "primary dispute resolution," as distinguished from "alternative dispute resolution," the different processes of mediation such as therapeutic, community, victim-offender, and shuttle mediation; and on specialized mediation.

26TH ORIENTATION FOR NEWLY-APPOINTED JUDGES

The 26th Orientation Seminar-Workshop for Newly Appointed Judges was held on October 21 to 25, 2002, at PHILJA, Tagaytay City. Among the twenty-six (26) Judges, 21 were newly appointed, 3 promoted, and 2 were lateral transferees. The Academy congratulates the following Judges:

NEWLY APPOINTED – REGIONAL TRIAL COURTS (RTCs)

1. Hon. Ma. Josephine Rosario-Mercado
RTC, Region III, Br. 55, Macabebe, Pampanga
2. Hon. Agustin Q. Javellana
RTC, Region VI, Br. 8, Malaybalay, Bukidnon
3. Hon. Enriqueta L. Belarmino
RTC, Region VII, Br. 57, Cebu City

4. Hon. Bienvenido R. Saniel, Jr.
RTC, Region VII, Br. 20, Cebu City
5. Hon. Ephrem S. Abando
RTC, Region VIII, Br. 18, Hilongos, Leyte

NEWLY APPOINTED – METROPOLITAN TRIAL COURTS (MeTCs)

1. Hon. Angelene Mary Quimpo Sale
RTC, NCJR, Br. 32, Quezon City
2. Hon. Ma. Teresa Estepa De Guzman
RTC, NCJR, Br. 31, Quezon City
3. Hon. Edgardo B. Bellosillo
RTC, NCJR, Br. 36, Quezon City

NEWLY APPOINTED – MUNICIPAL TRIAL COURTS (MTCs)

1. Hon. Leonardo P. Carreon
MTC, Region VII, Argao, Cebu City
2. Hon. Thelma Naces De Los Santos
MTC, Region VII, Dalaguete, Cebu City
3. Hon. Delfin H. Decierdo
MTC, Region VII, Sibonga, Cebu City
4. Hon. Gilbert P. Moises
MTC, Region VII, Barili, Cebu City
5. Hon. Jocelyn G. Uy-Po
MTC, Region VII, Consolacion, Cebu City
6. Hon. Jose N. Binarao
MTC, Region II, Br. 3 Tuguegarao City, Cagayan
7. Hon. Teresito A. Andoy
MTC, Region IV, Cainta, Rizal
8. Hon. Glenda Ching Go
MTC, Region VII, San Fernando, Cebu City

NEWLY APPOINTED – MUNICIPAL CIRCUIT TRIAL COURT (MCTCs)

1. Hon. Danilo R. Balagtas
MCTC, Region VI, Batad-Estancia, Iloilo
2. Hon. Dante P. Manreal
MCTC, Region VII, Bogo-San Remigio, Cebu City
3. Hon. Romeo P. Bulotano
MCTC, Region VII, Bantayan-Sta. Fe, Cebu City
4. Hon. Romeo D. Itao
MCTC, Region VII, Samboan-Santander, Cebu City
5. Hon. Alfredo D. De la Victoria
MCTC, Region VII, Catmon-Sogod-Carmen, Cebu City

PROMOTED TO RTC

1. Hon. Narciso M. Aguilar
RTC, Region VI, Br. 4, Kalibo, Aklan
2. Hon. Maria Cristina J. Cornejo
RTC, NCJR, Br. 147, Makati City
3. Hon. Eloida R. De Leon Diaz
RTC, Region IV, Br. 58, Lucena City

LATERAL TRANSFERS

1. Hon. Romeo F. Barza
RTC, NCJR, Br. 61, Makati City
2. Hon. Gregoria T. Villanueva
RTC, Region IV, Br. 30, San Pablo City

4TH BATCH OF SEMINAR FOR FAMILY COURT SOCIAL WORKERS

Through the joint effort of the Philippine Judicial Academy, UNICEF, AKAP-Ateneo Human Rights Center, and the Department of Social Welfare and Development, the fourth batch of the Skills Enhancement on Case Management for Family Court Social Workers (Level 2) for Regions IX to XII was conducted on October 21 to 25, 2002, at Marco Polo Hotel, Davao City. Twenty-one (21) Family Court social workers attended the seminar-workshop. Three social workers from DSWD-Davao and one paralegal officer from the Humanitarian Legal Assistance Foundation also attended the seminar as observers. The aim of this series of seminars is to assist Family Court Social Workers in developing the necessary skills and techniques to be effectively applied in their daily social case studies, reports and assessments, and treatment planning. These programs are ably handled and monitored by the Research and Linkages Office.

7TH REGIONAL JCEP IN VIGAN

The 7th Regional Judicial Career Enhancement Program (Level 2) for Judges, Clerks of Court, Branch Clerks of Court, Interpreters, and Docket Clerks of the Regional Trial Courts and First Level Courts of Region I was held on October 28 to 30, 2002, at the CAP Building, Vigan, Ilocos Sur. In attendance were 590 participants. Lecturers included: Judge Sandra E. Oxner, President of the Commonwealth Judicial Education Institute in Halifax, Nova Scotia, Canada; Justice Jesus M. Elbinias, Retired Presiding Justice of the Court of Appeals; Justice Ricardo P. Galvez, Vice-Chair of PHILJA's Department of Remedial Law; Dean Reynaldo L. Suarez of the University of the East College of Law; and Dean Eulogia M. Cueva of the Lyceum of the Philippines College of Law.

SEMINAR ON DRUGS ACT OF 2002

Forty-five (45) Regional Trial Court judges from various regions attended the Seminar on the "Comprehensive Drugs Act of 2002" (Republic Act No. 9165) held on November 5, 2002, at The Pearl Manila Hotel, Manila.

Justice Ricardo P. Galvez, Vice Chair of PHILJA's Department of Remedial Law, highlighted the features of the new drugs law and pointed out differences between the former law and the new law. Police Superintendent Lina Sarmiento, from the Philippine Drug Enforcement Agency, gave the perspective from law enforcement on substance abuse, and Dr. Alejandro Barroque III, Professor of Psychiatry and Pharmacology, UST Faculty of Medicine and Surgery, provided the medical perspective.

