

**EN BANC****[ A.M. No. 07-9-454-RTC, March 18, 2014 ]****RE: JUDICIAL AUDIT CONDUCTED IN THE REGIONAL TRIAL COURT, BRANCH 20, CAGAYAN DE ORO CITY, MISAMIS ORIENTAL.****[A.M. No. 05-2-108-RTC]****REQUEST OF JUDGE GREGORIO D. PANTANOSAS, JR., REGIONAL TRIAL COURT, BRANCH 20, CAGAYAN DE ORO CITY, FOR EXTENSION OF TIME TO DECIDE CRIMINAL CASES NOS. 92-1935 & 26 OTHERS.****D E C I S I O N****PER CURIAM:**

A Judge who fails to decide cases and related matters within the periods prescribed by law is guilty of gross inefficiency, and may be punished with dismissal from the service even for the first offense, unless he has been meanwhile separated from the service, in which instance he may be imposed the stiffest of fines. For falsely rendering certificates of service to the effect that he did not have any unresolved cases and matters pending in his court's docket, he is also guilty of dishonesty, another act of gross misconduct, for which he should be sanctioned with dismissal from the service even for the first offense. But his intervening separation from the service leaves the only proper penalty to be the forfeiture of his entire retirement benefits, except his earned leaves.

**Antecedents****A.M. No. 07-9-454-RTC**

From February 21 to February 24, 2005, an Audit Team dispatched by the Office of the Court Administrator (OCA) conducted a judicial audit of Branch 20 of the Regional Trial Court in Cagayan de Oro City, presided by respondent Judge Gregorio D. Pantanosas, Jr. The report of the Audit Team revealed that as of the audit dates, Branch 20 had a total caseload of 599 cases consisting of 256 criminal cases and 343 civil cases.<sup>[1]</sup>

Of the 256 criminal cases, the Audit Team found that: (a) Branch 20 failed to take any action on three criminal cases from the time of their filing; (b) no further action or setting was taken in 41 criminal cases; (c) 14 criminal cases had pending incidents already submitted for resolution but remained unresolved despite the lapse of the reglementary period to resolve; and (d) 28 criminal cases submitted for decision remained unresolved despite the lapse of the reglementary period to decide.

As to the 343 civil cases, the Audit Team uncovered that: (a) no action was taken on 11 cases from the time of their filing; (b) no further action or setting was taken in 54 cases for a considerable length of time; (c) 75 cases had pending incidents that remained unresolved despite the lapse of the reglementary period to resolve; and (d) 56 cases submitted for decision remained unresolved despite the lapse of the reglementary period to decide.

The Audit Team discovered that: (a) Branch 20 ordered the forfeiture of the bonds of the accused in 10 criminal cases; (b) the latest Monthly Report of Cases submitted by Branch 20 to the Court Management Office was that for January 2004; despite reminders, the Presiding Judge failed to submit the required monthly reports; (c) no certificates of arraignment were attached to the records of criminal cases where the accused had entered a plea; (d) the criminal and civil docket books were not updated; and (e) the stenographic notes in Criminal Case No. 4819 entitled *People v. Obita, et al.*, an appealed case for theft, were not transcribed because of the demise of court stenographer Josephine Casino and the retirement of court stenographer Valerio Piscos of the Municipal Circuit Trial Court in Jasaan.

Based on the audit report, then Deputy Court Administrator Christopher Lock issued a memorandum directing Judge Pantanosas, Jr. to:<sup>[2]</sup>

1. Take appropriate action on the cases without any action taken from the time of their filing, as well as those cases without further setting or action for a considerable length of time;
2. Resolve within the reglementary period the pending incidents in the criminal and civil cases, and submit copies of the resolutions to the OCAD within 10 days from their resolution;
3. Explain within ten days from notice his failure to resolve the pending incidents in 14 criminal and 75 civil cases within the reglementary period, and resolve the same and submit copies of the resolutions to the OCAD within ten days from their resolution;
4. Decide within the reglementary period the civil and criminal cases submitted for decision and submit copies of the decisions to the OCAD within ten days from their rendition;
5. Explain within ten days from notice his failure to decide within the reglementary period the 28 criminal cases and 56 civil cases mentioned in the audit report.
6. Take appropriate action on all untranscribed stenographic notes of all cases particularly those submitted for decision; and
7. Explain within fifteen days from receipt his failure to submit the required Monthly Report of Cases starting from

February 2004 up to April 11, 2005 and submit the same within 30 days from receipt, otherwise, the Office will Recommend to the Chief Justice the withholding of his salaries pending compliance with the said administrative circular.

