

SECOND DIVISION

[A.M. No. MTJ-10-1770, July 18, 2012]

**OFFICE OF ADMINISTRATIVE SERVICES-OFFICE OF THE COURT
ADMINISTRATOR, COMPLAINANT, VS. JUDGE IGNACIO B.
MACARINE, MUNICIPAL CIRCUIT TRIAL COURT, GEN. LUNA,
SURIGAO DEL NORTE, RESPONDENT.**

DECISION

BRION, J.:

The Office of the Court Administrator (OCA) filed the present administrative case against Judge Ignacio B. Macarine (respondent) for violation of OCA Circular No. 49-2003^[1] dated MAr 20, 2003.

OCA Circular No. 49-2003 requires that all foreign travels of judges and court personnel, regardless of the number of days, must be with prior permission from the COurt. A travel authority must be secured from the OCA. Judges must submit the following requirements.

[1.] application or letter-request addressed to the Court Administrator stating the purpose of the travel abroad[;]

[2.] application for leave covering the period of the travel abroad, favorably recommended by the Executive Judge[; and]

[3.] certification from the Statistics Division, Court Management Office, OCA as to the condition of the docket[.]^[2]

The complete requirements should be submitted to and received by the OCA at least two weeks before the intended time of travel. No action shall be taken on requests for travel authority with incomplete requirements.^[3] Judges and personnel who shall leave the country without travel authority issued by [the OCA] shall be subject to disciplinary action.^[4]

On August 13, 2009, the respondent wrote then Court Administrator, now Associate Justice Jose Portugal Perez, requesting for authority to travel to Hongkong with his family for the period of September 10 - 14, 2009 where he would celebrate his 65th birthday. The respondent stated that his travel abroad shall be charged to his annual forced leave. However, he did not submit the corresponding application for leave. For his failure to submit the complete requirements, his request for authority to travel remained unacted upon. The respondent proceeded with his travel abroad without the required travel authority from the OCA.

On January 28, 2010,^[5] the respondent was informed by the OCA that his leave of absence for the period of September 9-15, 2009 had been disapproved and his travel considered unauthorized by the Court. His absences shall not be deducted from his leave credits but from his salary corresponding to the seven (7) days that he was absent, pursuant to Section 50 of the Omnibus Rules on Leave.^[6] The respondent was also required to submit his explanation on his failure to comply with OCA Circular No. 492003.

In his letter-explanation dated February 25, 2010, the respondent narrated that his daughter, a nurse working in New Jersey, USA, gave him a trip to Hongkong as a gift for his 65th birthday. In the first week of September 2009, he received a call from his daughter that she had already booked him, together with his wife and two sons, in a hotel in Hongkong from September 13 to 15, 2009. They flew in to Manila from Surigao City on September 9, 2009, intending to prepare the necessary papers for his authority to travel at the Supreme Court the following day. However, sensing time constraint and thinking of the futility of completing the requirements before their scheduled flight, he opted not to immediately complete the requirements and simply went ahead with their travel abroad. He thought of submitting his compliance upon his return to Manila. He acknowledged his mistake and regretted his failure to comply with OCA Circular No. 49-2003. He promised not to commit the same infraction again. He further requested for reconsideration of the OCA's intended action to deduct his salary corresponding to the seven (7) days that he was absent, instead of charging his absences to his leave credits.

In an Evaluation Report dated September 6, 2010, the OCA found the respondent guilty of violation of OCA Circular No. 49-2003 for traveling out of the country without filing the necessary application for leave and without first securing a travel authority from the Court. The OCA recommended:

- a) this matter be **RE-DOCKETED** as a regular administrative matter;
- b) Judge Ignacio B. Macarine, MCTC, Gen. Luna, Surigao del Norte, be **FINED** in the amount of P5,000.00 for Violation for Circular No. 49-2003 dated May 20, 2003; and
- c) the Financial Management Office, Finance Division, OCA, be **DIRECTED** to **DEDUCT** the amount equivalent to the seven (7) days salary of Judge Ignacio Macarine as a result of his disapproved and unauthorized leave of absence pursuant to Section 50, Omnibus Rules on Leave, without deducting his leave credits thereof. [emphases supplied]

True, the right to travel is guaranteed by the Constitution. However, the exercise of such right is not absolute. Section 6, Article III of the 1987 Constitution allows restrictions on one's right to travel provided that such restriction is in the interest of national security, public safety or public health as may be provided by law. This, however, should by no means be construed as limiting the Court's inherent power of administrative supervision over lower courts. OCA Circular No. 49-2003 does not restrict but merely regulates, by providing guidelines to be complied by judges and court personnel, before they can go on leave to travel abroad. To "restrict" is to restrain or prohibit a person from doing something; to "regulate" is to govern or