Chancellor's Desk, continued from page 1

The Team-Building Seminar for the Academy, conducted in Tagaytay City, as a facet of human resource development for officials and staff, proved salutary. It brought out forthrightly likes and dislikes, kudos and critiques, and constructive suggestions for improvement.

The year has closed and PHILJA can look back to a mission having been consistently pursued. The Chief Justice gave the highest commendation when he stated in A.M. No. 03-2003, January 3, 2003, that "PHILJA's record of accomplishments for Year 2002 surpasses all expectations." We are grateful to the Chief Justice and all our co-workers, partners and friends who have given indispensable support. The credit belongs to the entire PHILJA team and family.

On their behalf, I send one and all our warmest Greetings for the Season and our New Year's Wish that all may complement our efforts at making judicial education a way of judicial life.

JUVENILE JUSTICE SEMINAR FOR SINGLE-SALA COURTS

The Academy, in cooperation with UNICEF, conducted the *Seminar on Juvenile and Domestic Relations Justice for Single-Sala Courts*, on November 11 to 12, 2002, at Montebello Villa Hotel, Banilad, Cebu City. Fifty-six (56) participants from Regions VI to XII attended the seminar.

Lecturers included: Prof. Sedfrey Candelaria, Project Officer and Head of PHILJA's Research and Linkages Office; Atty. Alberto Muyot, UNICEF Project Officer on Juvenile Justice; Justice Oscar Herrera, Chair of PHILJA's Department of Remedial Law; Prof. Ruben Balane, Vice Chair of PHILJA's Department of Civil Law; DSWD Undersecretary Lourdes Balanon; Judge Nimfa Vilches of RTC Br. 48, Manila; Dr. Bernadette Madrid, Head of UP-PGH Child Protection Unit; Atty. Katrina Legarda; and Atty. Ana Janet F. Sunga, Director of AKAP-Ateneo Human Rights Center.

RAPE CASE MANAGEMENT SEMINAR

The Academy, in partnership with The Asia Foundation and the Women's Legal Bureau, Inc., conducted the first ever *Seminar-Workshop on Capability Building for Rape Case Management* on November 19 to 22, 2002, at PHILJA, Tagaytay City. Forty-two (42) participants attended the seminar.

Lecturers included: Hon. Alfredo L. Benipayo, Solicitor General; DCA Zenaida N. Elepaño, Supreme Court Senior Deputy Court Administrator and Vice Chair of PHILJA's Department of Legal Method and Research; Dr. Purificacion V. Quisumbing, Chairman of the Commission on Human Rights and Chair of PHILJA's Department of International and Human Rights Law; P/Chief Inspector Ildebrandi N. Usana, Acting Chief, Family and Juvenile, and Gender and Development Directorate for Police Community Relations; Dr. Raquel B. Del Rosario-Fortun, Forensic Pathologist, UP-PGH Medical Center; and Dr. June Pagaduan-Lopez, Director of the Psycho-Social Trauma and Human Rights Program, U.P. Center for Integrative Development Studies.

4TH CSC CONFERENCE FOR LEGAL PRACTITIONERS

Ninety-four (94) participants attended the 4th *Civil Service Commission (CSC) Legal Practitioners' Conference* held on November 18 to 22, 2002, at The International Center, Angelo King, Manila. Hon. Karina Constantino-David, CSC Chairman, gave a Message, and Hon. Jose F. Erestain, Jr., CSC Commissioner, delivered the Closing Remarks.

8TH REGIONAL JCEP IN DAVAO

Five hundred forty-six (546) participants attended the 8th *Regional Judicial Career Enhancement Program (Level 2)* for Judges, Clerks of Court, Branch Clerks of Court, Interpreters, and Docket Clerks of the Regional Trial Courts and First Level Courts of Region XI, held on November 26 to 29, 2002, at Marco Polo Hotel, Davao City.

3RD CONVENTION OF COURT STENOGRAPHERS

The 3rd *Convention and Seminar for Court Stenographers*, conducted by PHILJA and the Court Stenographic Reporters Association of the Philippines, Inc. (COSTRAPHIL), was held on November 28 to 30, 2002, at Teatro Ilocandia, Mariano Marcos State University, Batac, Ilocos Norte.

Speakers included: Governor Ferdinand Marcos, Jr. of Ilocos Norte (Address); Mayor Jesus Nalupta, Sr. of Batac (Welcome Address); Vice Chancellor Antonio Martinez of PHILJA (Closing Remarks); Justice Elvie John Asuncion of the Court of Appeals (Message); Executive Judge Alejandrino Cabebe of RTC Batac; Mrs. Leticia B. Agbayani, COSTRAPHIL National President (Message). Hon. Presbitero Velasco, Jr., Supreme Court Administrator, gave the Keynote Address and administered the oath-taking of the newly elected COSTRAPHIL Officers.

Lecturers included: Atty. Louise Araneta Marcos, Professor at Northwestern College (Communication Skills for Court Stenographers); Judge Nimfa Vilches (Court Stenographers As Team Players); and Atty. Ivan John Uy, Chief of the Supreme Court Management and Information Systems Office (Update on Stenographic Notes Keeping and Recording).

CFM TRAINING

The Academy, in partnership with The Asia Foundation, conducted two batches of *Caseflow Management (CFM) Orientation and Training Seminar* for pilot-testing in the Regional Trial Courts and Metropolitan Trial Courts of Pasay City. A total of 138 and 124 participants attended Batches 1 and 2 respectively, held on December 3 to 4, and 5 to 6, 2002, at the Pearl Manila Hotel.

This is part of PHILJA's capacity-building program and its continuing effort to assist trial courts in the effective management of their dockets, aiming to establish a firm tracking system for case management, thereby providing judges and their court personnel with a detailed and comprehensive system of caseload management and monitoring.

TERRORISM AND HUMAN RIGHTS

Thirty-three (33) participants attended the seminar-workshop on *The Challenge of Terrorism and the Defense of Human Rights* held on December 9, 2002, at the Garden Plaza Hotel, Manila.

Participants consisted of: four (4) Court of Appeals Justices headed by Acting Presiding Justice Cancio C. Garcia, four (4) Regional Trial Court Judges, five (5) Metropolitan Trial Court Judges and twenty (20) Commissioners, Directors and lawyers of the Commission on Human Rights. All agreed that there is a necessity for the passage of an anti-terrorism law just as there is a need to reevaluate the definition of the term 'terrorism.'

