

EN BANC

[A.M. No. MTJ-03-1472 (Formerly A.M. No. 02-10-271-MTC), October 17, 2007]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
JUDGE ZENAIDA L. GALVEZ AND CLERK OF COURT EUGENIO STO.
TOMAS, MUNICIPAL TRIAL COURT, CABUYAO, LAGUNA.
RESPONDENTS.**

DECISION

GARCIA, J.:

An administrative complaint was filed by the Office of the Court Administrator (OCA) against Judge Zenaida L. Galvez and Clerk of Court Eugenio Sto. Tomas, both of the Municipal Trial Court (MTC) of Cabuyao, Laguna on account of the adverse separate reports of the OCA's Judicial and Audit teams dated July 5, 2002^[1] and August 30, 2002,^[2] respectively, about said court.

Acting on those reports, the OCA, in its Memorandum Report^[3] dated October 11, 2002 to then Chief Justice Hilario C. Davide, Jr., recommended, among others, that: **(1)** Judge Galvez be directed to explain within ten days from notice why no administrative sanction should be imposed upon her for: (a) failure to decide some 31 criminal cases and 66 civil cases despite the lapse of the reglementary period therefor;^[4] (b) failure to resolve motions/incidents in some criminal and civil cases within the prescribed period;^[5] (c) failure to take further appropriate action for an unreasonable length of time on criminal cases under preliminary investigation which are cognizable by the Regional Trial Court as well as by the MTC, some of which have been pending for preliminary investigation for several years already;^[6] (d) failure to set, for quite a long time, the cases for arraignment after the accused therein had posted their bailbonds;^[7] and (e) failure to take initial action such as issuance of subpoenas and summonses;^[8] and **(2)** Acting Presiding Judge Alden V. Cervantes (now herein made respondent) be directed to decide/resolve those cases, motions and incidents left undecided/unresolved by Judge Galvez and to make a physical inventory of all cases pending in the said court with the assistance of the OIC;

Pursuant to the OCA's aforesaid Memorandum Report, the Court issued a Resolution on January 22, 2003, directing Acting Presiding Judge Alden V. Cervantes to conduct, within 10 days from notice, a physical inventory of all cases filed and pending before the subject court, and to submit a report thereon within thirty (30) days from notice, thus:

**(5) DIRECT Hon. Alden V. Cervantes, Acting Presiding Judge, MTC,
Cabuyao, Laguna, to:**

(a) **INFORM** the Office of the Court Administrator (OCA) whether the 31 criminal and 66 civil cases left undecided by Judge Zenaida Galvez aforementioned in item 2(a) and the pending unresolved 13 motions/incidents aforestated in item 2(b) have already been decided and resolved respectively, if not, to DECIDE said cases and RESOLVE said motions/incidents within ninety (90) days from notice and thereafter to furnish this office certified copies of the decisions/resolutions/orders within ten (10) days from promulgation/rendition/issuance thereof;

(b) **INFORM** the Court through the Office of the Court Administrator whether the court has already taken action on the cases mentioned in item 2(c), 2(d) and 2(e) and if not, to take APPROPRIATE ACTION on said cases giving PREFERENTIAL ATTENTION on these unacted criminal cases which up to date of audit is pending preliminary investigation as well as those which have not been set for arraignment and unacted motions in civil cases;

(c) **ARCHIVE** those criminal cases where the accused has remained at large for more than 6 months from issuance of warrants of arrest and civil cases where the defendants failed to answer for more than 6 months from issuance thereof pursuant to Administrative Circular No. 7-A-92, as amended dated June 21, 1993;

(d) **CONDUCT** a physical inventory of all cases pending in said court with the assistance of the Officer-in-Charge, within ten (10) days from notice hereof and submit a report thereon within thirty (30) days from notice.^[9]

However, after more than a year had lapsed, Acting Presiding Judge Cervantes failed to comply with the foregoing directives. Hence, the OCA issued a memorandum to him reiterating the Court's directives and required his immediate compliance. Acting Presiding Judge Cervantes, together with Mrs. Elvira B. Manlegro, Acting Clerk of Court, and Mrs. Amelia D. Teñido, Clerk II and former Acting Clerk of Court, was likewise directed to submit to the Statistic Reports Division, Court Management Office-OCA, within one (1) month from notice thereof, the lacking Docket Inventory Reports and Monthly Reports of Cases which should include the data of those cases that had been pending and/or filed before October 1, 2001. In addition, Mrs. Teñido was also directed to assist Judge Cervantes and Mrs. Manlegro in the conduct of physical inventory of cases and in the preparation of the report.

Again, despite repeated directives, both verbal and written, Acting Presiding Judge Cervantes deferred the submission of the physical inventory of cases and the complete and accurate Monthly Reports of Cases and Docket Inventory Reports by semester, as directed in our Resolution.

