

EN BANC

[A.M. No. 00-4-08-SC, July 31, 2002]

RE: REPORT OF DEPUTY COURT ADMINISTRATOR BERNARDO PONFERRADA RE JUDICIAL AUDIT CONDUCTED IN BRANCH 21, REGIONAL TRIAL COURT, CEBU CITY -- JUDGE GENIS B. BALBUENA, PRESIDING.

DECISION

PER CURIAM:

In a memorandum dated March 31, 2000, former Deputy Court Administrator Bernardo Ponferrada reported on the judicial audit conducted in Branch 21 of the Regional Trial Court, Cebu City, presided over by Judge Genis B. Balbuena.

According to DCA Ponferrada, the audit team found:

...that there were 743 cases (295 criminal and 448 civil and other cases) pending in the subject branch as of the end of February 2000. Of that number 32 criminal cases and 78 civil cases were found submitted for decision or a total of 110 undecided cases. Not all of these cases, however, were submitted before Judge [Genis B.] Balbuena [presiding judge of Branch 21]. As contained in the report, 25 are inherited cases submitted for decision before Judge Jose P. Soberano, Jr. who was the acting presiding judge of Branch 21 and who retired last March 11, 2000. Some of the cases, however, submitted before Judge Balbuena have remained undecided for about 2 years.

Also reported were 105 cases where there were incidents submitted for resolution; 57 cases where no further action had been taken for 3 months or more; and 23 cases where no action at all were taken since they were filed.

Summonses were found prepared in several civil cases but have not yet been released for service despite payment of docket fees thereon. Upon inquiry, [the audit team was] informed that the staff were still waiting for the plaintiffs therein to provide the sheriff/process server money for transportation expenses. This matter has already been straighten[ed] out.

The staff of Branch 21 had expressed concern over the practice of Judge Balbuena of bringing home records of cases. The inherent danger of this exercise is exacerbate[d] by the fact that Judge Balbuena does not inform his staff which records he was bringing home. His Branch Clerk of Court and Legal Researcher complains that they find it hard to track records. This matter has also been addressed.^[1]

Following the recommendation of DCA Ponferrada, we resolved on April 11, 2000, to: (1) direct Judge Balbuena to explain why no administrative sanction should be imposed on him for his failure to decide the following cases on time: Civil Cases Nos. CBU-23815, 25729, 26664, 29572, 31391, 31392, 31490, 31905, 33873, 33874, 34077, 34078, 34079, 35577, 36854, 37468, 37880, 37899, 38382, 38785, 40989, 41133, 42303, 44707, 47561, and Civil Cases Nos. CEB-04389, 09886, 10497, 11588, 12739, 12784, 13905, 14009, 14061, 15355, 15445, 15880, 16767, 16856, 17026, 17367, 17411, 17815, 17827, 17842, 17905, 17947, 17950, 18230, 18405, 19101, 19234, 19248, 19394, 19456, 19561, 19577, 19838, 19969, 20056, 20079, 20201, 20208, 20390, 20505, 21306, 21485, 21524, 21801, 23583, 24553, SP-5856-CEB, SP-6074, SP-6292-CEB, SP-6618-CEB, SP-6688-CEB, SP-6732-CEB, SP-6795-CEB, SP-6847-CEB, SP-6891-CEB, SP-7105-CEB, SP-7133-CEB, SP-7180-CEB, SP-7316-CEB, SP-7345-CEB, SP-7352-CEB, SP-7432-CEB, SP-7439-CEB, SP-7509-CEB, SP-7522-CEB, SP-7530-CEB, SP-7631-CEB, and SP-7670-CEB; (2) direct Judge Balbuena to explain why no administrative sanction should be imposed on him for his failure to resolve pending incidents within the reglementary period in the following cases: Criminal Cases Nos. CBU-08232 to CBU-08236, CBU-22374, CBU-26714, CBU-27455 to CBU-27458, CBU-27671 to CBU-27676, CBU-28026, CBU-30123, CBU-30360, CBU- 31202 to CBU-31205, CBU-32732, CBU-33621, CBU-34570, CBU-34571, CBU-35335, CBU-35402, CBU-37216, CBU-37556 to CBU-37558, CBU-40383, CBU-40661, CBU-40674, CBU-41568, CBU-42045, CBU-44565, CBU-45393, CBU-46050, CBU-48366, CBU-49233, CBU-50178, CBU-52505, and CBU-52903; and Civil Cases Nos. CEB-04053, CEB-05153, CEB-10331, CEB-14785, CEB-14889, CEB-16600, CEB-17007, CEB-17122, CEB-17264, CEB-17300, CEB-17575, CEB-17602, CEB-18688, CEB-18928, CEB-19098, CEB-19129, CEB-19383, CEB-19766, CEB-19788, CEB-20025, CEB-20115, CEB-20205, CEB-20333, CEB-20456, CEB-20815, CEB-20911, CEB-21002, CEB-21122, CEB-21288, CEB-21300, CEB-21326, CEB-21341, CEB-21377, CEB-21540, CEB-21570, CEB-21776, CEB-21852, CEB-22016, CEB-22262, CEB-22594, CEB-23001, CEB-23144, CEB-23264, CEB-23323, CEB-23337, CEB-23461, CEB-23531, CEB-23670, CEB-23675, CEB-23930, CEB-24339, CEB-24489, CEB-24692, CEB-24769, CEB-27317, SP-6431-CEB, SP-7918-CEB, SP-7354-CEB, SP-7758-CEB, LRC-1291-N, and LRC-1381; (3) direct the same Judge to decide or resolve the foregoing cases within 180 days from notice and to furnish this Court, through the Office of the Court Administrator, copies of his actions thereon; (4) direct the same Judge to desist from trying and hearing cases and instead to concentrate on deciding and resolving the foregoing cases; (5) designate Judge Galicano C. Arriesgado, Executive Judge, Regional Trial Court, Cebu City, and presiding judge of Branch 18, to hear cases pending in Branch 21 in addition to his duties in his own sala, effective immediately and until further orders from this Court; (6) direct Judge Arriesgado to act on the following cases, which had not been acted upon for an unreasonable length of time: Criminal Cases Nos. CBU-33454, CBU-33455, CBU-40748, CBU-45605, CBU-50348, and Civil Cases Nos. CEB-01151, CEB-06791, CEB-14101, CEB-16607, CEB-18465, CEB-18571, CEB-19303, CEB-19617, CEB-19677, CEB-20167, CEB-20429, CEB-20496, CEB-20886, CEB-21085, CEB-21201, CEB-21211, CEB-21416, CEB-21457, CEB-21487, CEB-21781, CEB-21828, CEB-21911, CEB-22035, CEB-22207, CEB-22286, CEB-22310, CEB-22341, CEB-22360, CEB-22778, CEB-22808, CEB-22822, CEB-23198, CEB-23222, CEB-23315, CEB-23380, CEB-23432, CEB-23738, CEB-23756, CEB-23790, CEB-23881, CEB-23932, CEB-24039, CEB-24139, CEB-24252, CEB-24312, CEB-24321, CEB-24357, CEB-24358, SP-5809-CEB, SP-6785-CEB, SP-7900-CEB, SP-8173-CEB, and on the following cases where no action at all had been taken since they were filed: CEB-08788, CEB-08797, CEB-10863, CEB-17816, CEB-18111, CEB-18161,