The one-day symposium ended with the Address of Chief Justice Hilario G. Davide, Jr. who noted that the occasion is significant since it brought together key officials of the Commission on Human Rights and representatives from the Judiciary to discuss a highly relevant and urgent topic. The theme of the seminar-workshop, he said, can be read in two ways: first, "it can challenge all of us to endeavor that delicate, but necessary, balancing of equities: the demands of a determined and resolute response to terrorism;" and second, "that one of our most potent weapons against the irrationality, lawlessness and destructiveness of terrorism is our unyielding, unswerving and unchanging commitment to the defense of human rights."

9TH REGIONAL JCEP IN DAVAO

Eight hundred eighty-four (884) participants attended the *9th Regional Judicial Career Enhancement Program* (Level 2) for Judges, Clerks of Court, Branch Clerks of Court, Interpreters, and Docket Clerks of the Regional Trial Courts and First Level Courts of Region VI, held on December 10 to 13, 2002, at the Amigo Terrace Hotel, Iloilo City. The participants comprised 119 Judges, 148 Clerks of Court, 57 Legal Researchers, 134 Interpreters, 88 Sheriffs, 172 Clerks, and 166 Stenographers.

M E D I A T I O N FOCUS GROUP DISCUSSIONS

The Philippine Mediation Center held four (4) *Focus Group Discussions (FGDs)* in December 2002, that is, for Court of Appeals (CA) Personnel on December 11, at the Justices Lounge, Court of Appeals Centennial Building; for CA Division Clerks of Court on December 12, also at the CA Justices Lounge; for CA Justices on December 13, at Pan Pacific Hotel, Manila; and for CA Mediators on December 16, also at Pan Pacific. In attendance were 49 CA personnel, 30 CA Division Clerks of Court, 28 CA Justices, and 30 CA Mediators.

The FGDs aim to extract an accurate evaluation of the sentiment on the process of mediation considering the views of the said participants. Two more FGDs are scheduled for 2003: for CA Mediation Party Litigants on January 15, and for CA Mediation Lawyers on January 16, both to be held at Richmond Hotel, Pasig City.

4TH TVC ON PSYCHOLOGICAL INCAPACITY AND CAPACITY OF THE CHILD

The Academy, in cooperation with The Asia Foundation and the SC Program Management Office, conducted the *4th Tele-Video Conference on Psychological Incapacity and Capacity of the Child*, on December 10, 2002, simultaneously in Makati, Baguio, Cebu and Davao Cities. Below is a reprint of an article by Sun Star Cebu on this conference:

Continued on next page

TOP STORIES
SUN STAR, CEBU CITY
December 11, 2002

TECHIE JUDGES HOLD CONFERENCE VIA TELE-VIDEO

AMID complaints that the wheels of justice turn too slowly here, judges are now stepping into the 21st century and trying a new technology in the holding of seminars.

The Philippine Judicial Academy (PHILJA) has adopted tele-video conferencing to replace the holding of traditional seminars to update judges on new jurisprudence.

Not only has the technology proven to be cost efficient, it also minimizes the time judges spend away from work.

However, retired Regional Trial Court (RTC) judge Benigno Gaviola said that although yesterday's tele-video conference was already the second in Cebu City, judges still have to familiarize themselves with the new technology.

"At the time it was introduced here, a group of judges did not appreciate it. It seemed that it was so new to them," Gaviola said.

Judges from Cebu City and province are still used to the traditional seminars where speakers talk in front of the participants.

Yesterday's day-long tele-video conference was held simultaneously in four key cities with around 100 judges participating in the activity.

Judges in Manila, Cebu, Baguio and Davao cities listened to talks about psychological incapacity as a ground for annulment and the capacity of a child under child protection laws, while the speakers stayed in The Peak Tower, Salcedo Village, Makati City.

"This is very much less expensive compared to the regular seminar where speakers have to fly and be housed in a hotel. In a tele-video conference, the speakers only have to stay there," Gaviola said.

Gaviola, PHILJA's coordinator for Visayas and Mindanao, said they hope local judges will soon get used to tele-video conferencing.

"Although the speaker could only be seen through a monitor, participants here in Cebu City can still ask questions from the speaker who was in Makati," he noted.

One of the limitations PHILJA noticed in tele-video conferencing is the limited number of judges who can participate in the activity.

In Cebu alone, only 20 out of the more than 40 judges here were invited to participate in the tele-video conference, which was held inside the office of Moscom, the ISP or internet service provider.

"But the tele-video conference is still in its experimental stage. We hope this will be successful and we can have more of this in the future," said Gaviola.

NEW YORK JUSTICE SPEAKS ON DOMESTIC VIOLENCE

Honorable Marjory D. Fields, a retired justice of the Supreme Court of the State of New York, gave a series of talks on Domestic Violence before Family Court judges from Luzon, Visayas and Mindanao. The round table discussions were spearheaded by the Academy and the US Embassy. Justice Fields delivered a Message on Domestic Violence on December 6, 2002 during the Closing Ceremonies of the seminar-workshop on Skills Enhancement on Case Management for Family Court Social Workers (Level 2) for Region V, at PHILJA, Tagaytay City. Her first lecture was held at the Grand Men Seng Hotel, Davao City, on December 9, and her second lecture at the Cebu Convention Center, Cebu City, on December 11. She delivered her final talk at the Supreme Court Penthouse, on December 12.

She was Justice of the Supreme Court of New York from May 1999 to August 2002. She was designated as the Chief Administrative Judge and presided in matrimonial cases. Prior to this, from 1986 to 1999, she was judge of the Family Court of the State of New York whose jurisdiction covered juvenile delinquency; child protection; child custody and access; termination of parental rights, adoption and guardianship of minors; adult family violence; and child and spouse support. In 1988 to 1995, Justice Fields was a supervising judge of the Family Court of the State of New York, Bronx County. Among her responsibilities were administration, supervision and operation of the court, including the supervision of eleven (11) judges and one hundred (100) non-judicial staff. Prior to her stint as judge, she founded a family law unit in a federally funded Legal Services Project in Brooklyn.