In somewhat apathetic attitude, Judge Cervantes and the two other court personnel repeatedly attempted to submit, through their utility worker, incomplete and inaccurate Monthly Reports of Cases, the latest of which is a combined Docket

Inventory Report for the period from January 1 to April 2004 instead of Docket Inventory Reports by semester. Not being in conformity with the prescribed forms, the reports were returned with reminders for Mrs. Manlegro and Mrs. Teñido to prepare their reports properly, accurately and in the prescribed forms before re-submitting the same to the Statistic Reports Division. Regrettably, the reminders fell on deaf ears.^[10]

On February 8, 2005, the OCA submitted to then Chief Justice Hilario G. Davide, Jr. a Memorandum regarding the non-submission of the monthly reports of cases and inventory reports of MTC, Cabuyao, Laguna. Acting on the said Memorandum, the Court, in a resolution dated May 3, 2005, resolved:

- (a) to **IMMEDIATELY WITHHOLD** the salaries and allowances of Hon. Alden V. Cervantes, Acting Presiding Judge of the Municipal Trial Court, Cabuyao, Laguna and Acting Clerk of Court Elvira B. Manlegro and former Officer-in-Charge Amelia D. Teñido, also of the Municipal Trial Court, Cabuyao, Laguna; and
- (b) to **DIRECT** Judge Alden V. Cervantes, Mrs. Elvira B. Manlegro and Mrs. Amelia D. Teñido:
 - (1) to **SUBMIT** the required complete and accurate Monthly Reports of Cases corresponding to the months from October 2001 up to August 2004 and Docket Inventory Reports by semester for the years 2001, 2002 and 2003; and
 - (2) to **EXPLAIN** in writing, within thirty (30) days from notice, why they should not be administratively charged for their failure to religiously comply with Administrative Circular No. 61-2001 dated December 10, 2001, Administrative Circular No. 4-2004 dated February 4, 2004 and Administrative Circular No. 10-94 dated June 29, 1994 as amended by Administrative Circular No. 2-2001 dated January 2, 2001, and to **COMPLY** with the directives in the Resolution dated January 22, 2003 of the SC First Division in this case.

Acting Presiding Judge Cervantes moved for a reconsideration of said Resolution which immediately withheld his salaries and allowances and those of Acting Clerk of Court Manlegro and former OIC Clerk of Court Teñido. The Court then referred said letter to the OCA for evaluation, report and recommendation.

In due time, the OCA came out with its findings, recommending that Acting Presiding Judge Cervantes be charged with gross neglect of judicial duty, inefficiency in the performance of official functions and indifference to his responsibility concerning speedy disposition of cases. The pertinent portions of the OCA report are hereunder quoted, thus:

In a letter dated 20 September 2006, Judge Alden V. Cervantes, former presiding judge, Municipal Trial Court (MTC), Alaminos, Laguna and former acting presiding judge, MTC, Cabuyao, Laguna, requests that he be relieved of the task of submitting the revised docket inventory of

cases for MTC, Cabuyao, Laguna for the years 2001, 2002, 2003 and 2004.

He avers that he could no longer comply with the directive considering that he had already retired from the service and that a permanent presiding judge had already been appointed at MTC, Cabuyao, Laguna in the person of Judge Conrado L. Zumaraga. Judge Zumaraga was appointed on 7 July 2005 but assumed judicial function only on 20 September 2005.

Judge Cervantes contends that prior to his retirement, he has already submitted the docket inventory of cases for the years 2001 to 2004. The Court Management Office, OCA, however found discrepancies in the docket inventories submitted and required the court personnel concerned to undertake revisions thereon. He notes that the preparation and completion of the docket inventories were overtaken by his retirement on 23 November 2005. In fact, he claims in his letter dated 2 June 2005 that the docket inventories and monthly reports covering the period November 2000 to May 2005 are almost finished.

Judge Cervantes admits his failure to submit the correct docket inventories and asks forgiveness from the court. He suggests that instead of requiring him to comply with the directive, he instead be required to pay a fine for his failure. He requests that his retirement benefits be released to him and the corresponding fine covering the penalty be deducted from his retirement benefits because he does not have ready money in his possession to pay the fine.

It is noted that Judge Cervantes applied for optional retirement without first complying with the Court resolution dated 3 May 2005. His application for retirement which was made effective 23 November 2005 was filed on 9 September 2005. It was approved by the Court on 1 March 2006. Thus, he had all the time to comply with the 3 May 2005 resolution. If the physical inventories and monthly reports covering the period from November 2002 to May 2005 are "almost finished" as claimed by Judge Cervantes in his 2 June 2005 letter we see no reason why these reports could not be submitted prior to his application for retirement. It is evident that he did not exert any effort to comply with the resolution.

Moreover, before he could be given a clearance by this Office, the clerk of court of MTC, Cabuyao, Laguna was directed to submit a list of all the cases left undecided/unresolved by Judge Cervantes. In compliance with the directive, Clerk of Court Arlyn A. Hermano submitted a report on 8 December 2006.

The report revealed that Judge Cervantes left unresolved one hundred sixty-five (165) cases for preliminary investigation. These were all submitted before him for resolution but were resolved by Judge Conrado Zumaraga, the incumbent presiding judge. Likewise, Judge Cervantes left undecided fifty-four (54) cases submitted for decision. These include cases he inherited from Judge Zenaida L. Galvez, his predecessor. Four of