Another memorandum was sent to Atty. Taumaturgo U. Macabinlar, the Branch Clerk of Court of Branch 20, ordering him to:

1. Apprise the Acting Presiding Judge from time to time of cases submitted for resolution/decision and those cases that require immediate action;
2. Attach the corresponding Certificate of Arraignment on all criminal case folders where the accused has entered a plea, duly signed by both the accused and his/her counsel;
3. Order and Supervise the updating of the criminal and civil docket books;
4. Explain within fifteen (15) days from receipt his failure to submit the required Monthly Report of Cases starting from February 2004 up to the present pursuant to Administrative Circular No. 4-2004 dated 4 February 2004 which states that the Monthly Report of cases must be filed with, or sent by registered mail to the Supreme Court on or before the tenth (10<sup>th</sup>) calendar day of the succeeding month and SUBMIT the same within 30 days from receipt, otherwise, the Office will Recommend to the Chief Justice the withholding of his salaries pending full compliance with the said administrative circular; and
5. Inform this Court, through the Court Management Office, within fifteen days from receipt whether the judgment on the bond on the 10 criminal cases mentioned above had been duly executed and submit copies of the order and writ of execution and report of satisfaction of judgment thereon.<sup>[3]</sup>

Another memorandum was issued directing Jean Hernandez and Jacqueline Astique, Clerks-in-Charge of the criminal and civil docket books, respectively, to update the entries in their respective docket books and to submit their compliance within sixty days from notice, with a warning that continued failure to do so would be dealt with more severely.<sup>[4]</sup>

In his compliance,<sup>[5]</sup> Judge Pantanosas, Jr. explained that he had failed to decide or resolve the cases within the reglementary period for the following reasons:

- (a) Criminal Case Nos. 948, 1863, 3418 and 1396, and Civil Case Nos. 3673, 3672 and 13 other cases had incomplete transcripts of stenographic notes (TSN); and the stenographers concerned had already retired from the service and their whereabouts were unknown;
- (b) Criminal Case No. 2208 was an inherited case submitted for decision before then Judge Alejandro Velez;
- (c) He was granted an extension of 90 days in 13 criminal cases and 11 civil cases pursuant to the Resolution promulgated on March 30, 2005 in A.M. No. 05-2-108-RTC;<sup>[6]</sup>
- (d) 27 civil cases had no Commissioner's Report.

As to the delayed submission of the Monthly Reports of Cases, Judge Pantanosas, Jr. explained that the person in charge had inadvertently overlooked its timely submission, but that the report was already submitted to the proper office of the OCA on April 14, 2005. He pleaded for leniency for his delayed resolution of cases due to his heavy caseload.

Atty. Macabinlar also submitted his compliance,<sup>[7]</sup> in which he stated that the delay in the submission of monthly reports of cases had been caused by the difficulty of using the new form; and that he had failed to remind the clerks-in-charge of the civil and criminal cases to prepare their reports on time due to the volume of work as well as due to inadvertence. He apologized for the delay and reported the latest action of the court regarding the criminal cases with forfeited bonds.

Hernandez and Astique did not submit any compliance.

The OCA did not consider the foregoing explanations as sufficient compliance with its directives. Hence, it issued a second set of memoranda dated May 5, 2006<sup>[8]</sup> reiterating the instructions of the first memorandum.

In compliance with the second memorandum, Judge Pantanosas, Jr. informed the OCA by letter dated September 1, 2006 that he had rendered his decisions in 18 cases; resolved the pending incidents or motions in 63 cases; and acted on 52 cases having no further actions or settings after the lapse of a considerable period of time, and on eight cases with no initial action since the time of filing.<sup>[9]</sup>

In separate letters dated August 15, 2006 and January 12, 2007,<sup>[10]</sup> Atty. Macabinlar informed the OCA that: (a) he already apprised Judge Pantanosas, Jr. of the cases submitted for decision, the cases with pending matters or incidents for resolution, and the cases requiring immediate action; (b) he already attached the required certificates of arraignment to the records after the accused were arraigned; (c) he already updated the submission of the Monthly Reports of Cases by submitting such report for the month of November 2006; and (d) he also submitted the copy of the latest order of the court concerning the list of cases with forfeited bonds.

