

EN BANC

[A.M. No. 04-3-63-MTCC, November 23, 2004]

RE: REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE MTCC, BRANCH 5, BACOLOD CITY

RESOLUTION

QUISUMBING, J.:

On April 19 to 24, 2003, the Office of the Court Administrator conducted a judicial audit and physical inventory of cases at Branch 5, MTCC,^[1] Bacolod City.

The audit team found that as of audit date, said Branch 5, with Judge Remegio V. Rojo presiding, had 965 pending cases. Only 60 of those cases were submitted for decision, but 42 of these were already beyond the 90-day reglementary period set for deciding cases. The audit team also found: (1) that Judge Rojo failed to take action in 10 civil cases despite the lapse of considerable time; (2) that there were 11 cases with pending motions for resolution, with one case already beyond the 90-day reglementary period; (3) that Judge Rojo failed to require bail in 21 cases involving *B.P. Blg. 22* while the accused remained free; (4) that prosecution evidence was being presented in Criminal Case No. 02-02-2139 notwithstanding there had been no arraignment; and (5) that Judge Rojo had not been setting cases for hearing one week of each month since March 2003.

Based on the audit report, Senior Deputy Court Administrator Zenaida N. Elepaño issued an **Order** on August 8, 2003, directing Judge Rojo to:

- a) **EXPLAIN** within fifteen (15) days from notice why no administrative sanction should be imposed on him for his failure to decide within the mandatory period the following forty-two (42) cases submitted for decision before him, to wit: Criminal Cases Nos. 88777 to 88782, 91245 to 91249, 78108 to 78116, 91768, 83394, 88668 to 88669, 52947 to 52948, 67106 and 85214, and Civil Cases Nos. 26212, 25771, 26234, 24857, 20701, 25381, 25919, 26496, 25642, 24488, 26816, 25578, 25972 and 26444;
- b) **APPRISE** this Court, through the Office of the Court Administrator, why he failed to act for a considerable length of time on the following ten (10) cases: Civil Cases Nos. 26566, 24629, 27602, 26806, 25890, 24624, 26560, 28074, 28119 and 24369; and **TAKE IMMEDIATE ACTION** on these cases;
- c) **INFORM** this Court through the Office of the Court Administrator, whether he has rendered his decisions in Criminal Cases Nos. 88777 to 88782, 91245 to 91249,

94159 to 94163, 79047-79049, 84994, 88668-88669, 52947-52948, and 85214 and Civil Cases Nos. 27393, 26212, 27740, 25771, 26234, 24857, 20701, 25381, 25919, 26496, 25642, 24488, 27338, 26816, 25578, 25972, 26383 and 26444 and whether the pending incidents in the following cases have already been resolved, to wit: Criminal Cases Nos. 02-02-2064 to 02-02-2065, 97974-97977 and 02-7-2854 and Civil Cases Nos. 27146, 27148, 27149 and 27116;

- d) **SUBMIT** to this Court, through the Office of the Court Administrator, within thirty (30) days from notice hereof, certified true copies of his decisions and resolutions in the aforementioned cases;
- e) **EXPLAIN** within fifteen (15) days from notice why he should not be disciplinarily sanctioned for failure to require the accused in the following cases to post bailbond and yet are not detained: Criminal Cases Nos. 01-7-610 to 01-7-617, 01-5-61, 01-8-772 to 01-8-774, 01-10-1340 to 01-10-1343, 99305, 01-5-158, 83950 to 83951 and 01-5-241 and why the accused in Criminal Case No. 02-02-2139 has not yet been arraigned despite the fact that the trial is already in the stage of presentation of evidence for the prosecution; and
- f) **CEASE** and **DESIST** from his practice of not setting cases for one (1) week every month.^[2]

As required, Judge Rojo decided all 42 cases listed in paragraph (a) and submitted his explanations why he failed to decide those cases within the 90-day period. He immediately took appropriate action and decided the 10 civil cases listed in paragraph (b). As directed in paragraphs (c) and (d), he sent the Office of the Court Administrator copies of his decisions and orders, and resolved the pending incidents in Criminal Cases Nos. 02-02-2064 and 02-02-2065, 97974 to 97977 and 02-7-2854 and Civil Cases Nos. 27146, 27148, 27149 and 27116.^[3]

Judge Rojo also explained why he did not require bail in the 21 *B.P. Blg.* 22 cases listed in paragraph (e), as follows:

Paragraph (e) of the directive—Criminal Cases Nos.:

01-7-610 to 01-7-617 (violations of BP 22)

A warrant of arrest was issued on October 8, 2001. It was returned with the notation that the accused could not be found. Thereafter an alias warrant of arrest was issued on September 2, 2002. It is still outstanding. The accused is not yet arrested by the warrant officer.

01-5-61 (violation of BP 22)

The accused put up her bail bond per O.R. No. 1161192 dated September 15, 2003 for P4,000.00.

01-8-772 to 01-8-775 (violations of BP 22)

A warrant of arrest was issued on September 23, 2002 but was not returned by the warrant officer. Accused is not yet arrested. It appears that the civil aspect of these cases are being settled extra-judicially by the parties. Criminal Case No. 01-8-775 was dismissed on September 8, 2002.

01-10-1340 to 01-10-1343 (violations of BP 22)

Court issued a warrant of arrest on February 12, 2002 and an alias warrant of arrest on March 14, 2003. Accused put up a bail of P5,000.00 per O.R. No. 1161065 dated May 7, 2003.

99305 (violation of BP 22)

The court issued a warrant of arrest on March 29, 2001. It was returned with the notation that the accused could not be found. An alias warrant of arrest was issued on March 15, 2002 but was not yet returned by the warrant officer. The accused is not yet arrested.

01-5-158 (violation of BP 22)

Court issued a warrant of arrest dated June 6, 2001. It was returned with the notation that the accused was bonded. No bond receipt is attached to the record. Court issued an alias warrant of arrest on March 15, 2002. It required the warrant officer to explain why he made the notation that the accused was bonded when in fact no bond was filed with the court. Court will take further action on its order. Accused is not yet arrested.

83950 to 83951 (violation of BP 22)

The accused is bonded for P4,000 per O.R. No. 6831097 Y dated September 1, 1998 (Annex "A").

01-5-241 (violation of BP 22)

Accused put up a bail of P1,300 per O.R. No. 1161191 dated September 12, 2003.^[4]

He also explained that he proceeded to try Criminal Case No. 02-02-2139 despite the absence of an arraignment because of the erroneous notation made by his OIC-Branch Clerk of Court in the Information that the accused had already been arraigned on September 10, 2002. Judge Rojo added that he immediately rectified the error after the audit team alerted him. He set the case for arraignment on May 6, 2003, and again set it on September 17, 2003, when the accused failed to appear.

Finding Judge Rojo's explanations unsatisfactory, the Office of the Court Administrator recommended to this Court on March 16, 2004 that,