Continued on page 11

A First in the History of the Philippine Judiciary
JUDICIAL EDUCATORS OF AUSTRALASIA TO MEET IN MANILA
Fr. Ranhilio C. Aquino, PhD, JurDr

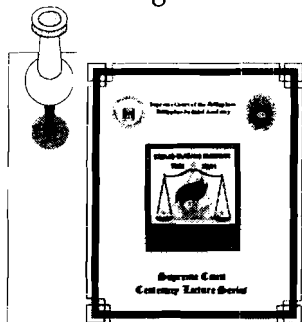
Established only in 1996 by legislative and administrative charters, the Philippine Judicial Academy now leads the region in the field of judicial education by hosting the first Australasian Judicial Educators Forum. Twenty-one countries of the region are invitees, and experts in judicial education from all over the world will likewise be in attendance. The Forum will formally open on February 11, 2003 and end three days later. The Chief Justice, Hon. Hilario G. Davide, Jr., will formally open the conference with the special participation of the International Organization for Judicial Training (IOJT) that met in Jerusalem last year.

Retired Supreme Court Justice Ameurфина A. Melencio Herrera, Chancellor of the Philippine Judicial Academy, will preside principally over the sessions of the Forum that aims at institutionalizing the exchange of resources for judicial education. Leading jurists and professors from around the region will exchange concepts, approaches, strategies and experiences in judicial education. The Forum program includes an observation of an actual training program of the Philippine Judicial Academy, as well as input sessions with leading judicial educators, both locally and from recognized judicial education institutions all over the world. The Philippine Judicial Academy is assisted in this project by the Project Management Office of the Supreme Court of the Philippines.

Judiciaries of late, particularly in the Australasian region, have been besieged by calls to re-engineer themselves. Analysts have repeatedly pointed out the link between the economic security and progress that have long been the goal of many countries of the region, and the stability, credibility and adequacy of the Rule of Law and the administration of justice by the courts. The Supreme Court of the Philippines has been unrelenting in its severity towards erring judges in an effort to purge the judiciary of misfits, but even more important than punitive measures, it has realized, are endeavors at raising levels of competence, efficiency and credibility among judges. There is then so much that is at stake in the programs of the Philippine Judicial Academy, a component office of the Supreme Court.

While some countries in the Australasian region may not yet have formally established judicial education institutions, the Philippine Judicial Academy hopes to share its experiences as well as the expertise it has thus far attained with nascent judicial education efforts in other countries. Since 1996, the Philippine Judicial Academy has conceptualized and implemented an entire array of judicial education efforts, ranging from the Pre-Judicature Program that is given to all aspirants for judicial positions, to the Orientation Program for newly-appointed judges, and Judicial Career Enhancement Programs which the Academy conducts in the different judicial regions themselves, to be able to reach out to all judges and all key court personnel.

Besides establishing channels of exchange for information and resources for judicial education within the Australasian region, the Forum hopes to engender a consensus on the very concept of judicial education as well as its aims. While sensitive to international best practices, the Forum will attempt to craft a distinctively Australasian theoretical framework for judicial education, responsive to the challenges distinctive of the region.



The book on the "*Supreme Court Centenary Lecture Series*," a compilation of fourteen lectures held monthly during the Centenary celebrations of the Supreme Court from July 11, 2000 to June 11, 2001, and from September 26, 2001 to March 13, 2002, will be distributed to the Lecturers; Speakers; Co-sponsors; Justices of the Supreme Court, Court of Appeals, Sandiganbayan and the Court of Tax Appeals; all Executive Judges; Court and Law School libraries; and Supreme Court Officials.

REMEDIAL LAW

Interest to litigate; real party in interest; definition of.

Under our rules of procedure, interest means material interest, that is, an interest in issue and to be affected by the judgment, while a real party in interest is the party who would be benefited or injured by the judgment or the party entitled to the avails of the suit. (*De Leon, Jr., J., Nelita Bacaling et al v. Felomino Muya et al*, G.R. 148404-05, April 11, 2002)

Life span of a writ of execution.

Quoting the disquisition of the CA, the rule that petitioner's protestation that the second alias writ of execution could no longer be enforced after its life span of 60 days is incorrect. At present the life span of a writ of execution is without limit for as long as the judgment has not yet been satisfied although it is returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within 30 days after receipt of the writ, the officer's duty is to report to the court and state the reason therefor (Section 14, Rule 39, 1997 Rules). There is, therefore, no more need to ask for an alias writ of execution under the new rules. (*Sandoval Gutierrez, J., Rene Knecht v. United Cigarette Corp. et al*, G.R. 139370, July 4, 2002)

Forum shopping; compliance with the certificate against forum shopping is separate and independent from the avoidance of the act of forum shopping.

There is a difference in the treatment between failure to comply with the certificate requirement and violation of the prohibition against forum shopping not only in terms of imposable sanctions but also in the manner of enforcing them. The former constitutes sufficient cause for the dismissal without prejudice of the complaint or initiatory pleading upon motion and after hearing, while the latter is a ground for summary dismissal thereof and for direct contempt. The rule expressly requires that a certification against forum shopping should be attached to or filed simultaneously with the complaint or other initiatory pleading regardless of whether forum shopping had in fact been committed. (*Bellosillo, J., Spouses Elanio Ong v. CA*, G.R. 144584, July 5, 2002)

REMEDIAL LAW (continued)

Judgments in action for support are immediately executory and cannot be stayed by an appeal.

Section 4 of Rule 39 of the Rules of Court clearly states that, unless ordered by the trial court, judgments in actions for support are immediately executory and cannot be stayed by an appeal. This is an exception to the general rule which provides that the taking of an appeal stays the execution of the judgment and that advance execution of the judgment will only be allowed if there are urgent reasons therefor. The aforesaid provision peremptorily calls for immediate execution of all judgment for support and makes no distinction between those which are the subject of an appeal and those which are not. To consider then petitioner's argument that there should be good reasons for the advance execution of a judgment would violate the clear and explicit language of the rule mandating immediate execution. (*Bellosillo, J., Augustus Caesar Gan v. Hon. Antonio Reyes, RTC Judge, et al*, G.R. 145527, May 28, 2002)

Petition for relief from judgment; in what court to file.