Hernandez and Astique submitted their respective letters-compliance dated August 22, 2006 and January 26, 2007,<sup>[11]</sup> stating that they had already updated the docket books assigned to them immediately upon receipt of the first memorandum but that they had failed to notify the OCA; and that they apologized for the delay of their responses. The letters-compliance were supported by certifications dated August 22, 2006 and January 26, 2007 issued by Atty. Macabinlar.<sup>[12]</sup>

Accordingly, the OCA treated the matter concerning Hernandez and Astique as closed and terminated due to their having complied with its directives.

On February 20, 2007, the OCA issued a third memorandum directing Judge Pantanosas, Jr. and Atty. Macabinlar to fully comply with the directives of the previous memoranda.<sup>[13]</sup>

Judge Pantanosas, Jr. and Atty. Macabinlar submitted their third compliance.<sup>[14]</sup> Nevertheless, Judge Pantanosas, Jr. still did not take

appropriate action on a criminal case and on four civil cases with no initial actions from the time of their filing; to further act in two criminal and 22 civil cases; to resolve motions and incidents in four criminal and 24 civil cases; and to decide 17 criminal and 31 civil cases.

Summarized hereunder are the cases decided, resolved or appropriately acted upon by Judge Pantanosas, Jr., to wit:<sup>[15]</sup>

Status/Stage of Proceedings	First Memo. 04/04/05	Compliance	2nd Memo. 05/02/06	Compliance	3rd Memo. 02/20/07	Compliance	Total no. of cases which remain undecided/unresolved/unacted
Submitted for Decision	90 <sup>[16]</sup>	None	90	18	72	12	60
Submitted for Resolution	103 <sup>[17]</sup>	None	103	63	40	13	27
No further action/setting/proceeding	95	None	95	52	43	12	31
No initial action taken	14	None	14	8	6	1	5

Of the three memoranda requiring Judge Pantanosas, Jr. to comply, he submitted the appropriate compliance only after receiving the second and third memoranda.

#### Results/Findings of the Follow-Up Audit

On January 24-26, 2007, the Second Audit Team conducted a followup audit, and made the following findings:<sup>[18]</sup>

- (a) The total number of cases submitted for decision was reduced from 124 to 115 cases;
- (b) The total number of cases with pending matter or incident for resolution was reduced from 106 to 100 cases; and
- (c) The total number of cases with no further action/setting/proceeding was reduced from 101 to 100 cases;
- (d) 39 cases referred to the Branch Clerk of Court for *ex parte* hearing had no Commissioner's Report.<sup>[19]</sup>
- (e) There were five criminal cases that were either in the pre trial or trial stage, or were already submitted for decision without conducting an arraignment of the accused.<sup>[20]</sup>

Of the 115 cases that Judge Pantanosas, Jr. left undecided: (a) 60 were found to be submitted for decision by the First Audit Team; (b) 19 were considered inherited cases; (c) some of the inherited cases had no transcripts of stenographic notes; and (d) 39 had no Commissioner's Reports. Of the 100 cases with pending matters or incidents for resolution, the First Audit Team found 25 of them unresolved.

Despite prior directives from the OCA, Judge Pantanosas, Jr. did not take proper action on the cases with untranscribed stenographic notes, particularly those already submitted for decision.

The Second Audit Team further found that there were more motions or pending incidents that had remained unresolved despite the lapse of the reglementary period; and that there were more cases that had remained unacted upon despite the lapse of a considerable length of time.<sup>[21]</sup>

#### Status after Judge Pantanosas' Resignation

On March 29, 2007, Judge Pantanosas, Jr. filed his certificate of candidacy for the position of Vice Governor of the Province of Misamis Oriental, and was thereby deemed automatically resigned from the Judiciary. As of the date of his resignation, all of the cases submitted for decision and all of the cases with pending matters or incidents for resolution were already beyond the reglementary period to decide or resolve.

