

SECOND DIVISION

[A.M. No. 09-7-284-RTC, February 16, 2011]

**RE: REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE
REGIONAL TRIAL COURT - BRANCH 56, MANDAUE CITY, CEBU.**

D E C I S I O N

PERALTA, J.:

This administrative matter stemmed from the Report dated July 6, 2009 on the judicial audit and physical inventory of cases conducted by the Audit Team of the Office of the Court Administrator (OCA) in March 2007 in the Regional Trial Court of Mandaue City, Branch 56, Cebu, in anticipation of the compulsory retirement of Judge Augustine A. Vestil (Judge Vestil), then presiding judge of the same court.

The report disclosed that during the audit, the trial court has: (1) a total caseload of 1,431 cases consisting of 555 civil cases and 876 criminal cases; (2) 15 cases submitted for decision, but were already beyond the reglementary period;^[1] (3) two cases with pending incidents awaiting resolution, which were beyond the reglementary period;^[2] and (4) 247 cases, which had remained dormant for a considerable length of time.

It was further reported that Branch 56 did not observe an organized record management. No system was being followed to facilitate the monitoring of the status of cases. The court records were found to be in disarray as: (1) court records of terminated and archived cases were mixed with active cases; (2) copies of orders, pleadings and other documents were not chronologically attached to the case folders; (3) copies of the minutes of the hearings/proceedings were left unattached to the case folders and were merely kept in a separate file; and (4) loose copies of orders, pleadings and other documents were found merely inserted in the case folders.

Thus, on April 23, 2007, then Deputy Court Administrator Zenaida N. Elepaño issued a Memorandum, directing Judge Vestil to: (1) submit an explanation of his failure to: [a] decide 15 cases submitted for decision within the reglementary period, [b] resolve the incidents for resolution in two cases within the reglementary period, and [c] take further action on the 247 cases despite the lapse of a considerable length of time; (2) decide the 15 cases submitted for decision and resolve the incidents in two cases; and (3) take appropriate action on the 247 dormant cases within 45 days from notice.

Likewise, in the same Memorandum, Atty. Emeline Bullever-Cabahug (Atty. Cabahug), Clerk of Court of the same court, was directed to devise and adopt a records management system that will ensure the immediate and orderly filing of court records, and effectively facilitate the monitoring of the status of cases and supervise her staff members to ensure prompt delivery of their respective

assignments.

On June 20, 2007, in compliance with the Court's directives, Judge Vestil, without explaining the reason for the delay, reported the subsequent actions taken in the cases referred to in the Memorandum dated April 23, 2007, to wit:

As to directive no. 2:

1. Civil Case No. MAN-2910 - *submitted for decision in May 2007 as the defendant's Formal Offer of Exhibits was filed on February 12, 2007 and the exhibits were admitted on March 19, 2007;*
2. Civil Case No. MAN-3084 - *still pending trial and hearing was reset to June 28, 2007;*
3. Civil Case No. MAN-4009 - *decided on February 20, 2007, or 17 days before the lapse of the reglementary period. But due to the absence of the typist-in-charge, the typing of the decision was left unfinished;*
4. LRC No. 638 - *decided on March 8, 2007;*
5. LRC (Fe Cortes Dabon, petitioner) - *decided on December 7, 2006;*
6. Criminal Case No. DU-3316 - *decided on September 4, 2006 and was promulgated on June 6, 2007;*
7. Criminal Case No. DU-5308 - *decided on September 21, 2004. Promulgated set on December 5, 2006. Reset to May 28, 2007. Reset to April 26, 2007 and reset to May 21, 2007. Pre-trial of other accused was still set on May 21, 2007;*
8. Criminal Case No. DU-7047 - *decided on April 13, 2007; promulgated on March 26, 2007;*
9. Criminal Case No. DU-7518 - *decided on April 7, 2006; promulgated on April 3, 2007;*
10. Criminal Case No. DU-7649 - *decided on February 9, 2007; promulgated on May 28, 2007;*
11. Criminal Case No. DU-9207 - *decided on August 1, 2006 and promulgated on April 18, 2007;*
12. Criminal Case No. DU-9650 - *submitted for decision on March 1, 2007;*
13. Criminal Case No. DU-11862 - *decided per judgment dated October 16, 2006; set for promulgation on March 1, 2007;*
14. Criminal Case No. DU-12508 - *originally set to be promulgated on December 6, 2006 but due to lack of judges, it was eventually promulgated only on May*

11, 2007;

15. Criminal Case No. DU-13453 - *promulgated on April 2007;*
16. Civil Case No. MAN-3762 (Motion to Dismiss) - *counsels were required to submit their respective memoranda with regard to the motion to dismiss only up to June 11, 2007, thus, not yet submitted for decision;*
17. Criminal Case No. DU-10480 (Demurrer to Evidence)- *per order dated May 25, 2007, demurrer to evidence was denied. Reception of Accused evidence was set to August 28, 2007.*

With regard to the alleged dormant cases, Judge Vestil acted, although belatedly, on the two hundred forty-seven (247) cases before he retired on August 8, 2007. Some of the cases were ordered dismissed or archived; others were set for pre-marking of exhibits, deposition-taking, arraignment, pre-trial or hearing; and, some were ordered submitted for decision. Judge Vestil, however, offered no explanation why there was delay in the court's action in these cases.

For her part, Atty. Cabahug reported that:

- (1) they have already conducted an inventory of court records in the storage room to properly give space for cases which are archived, disposed or decided cases;
- (2) they made a list in separate logbooks - of the cases: (a) forwarded to the Supreme Court, and the Court of Appeals; (b) those placed in the bodega; (c) transmitted to the Office of the Clerk of Court; (d) newly filed and transferred from other courts; and (e) already disposed of, decided or archived;
- (3) they already gave instructions to the court clerks to note in the Semi Annual Inventory Report the last action of the court in all the cases assigned to them;
- (4) issued a memorandum to her staff members to seek permission and enter in the logbook the time whenever they go out of the office during office hours;
- (5) and suggested to have a staff meeting every Monday of the month to monitor the concerns of their staff.

In a Resolution dated March 26, 2008, the Court granted the request of Judge Vestil for the release of his retirement benefits, "provided the amount of One Hundred Thousand Pesos (P100,000.00) shall be retained/withheld therefrom to answer for whatever adverse decision the Court may impose on him in relation to the instant case.

The audit team maintained, however, that except for Civil Case No. MAN-3084 and Criminal Cases Nos. DU-9650 and DU-11862 which were inadvertently included as submitted for decision but were in fact already decided or still pending trial, all other cases reported in the audit report suffered undue delay in its disposition. While, Judge Vestil claimed that certain cases were decided within the reglementary period,