As revised, Rule 38 radically departs from the previous rule as it now allows the Metropolitan or Municipal Trial Court which decided the case or issued the order to hear the petition for relief. Under the old rule, petition for relief from the judgment or final order of Municipal Trial Courts should be filed with the Regional Trial Court. (*Puno, J., Spouses Michelangelo and Grace Mesina v. Humberto Meer*, G.R. 146845, July 2, 2002)

Allowance of Intervention.

On the matter of allowing intervention after trial, the rules now allow intervention before rendition of judgment by the trial court. The permissive tenor of the provision on intervention shows the intention of the Rules to give to the court the full measure of discretion in permitting or disallowing the same. (*Austria-Martinez, J., Esteban Yan v. Manila Banking*, G.R. 126731, July 11, 2002)

AGRARIAN REFORM LAW

Properties covered by homestead patents not exempt from Operation Land Transfer; right of retention of landowner not absolute; lease rentals as just compensation.

P.D. No. 27 applies to all tenanted private agricultural lands primarily devoted to rice and corn under a system of share-crop or lease-tenancy whether classified as landed estate or not. The law makes no exceptions in its coverage. Nowhere therein does it appear that lots obtained by homestead patents are exempt from its operation. The right to retain an area of seven hectares is not absolute. It is premised on the condition that the landowner is cultivating the area sought to be retained or will actually cultivate it upon effectivity of the law. Lease rentals are considered merely as advance, not full payment of the land covered. The determination of the exact value of the land cannot be brushed aside as it is fundamental to the determination of whether full payment has been made. (*Panganiban, J., Florencia Paris v. Dionisio Alfeche et al*, G.R. 139083, August 30, 2001)

ELECTION LAW

Appointment of military personnel as members of the Board of Election Inspectors is irregular.

The appointment of military personnel as members of the Board of Election Inspectors (BEI) is a grave electoral irregularity. There is no legal basis for such appointment. The appointments were devoid of any justification.

Section 13 of RA 6646 modifying Section 164 of the Omnibus Election Code, provides that the Board of Election Inspectors shall be composed of a chairman and two members one of whom shall be designated as poll clerk, all of whom shall be public school teachers, giving preference to those with permanent appointments xxx. It was highly irregular to replace the duly constituted members of the BEI who were public school teachers. Nothing in petitioner's pleadings would even suggest that the substitution was made for cause and after hearing. The importance of the Constitution of the BEI to the conduct of free, honest and orderly elections cannot be over emphasized. (*Carpio, J., Mayor Jun Rascal Cawasa et al v. COMELEC*, G.R. 150469, July 3, 2002)

ELECTION LAW (continued)

Power to annul election results or declare failure of election.

The COMELEC may exercise the power to annul election results or declare a failure of election *motu proprio* or upon a verified petition. The hearing of the case shall be summary in nature. (*Carpio, J., G.R. 150469*, July 3, 2002)

ADMINISTRATIVE LAW

National Urban Planning Commission; its mandate; definition of subdivision.

The National Urban Planning Commission (NUPC) was created under Executive Order 98, s. of 1946 to prepare general plans, zoning ordinances and subdivision regulations, to guide and accomplish a coordinated, adjusted, harmonious reconstruction and future development of urban areas which will be in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development, including among other things adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provisions for light and air, the promotion of healthful and convenient distribution of population xxx. It is duty bound to act upon realty projects which would be used for human settlements and not for agricultural purposes. Under the Subdivision Regulation adopted by the Commission pursuant to E.O. 98, it is decreed as mandatory that the NUPC approves all subdivisions of land in the Philippines intended for residential, commercial and industrial purposes before lots comprising the subdivision could be legally sold or building development therein could be validly commence.

The term "subdivision," as defined in E.O. 98, is the division of a tract or parcel of land into two or more lots, sites or other divisions for the purpose, whether immediate or future, of sale or building, development, and includes resubdivision, and when appropriate to the context, relates to the process of subdividing or to the land or area subdivided. (*De Leon, Jr., J., Nelita Bacaling et al v. Felomino Muya et al*, G.R. 148404-05, April 11, 2002)

CIVIL LAW

Tenancy relationship; its elements.

The Supreme Court has laid down the rule that in order for a tenancy relationship to exist, the following elements must be present:

- (1) that the parties are the landowner and the tenant as agricultural lessee;
- (2) that the subject matter of the relationship is an agricultural land;
- (3) that there is consent between the parties to the relationship;
- (4) that the purpose of the relationship is to bring about agricultural production;
- (5) that there is personal cultivation on the part of the tenant or agricultural lessee; and
- (6) that the harvest is shared between the landowner and the tenant or agricultural lessee.

(*Vitug, J., Carolina Ganzon v. CA, G.R. 136831, July 30, 2002*)

REMEDIAL LAW

Right to a preliminary investigation; its purpose.

The right to a preliminary investigation is a substantive right, a denial of which constitutes a deprivation of the accused's right to due process. The purpose of a preliminary investigation is to secure those who are innocent against hasty, malicious, and oppressive prosecution and protect them from the inconvenience, expense, trouble and stress of defending themselves in the course of a formal trial. (*Mendoza, J., Spouse Terry and Merlin Gerken v. Judge Antonio C. Quintos, A.M. MTJ-02-1441, July 31, 2002*)

Effect of application for probation.

Section 7, Rule 120 of the Rules on Criminal Procedure is explicit that a judgment in a criminal case becomes final when the accused has applied for probation. This is totally in accord with Section 4 of P.D. 968, Probation Law of 1976, as amended, which in part provides that the filing of an application for probation is deemed a waiver of the right to appeal. (*Ynares-Santiago, J., Lilia Vicoy v. People, G.R. 138203, July 3, 2002*)

REMEDIAL LAW (continued)

Distinction between a motion to dismiss for failure of the complaint to state a cause of action and a motion to dismiss based on the lack of cause of action.

The first situation where the complaint does not allege a sufficient cause of action is raised in a motion to dismiss under Rule 16 before a responsive pleading is filed and can be determined only from the allegation in the initiatory pleading and not from evidentiary or other matters *aliunde*. The second situation where the evidence does not sustain the cause of action alleged is raised in a demurrer to evidence under Rule 33 after the plaintiff has rested his case and can be resolved only on the basis of the evidence he has presented in support of his claim. The first does not concern itself with the truth and falsity of the allegation while the second arises precisely because the judge has determined the truth and falsity of the allegation and has found the evidence wanting. (*Mendoza, J., Melissa Domondon et al v. Judge Percival Mandap Lopez, AM RTJ 02-1696, June 20, 2002*)

Service in request for admission should be made on party and not on counsel.