Clearly, prior to his resignation, Judge Pantanosas, Jr. did not: (a) decide 115 cases; (b) resolve pending matters or incidents in 100 cases; (c) appropriately act on 100 cases with no further action or setting after the lapse of a considerable length of time; (d) appropriately act on 45 criminal cases with warrants of arrest but without return of service; and (e) appropriately act on five criminal cases that had proceeded to pre-trial or trial proper without conducting an arraignment of the accused.<sup>[22]</sup>

#### A.M. No. 05-2-108-RTC

On January 20, 2005, or a month prior to the first judicial audit, Judge Pantanosas, Jr. filed in the Office of then Senior Deputy Court Administrator Zenaida N. Elepaño a request for an extension of 90 days within which to decide 14 criminal cases and 11 civil cases that had been submitted for decision as early as in the period from October 2001 until October 2004.<sup>[23]</sup> His request was docketed as Administrative Matter No. 05-2-108-RTC.

Pursuant to the OCA's recommendation,<sup>[24]</sup> the Court resolved on March 30, 2005 to:<sup>[25]</sup>

- a) NOTE the said letter of Judge Gregorio D. Pantanosas, Jr.;
- b) GRANT Judge Pantanosas, Jr. a period of ninety (90) days from receipt of notice hereof within which to decide Criminal Cases Nos. 92-1935, 93-2417, 94-448, 94-936, 95-541, 95-620, 96-114, 96-582, 96-583, 97-585, 97-586, 97-13116, 97-1646, 99-893, 00-973, 99-1003, and Civil Cases Nos. 93-605, 92-009, 00-051, 20-017, 91-398, 98-553, 98-652, 95-515, 00-124, 99-557 and 98-266;
- c) REMIND Judge Pantanosas, Jr. to state the ground/s for his request for extension of time to decide cases;
- d) DIRECT Judge Pantanosas, Jr. to EXPLAIN within ten (10) days from receipt of notice why the abovementioned cases which have been submitted for decision as early as October 2001 were not resolved within the reglementary period; and why Criminal Cases Nos. 95-541 and 97-1646 as well as Civil Cases Nos. 98-553 and 00-124 were not reflected in the "List of Cases submitted for decision but not yet decided at the end of the month";

e) DIRECT Judge Pantanosas, Jr. to SUBMIT to the Court, through the Office of the Court Administrator, a copy each of his decisions in the aforementioned cases within five (5) days from rendition thereof;

f) DIRECT Atty. Taumaturgo U. Macabinlar, Branch Clerk of Court, Regional Trial Court, Branch 20, Cagayan de Oro City to EXPLAIN within ten (10) days from receipt of notice why Criminal Cases Nos. 95-541 and 97-1646 as well as Civil Cases Nos. 98-553 and 00-124 were not reflected in the monthly report of cases particularly from January 2004 and the prior months, as among the cases yet to be decided.

In his explanation,<sup>[26]</sup> Atty. Macabinlar wrote: (a) that in Criminal Case No. 95-541, Branch 20 had issued an order on August 2, 2002<sup>[27]</sup> directing the stenographers to transcribe their notes and to attach the transcripts to the records; that it was only on February 20, 2004 when the case was ordered submitted for decision upon the submission of the stenographic notes; and that the case was reported as submitted for decision only in the monthly report for February, 2004; (b) that Criminal Case No. 97-1646 was reported as submitted for decision only in the monthly report of August 30, 2004, because the Private Prosecutor submitted his memorandum only on July 30, 2004;<sup>[28]</sup> (c) that Civil Case No. 98-553 was the incorrect docket number of the case pending decision; that the correct docket number was Civil Case No. 98-533; that Judge Pantanosas, Jr. had erroneously indicated the docket number in his request for a 90-day extension to resolve several civil and criminal cases; that Civil Case No. 98-533 was included in the April 2002 monthly report among the cases submitted for decision; and (d) that Civil Case No. 2000-124 was already reflected in the monthly report as of May, 2003, but was inadvertently reported as Civil Case No. 2000-120; he would rectify the error in the February 2004 report.

On his part, Atty. Macabinlar begged the indulgence of the Court for his inadvertence in reporting the incorrect docket numbers, and promised to double-check the docket numbers of all cases reported in the monthly reports in order to avoid similar mistakes in the future.