CEB-18239, CEB-18696, CEB-18901, CEB-19086, CEB-19296, CEB-20575, CEB-23020, CEB-23284, CEB-24750, CEB-24840, SP-5785-CEB, SP-6666-CEB, SP-7137-CEB, SP-7157-CEB, SP-8896-CEB, and CAD-61 (NO. 4); and (7) order Judge Balbuena to explain why no administrative sanction should be imposed on him for his failure to act on the cases mentioned in number (6) above.^[2]

In compliance with our resolution, Judge Balbuena wrote this Court a letter asserting that he works even during weekends but still has very little time left for deciding or resolving cases. He stated that most of his time is spent studying and trying cases, and issuing orders in connection therewith. He said he is finding ways to increase his output and to improve his system of work.

According to Judge Balbuena, the cases that had not been acted upon further or not acted upon at all "for an unreasonable length of time"^[3] had been inadvertently overlooked either by himself or his staff. This is unavoidable, he said, given his case load. At the time he received this Court's resolution dated April 11, 2000, there were 788 cases pending in his sala.^[4]

As regards some of those civil cases that have not been set for pre-trial,^[5] Judge Balbuena explained that the plaintiffs in those cases have not moved for a pre-trial conference.^[6] Thus, no pre-trial has been set.

From May 3, 2000 up to the time the OCA received his letter on December 13, 2000, Judge Balbuena decided 25 out of 93 cases submitted for decision, and resolved 40 out of 106 cases with pending incidents. He asked to be given another period of six months to concentrate on the cases listed in our resolution.

After a favorable recommendation from the OCA, we granted this request, without further extension, in a resolution dated May 4, 2001.^[7]

However, Judge Balbuena was still unable to fully comply with our resolution of April 11, 2000. Thus, in a memorandum to this Court dated July 11, 2001, the OCA recommended that Judge Balbuena be dismissed from the service. In making this recommendation, the OCA cited Judge Balbuena's "indifference. . .to his responsibilities as a judge."^[8]

Meanwhile, in a letter dated July 12, 2001, Judge Balbuena asked for a further extension of time to comply with our resolution of April 11, 2000. He also submitted copies of the additional decisions and orders he issued in compliance with the aforesaid resolution.

On September 18, 2001, we referred this matter to the OCA for further evaluation, report and recommendation.

The OCA observed:

The Court has already extended to Judge Balbuena a total of one (1) year grace period to decide the ninety-three (93) cases submitted to him for decision which he failed to decide within the 90-day reglementary (period). Out of these ninety-three (93) cases, he was able to decide only twenty-nine (29) cases during the extended period granted to him...