Records show that only the counsel of respondents was furnished copies of the request. This is not sufficient compliance with the Rules. The Court in the *Briboneria* case elucidated that the general rule as provided for under Section 2 of Rule 27 (now Section 2, Rule 13) of the Rules of Court is that all notices must be served upon counsel and not upon the party. xxx The purpose of the rule is to maintain a uniform procedure calculated to place in competent hands the orderly prosecution of a party's case. However, the general rule cannot apply where the law expressly provides that notice must be served upon the definite person. In such cases, service must be made directly upon the person mentioned in the law and upon no other in order that the notice be valid. (*Austria-Martinez, J., Fortunata Duque v. CA G.R. 125383, July 2, 2002*)



CRIMINAL LAW

Preliminary inquiry distinguished from preliminary investigation.

Preliminary inquiry determines probable cause for the issuance of a warrant of arrest while preliminary investigation ascertains whether the offender should be held for trial or released. The determination of probable cause for the warrant of arrest is made by the judge, while the determination of sufficient ground for the filing of the information is made by the prosecutor. Preliminary inquiry or preliminary examination is judicial in nature while preliminary investigation is executive in nature. (*Puno, J. P/ Supt. Severino Cruz v. Judge Pedro Areola, AM RTJ 61-1642, March 6, 2002*)

ELECTION LAW

Pre-conditions for declaring a failure of election.

The pre-conditions for declaring a failure of elections are (1) that no voting has been held in any precinct because of force majeure, violence, terrorism, fraud or other analogous causes, and (2) that the votes not cast therein are sufficient to affect the results of the election. The concurrence of these two circumstances justifies the calling of special elections. (*Carpio, J., Mayor Jun Rascal Cawasa et al v. COMELEC, G.R. 150469, July 3, 2002*)

ADMINISTRATIVE LAW

Cessation from office due to the death or retirement of respondent does not warrant the dismissal of the administrative case filed against him.

The cessation from office of a respondent because of death or retirement neither warrants the dismissal of the administrative complaint filed against him while he was still in the service nor renders said administrative case moot and academic. In other words, the jurisdiction that was the Court's at the time of filing of the administrative complaint is not lost by the mere fact that the respondent had ceased in office during the pendency of his case. (*Ynares-Santiago, J., Romeo Cortez v. Dante Soria, Sheriff IV, A.M. P-02-1614, July 31, 2002*)

NEW YORK JUSTICE...

Continued from page 6

Justice Fields is actively involved in other government campaigns against domestic violence. Among others, she has served as Co-Chairperson of the New York Governor's Commission on Domestic Violence, Advisor for the New York Task Force on Women in the Courts, and Consultant for the United States Commission on Civil Rights. She is a perennial guest lecturer on the topic of domestic violence in various conferences and schools, including the Hebrew University in Jerusalem, Israel. She was named "Woman of the Year" by the New York Governor in 1994. She obtained her Law Degree in New York University School of Law in 1970.

An advocate of domestic violence prevention, she retired to promote its effective intervention. For the past thirty (30) years, Justice Fields has worked on domestic violence issues: presiding over trials; writing laws; testifying before State legislatures and the U.S. Congress; educating judges; training lawyers, prosecutors and police in the U.S. and other countries like the Government of Cyprus, Japan, and now the Republic of the Philippines.

At the round table discussions, Justice Fields tackled issues regarding battered women and violence in intimate partner relationship, that is, violence against women both in and outside of domestic situations or circumstances.

At the Grand Men Seng Hotel, Davao City, fifty-one (51) participants attended the activity. Ms. Molly Stephenson, US Embassy Assistant Cultural Affairs Officer, acted as moderator. For Visayas, fifty (50) participants from Cebu, Mandaue, and LapuLapu Cities, flocked at the Cebu City Grand Convention Center to join the same activity. In Manila, more than forty (40) participants, composed of incumbent and retired justices of the Court of Appeals, Family Court judges, and prosecutors, participated in the said seminar-workshop at the Penthouse of the Supreme Court.

SUPREME COURT

EN BANC

A.M. No. 02-11-09-SC

**RE: AMENDMENT OF THE REVISED RULE
ON SUMMARY PROCEDURE**

RESOLUTION

Acting on the proposal of the Committee on Revision of the Rules of Court, the Court Resolved to AMEND Section 1.A(2) of the Revised Rule on Summary Procedure as follows:

“(2) All other cases, except probate proceedings, where the total amount of the plaintiff’s claim does not exceed one hundred thousand pesos (P100,000.00) or, two hundred thousand pesos (P200,000.00) in Metropolitan Manila, exclusive of interest and costs.”

The amendment shall take effect on November 25, 2002 following the publication of this Resolution in a newspaper of general circulation.

November 12, 2002

(Sgd.) DAVIDE, JR., CJ, BELLOSILLO, PUNO, VITUG MENDOZA, PANGANIBAN, QUISUMBING, YNARES-SANTIAGO, SANDOVAL-GUTIERREZ, CARPIO AUSTRIA-MARTINEZ, CORONA, CARPIO-MORALES, CALLEJO, SR., AZCUNA, JJ.

**ADMINISTRATIVE ORDER NO. 145-2002**

TO: ALL REGIONAL TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS AND MUNICIPAL CIRCUIT TRIAL COURTS.

RE: **INVENTORY OF CONFISCATED DANGEROUS DRUGS**

With the enactment of Republic Act. No. 9165, entitled “An Act Instituting the Comprehensive Dangerous Drugs Act of 1972, as amended, Providing Funds Therefor, and For Other Purposes” the Philippine Drug Enforcement Agency (PDEA) was created to serve as the implementing arm of the Dangerous Drugs Board.