In his explanation,<sup>[29]</sup> Judge Pantanosas, Jr. stated that he did not resolve the cases submitted for decision because of his heavy case load, which included the cases inherited from the former presiding judge consisting of more than 150 cases submitted for decision.

On June 27, 2005, the Court resolved to refer this administrative matter to the OCA for evaluation, report and recommendation.<sup>[30]</sup>

Pursuant to the OCA's recommendation,<sup>[31]</sup> the Court consolidated Administrative Matter No. 05-2-108-RTC with A.M. No. 07-9-454-RTC on November 26, 2007 because the cases subject of Judge Pantanosas, Jr.'s request for extension to decide were also among the cases subject of the judicial audit and physical inventory conducted on Branch 20 for the past two years.<sup>[32]</sup>

On February 4, 2008, Atty. Macabinlar submitted to the OCA copies of the Commissioner's Reports<sup>[33]</sup> in the 14 cases that had been referred to him for *ex parte* hearing.<sup>[34]</sup> He declared that he no longer needed to submit the Commissioner's Reports in four land registration cases cited in the OCA's directive<sup>[35]</sup> because said cases had already been decided.<sup>[36]</sup> Thus, he still failed to fully comply with the directive to him, because he did not submit his report on the remaining 21 cases referred to him for *ex parte* hearing. He apologized for his inadvertence and explained that he had failed to promptly submit the Commissioner's Reports because the records of the cases had been placed in the archives after the *ex parte* hearings.

#### **The OCA's Recommendation**

In his memorandum dated August 15, 2007,<sup>[37]</sup> Court Administrator Lock recommended as follows:<sup>[38]</sup>

1. Judge Gregorio G. Pantanosas, Jr., former Presiding Judge, Regional Trial Court, Branch 20, Cagayan De Oro City, be found GUILTY of gross inefficiency and gross misconduct and that he be imposed a FINE in an amount equivalent to the salary and benefits for six (6) months to be deducted from the retirement benefits due him;  
xxxx
4. Atty. Taumaturgo U. Macabinlar, Branch Clerk of Court, RTC, Branch 20, Cagayan de Oro City, be:
  - (a) Found GUILTY of inefficiency and incompetence and that he be imposed a penalty of SUSPENSION from office for three (3) months with a STERN WARNING that a repetition of similar act in the future shall be severely dealt with;
  - (b) DIRECTED to: (1) EXPLAIN in writing within fifteen (15) days from receipt of notice why he failed to submit the Commissioner's Report in the 39 cases listed under Table 6 above; (2) to SUBMIT the Commissioner's Report in the 39 cases listed under Table 6 above within thirty (30) days from receipt of notice and to furnish the Honorable Court through this Office a copy of the said report, immediately upon his assumption to office after service of suspension;
  - (c) RELIEVED from being appointed as Commissioner to receive *ex-parte* evidence until the submission of all Commissioner's Report in all cases where he was deputized as such.

The OCA found that Judge Pantanosas, Jr.'s failure to decide cases within the reglementary period constituted gross inefficiency that should be sanctioned; that despite the prior request for extension of time to decide some of the pending cases, Judge Pantanosas, Jr. still did not resolve them within the extended period; and that Judge Pantanosas, Jr. also did not take appropriate action to secure the transcripts of stenographic notes in some of the inherited cases.

Aside from gross inefficiency, the OCA found Judge Pantanosas, Jr. guilty of dishonesty amounting to gross misconduct for continuing to collect his salary and other benefits based on false certificates of service that did not reflect the actual number of his undecided cases. A careful reading of his certificates of service<sup>[39]</sup> for the months of January 2007 to March 2007, and from February 2006 to December 2006 revealed that he stated therein that he had only around 37 to 41 undecided cases, when he was aware that he had 60 undecided cases during such periods of time because he had failed to fully comply with the memoranda of the OCA dated April 4, 2005, May 2, 2006 and February 20, 2007.

The OCA concluded that pursuant to Administrative Circular No. 04-2004 dated February 4, 2004, the monthly reports of cases must be filed with or sent by registered mail to the Supreme Court on or before the 10<sup>th</sup> calendar day of the succeeding month; that Atty.