The PDEA shall be responsible for the efficient and effective enforcement of all the provisions on any dangerous drug and/or controlled precursor and essential chemicals as provided in R.A No. 9165. Section 21 of the said law provides as follows:

Sec. 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and*

ADMINISTRATIVE ORDER NO. 145-2002 (continued)

Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

x x x

(4) After the filing of the criminal case, the Court shall, within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment, and through the PDEA shall within twenty-four (24) hours thereafter proceed with the destruction or burning of the same, in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the DOJ, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper disposition and destruction of such item/s which shall be borne by the offender:

x x x

(7) After the promulgation and [sic] judgment in the criminal case wherein the representative sample/s was presented as evidence in court, the trial prosecutor shall inform the Board of the final termination of the case and, in turn, shall request the court for leave to turn over the said representative sample/s to the PDEA for proper disposition and destruction within twenty-four (24) hours from receipt of the same. x x x

To assist the PDEA in carrying out its duties and functions, all judges are enjoined to conduct an inventory of all dangerous drugs under their custody and used as evidence in court within ten (10) days from receipt of a copy of this Administrative Order and every three (3) months thereafter, using the attached Annex “A” as Drug Inventory Report Format. The inventory shall be submitted to the Office of the Court Administrator, through the Court Management Office, copy furnished the PDEA, Camp Crame, Quezon City.

Administrative Circular No. 10-95 dated 14 March 1995 is hereby revoked.

Strict compliance with this is enjoined.

23 October 2002.

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

ADMINISTRATIVE CIRCULAR NO. 14-2002

REITERATING THE CIVIL SERVICE COMMISSION'S POLICY ON HABITUAL ABSENTEEISM

WHEREAS, the CSC, pursuant to its mandate as the central personnel agency of the government, has promulgated guidelines and rules on absenteeism and tardiness through the issuance of Memorandum Circular No. 04, s. 1991;

WHEREAS, said Memorandum Circular had been circularized in the Supreme Court by the Clerk of Court on May 5, 1998, for the information and guidance of all concerned;

WHEREAS, the policy on absenteeism and tardiness was again reiterated by the Court through the issuance of Administrative Circular No. 2-99 dated 15 February 1999, which provides that: *"Absenteeism and Tardiness, even if such do not qualify as "habitual" or "frequent" under CSC MC No. 04, s. 1991, shall be dealt with severely, and falsification of daily time records to cover-up for such absenteeism and/or tardiness shall constitute gross dishonesty and serious misconduct."*

WHEREAS, there is a need to further reiterate the provisions of said Memorandum Circular particularly that portion pertaining to habitual absenteeism as records show that there are several employees who incurred absences which are more than the allowable 2.5 days monthly leave earnings under the leave laws;

WHEREFORE, the following portion of CSC Memorandum Circular No. 04, s. 1991 on Habitual Absenteeism is hereby reiterated anew for the guidance of all employees:

"A. HABITUAL ABSENTEEISM

1. An officer or employee in the civil service shall be considered habitually absent if he incurs unauthorized absences exceeding the allowable 2.5 days monthly leave credit under the leave law for at least three (3) months in a semester or at least three (3) consecutive months during the year;
2. In case of claim of ill health, Heads of department of agencies are encouraged to verify the validity of such claim and, if not satisfied with the reason given, should disapprove the application for sick leave. On the other hand, cases of employees who absent themselves from work before approval of their application should be disapproved outright; and

3. In the discretion of the Head of any department, agency or office, any government physician may be authorized to do a spot check on employees who are supposed to be on sick leave. Those found violating the leave laws, rules or regulations shall be dealt with accordingly by filing appropriate administrative cases against them.

B. SANCTIONS

The following sanctions shall be imposed for violation of the policy on habitual absenteeism:

1st offense - Suspension for six (6) months and one (1) day to one (1) year

2nd offense - Dismissal from the service"

Any violation of the Rules on Habitual Absenteeism, or any misinterpretation or deception in connection with the application for leave, shall be dealt with severely.

The Chief Administrative Officer of the SC shall implement this Administrative Circular and shall give it the widest dissemination.

This Administrative Circular shall take effect on the first day of April 2002.

Issued this 18th day of March 2002.

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

(Sgd.) JOSUE N. BELLOSILLO
Associate Justice
Chairman, Second Division

(Sgd.) JOSE A.R. MELO
Associate Justice
Chairman, Third Division

(By virtue and pursuant to A.M. No. 99-1-05-SC
and A.M. No. 99-12-08-SC)



ADMINISTRATIVE CIRCULAR NO. 53-2002

SINGING OF THE SUPREME COURT AND THE JUDICIARY HYMNS IN ALL OFFICIAL PROGRAMS OF THE JUDICIARY

Hymns manifest the ideals of a country or an institution, and are among the most solemn of the various forms of expressions of love for it. They are thus effective means of promoting or strengthening unity and solidarity among the citizens of a country or the stakeholders of an institution, and of developing their principled pride as such.

The *Supreme Court Hymn* and the *Judiciary Hymn* put in words and in music what the Supreme Court and the Judiciary represent, as well as the sacramental role they play in our democratic society in upholding the Rule of Law and dispensing justice. The singing of these hymns by the Justices, judges and other court officials, and employees is their act of solemn dedication to the ideals and goals of these institutions, their expression of gratitude for the rare privilege of public service through these institutions, and their prayer for strengthening the bond of unity and solidarity among them as public servants.

Accordingly, during the Flag Ceremony and at all official programs sponsored by the Supreme Court or by any office under it, including the Office of the Court Administrator and the Philippine Judicial Academy, the *Supreme Court Hymn* and the *Judiciary Hymn* must be sung. To ensure the active participation of the audience during such programs, the hymns must be embodied in the printed programs for the occasion.

Likewise, during the Flag Ceremony and at all other official programs sponsored by all other courts below the Supreme Court, the *Judiciary Hymn* must be sung. To ensure the active participation of the audience during such programs, the hymn must be embodied in the printed programs for the occasion.

The Office of the Court Administrator and the Public Information Office shall implement this Circular. The former may provide the appropriate guidelines for a more effective implementation thereof. The Public Information Office shall forthwith provide all courts with copies of the *Supreme Court Hymn* and the *Judiciary Hymn*.

This Administrative Circular shall take effect on the first day of January 2003.

Issued this 4th day of November 2002.

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

OFFICE OF THE COURT ADMINISTRATOR

OCA CIRCULAR NO. 37-2002

TO: ALL EXECUTIVE JUDGES, PRESIDING JUDGES, CLERKS OF COURTS AND OFFICERS-IN-CHARGE OF THE REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A DISTRICT COURTS AND SHARI'A CIRCUIT COURTS.

SUBJECT: UNSATISFACTORY OR POOR PERFORMANCE

Sec. 2.2(a), Rule XII of the Civil Service Commission (CSC) Memorandum Circular No. 40, § 1998, provides, among others, that:

"Sec. 2. Dropping from the Rolls. x x x

"2.2 Unsatisfactory or Poor Performance

"a. An official or employee who is given two (2) consecutive UNSATISFACTORY ratings may be dropped from the rolls after due notice. Notice shall mean that the officer or employee concerned is informed in writing of his/her unsatisfactory performance for a semester and is sufficiently warned that a succeeding unsatisfactory performance shall warrant his separation from the service. Such notice shall be given not later than thirty (30) days from the end of the semester and shall contain sufficient information which shall enable the employee to prepare an explanation.

"b. x x x (underscoring supplied)"

In light of the above cited CSC Memorandum Circular and for the information and guidance of all concerned, you are enjoined to accomplish the performance evaluation of your staff every six (6) months ending June 30 and December 31 of every year as required under Sec. 3(d), Rule IX of the Omnibus Civil Service Law and Rules.

31 July 2002.

(Sgd.) PRESBITERIO J. VELASCO, JR.
Court Administrator



OCA CIRCULAR NO. 39-2002

TO: THE COURT OF APPEALS, SANDIGANBAYAN, REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS, THE DEPARTMENT OF JUSTICE AND THE INTEGRATED BAR OF THE PHILIPPINES

SUBJECT: CLARIFICATION OF AMENDMENT TO SECTION 5, RULE 110 OF THE REVISED RULES ON CRIMINAL PROCEDURE

The Supreme Court En Banc in its Resolution dated 10 April 2002, in A.M. No. 02-2-07-SC, RE: Proposed Amendments to Section 5, Rule 110 of the Revised Rules of Criminal Procedure, Resolved to approve the amendment to Sec. 5, Rule 110 to read as follows:

"Section 5. Who must prosecute criminal actions. –

All criminal actions either commenced by complaint or by information shall be prosecuted under the direction and control of a public prosecutor. In case of heavy work schedule of the public prosecutor, or in the event of lack of public prosecutors, the private prosecutor may be authorized in writing by the Chief of the Prosecution Office or the Regional State Prosecutor to prosecute the case subject to the approval of the court. Once so authorized to prosecute the criminal action, the private prosecutor shall continue to prosecute the case up to the end of the trial even in the absence of a public prosecutor, unless the authority is revoked or otherwise withdrawn.

xxx xxx xxx"

The aforementioned resolution did not state the entire first (1st) paragraph of Section 5, Rule 110 of the Revised Rules of Criminal Procedure resulting to confusion on the right of the offended party, any peace officer or public officer to prosecute the criminal cases before the Municipal Trial Courts or Municipal Circuit Trial Courts when the public prosecutor is not available. Such right on the part of the offended party, peace officer or public officer to prosecute the criminal case in the aforementioned courts is still in effect and not withdrawn. It is therefore necessary to state *in toto* the first (1st) paragraph of Section 5, Rule 110 as amended by the Supreme Court Resolution dated 10 April 2002 in A.M. No. 02-2-07-SC as follows:

"Section 5. Who must prosecute criminal actions. –

All criminal actions either commenced by complaint or by information shall be prosecuted under the direction and control of a public prosecutor. In case of heavy work schedule of the public prosecutor, or in the event of lack of public prosecutors, the private prosecutor may be authorized in writing by the Chief of the Prosecution Office or the Regional State Prosecutor to prosecute the case subject to the approval of the court. Once so authorized to prosecute the criminal action, the private prosecutor shall continue to prosecute the case up to the

OCA CIRCULAR NO. 39-2002 (continued)

end of the trial even in the absence of a public prosecutor, unless the authority is revoked or otherwise withdrawn. However, in Municipal Trial Courts or Municipal Circuit Trial Courts, when the prosecutor assigned thereto or to the case is not available, the offended party, any peace officer, or public officer charged with the enforcement of the law violated may prosecute the case. This authority shall cease upon actual intervention of the prosecutor or upon elevation of the case of the Regional Trial Court.

xxx xxx xxx" (emphasis ours)

This amendment to Rule 110 took effect on the first day of May 2002 following its publication in the Manila Bulletin.

This supercedes OCA Circular No. 14-2002 dated 01 June 2002.

For the information and guidance of all concerned.

August 21, 2002.

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

OCA CIRCULAR NO. 49-2002

TO: ALL PRESIDING JUDGES AND CLERKS OF COURT 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

SUBJECT: SUBMISSION OF COPIES OF COURT SUMMONS, SUBPOENAE AND OTHER DOCUMENTS TO THE DEPARTMENT OF FOREIGN AFFAIRS

In view of the request of the Task Force on Passport Irregularities, you are hereby directed to furnish said office with copies of all court summons, subpoenae and other documents thru the:

The Director
Consular Records Division
Office of the Consular Affairs
Department of Foreign Affairs
2330 Roxas Blvd., Pasay City 1300

Strict compliance is enjoined.

24 September 2002

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

3rd Floor of the Supreme Court Building
Taft Avenue, Manila

PRESIDING JUDGE

2003 Upcoming PHILJA Events

<i>Date</i>	<i>Seminars / Activities</i>	<i>Venue</i>
Jan. 13-17	Orientation Seminar for Newly-Appointed Judges	PHILJA, Tagaytay City
Jan. 13-24	5th Pre-Judicature Program	Manila
Jan. 28-31	Regional Judicial Career Enhancement Program (JCEP) Seminar for Region XII	Cagayan De Oro City
Feb. 11-14	Australasian Judicial Educators Forum	Makati City
Feb. 25-28	Regional Judicial Career Enhancement Program (JCEP) Seminar for Region V	Naga City
Feb. 26-28	Seminar on Computer Literacy for Bulacan Judges	PHILJA, Tagaytay City
Feb. 28	Evaluation-Workshop on the Use of Video-Conferencing	Manila
Mar. 5	DNA Seminar	Manila
Mar. 18-21; 25-28	Judicial Career Enhancement Program (JCEP) Seminar for Region IV	Manila

Chancellor, Philippine Judicial Academy
Justice Ameurfina A. Melencio Herrera

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