

## EN BANC

[ A.M. No. MTJ -02-1466, December 10, 2002 ]

**CORAZON GUERRERO, COMPLAINANT, VS. JUDGE MARCIAL M. DERAY, 12TH MUNICIPAL CIRCUIT TRIAL COURT OF MALLIG-QUEZON, ISABELA, RESPONDENT.**

### RESOLUTION

#### PER CURIAM:

In a letter-complaint dated August 22, 2000,<sup>[1]</sup> Corazon Guerrero prays that appropriate administrative sanctions be meted against respondent Judge Marcial M. Deray for his alleged delay in the resolution of the preliminary examination in Criminal Case No. 1903, entitled "*People of the Philippines v. Rolando Guerrero.*"

The complainant is the legitimate spouse of the accused in the above-mentioned criminal case for rape, pending before the 12th Municipal Circuit Trial Court of Mallig-Quezon, Isabela, presided by respondent judge. The criminal complaint was filed on June 12, 1997. Accused was arrested and detained by the PNP-Quezon, Isabela Municipal Police on June 13, 1997. He was later transferred to the Bureau of Jail Management and Penology (BJMP), Roxas, Isabela District Jail.

Complainant alleged that respondent judge conducted the preliminary examination and terminated the same as early as 1998. Up to the time of filing of the instant complaint, however, he has not resolved the criminal complaint. Meanwhile, accused has been languishing in jail. She went several times to respondent's court to inquire about the status of the case against her husband but she was advised that the resolution was forwarded to the Office of the Provincial Prosecutor. Inquiry therein, however, disclosed that no such resolution was ever received by it. Counsel for her accused husband filed several motions for the early resolution of the case or for the immediate release of the accused, but to no avail. Complainant contended that respondent's inaction violates the rights of the accused to a speedy trial and disposition of the case and to due process.

In his Comment dated October 12, 2000,<sup>[2]</sup> respondent judge claimed that after the accused was arrested, his wife sought the intervention of some local officials and requested that the instant case be held in abeyance while they tried to negotiate for a compromise agreement with the private complainant which took some time. When accused failed to reach a settlement with the private complainant, respondent brought the records of the Criminal case to his house for study. However, the record disappeared from his desk at home. He tried to look for the record and, after some time, he found it inside a sack full of old newspapers where his mother-in-law hid it. He immediately resolved the criminal complaint and attached a copy of the resolution to his Comment. He claimed that it was never his intention to delay the resolution of the case.

Subsequently, in our Resolution of February 12, 2001,<sup>[3]</sup> we noted the letter-complaint and required the parties to manifest within ten (10) days if they were willing to submit the case for resolution based on the pleadings filed.

On March 29, 2001 complainant filed her Compliance<sup>[4]</sup> manifesting her willingness to have the case submitted for resolution based on the pleadings. On the other hand, respondent judge failed to submit his compliance.

In its report and recommendation, the Office of the Court Administrator (OCA) found the respondent guilty of delay in resolving the Preliminary investigation and recommended that he be fined Five Thousand Pesos (P5,000.00), with warning that a repetition of the same offense will be dealt with more severely.

We agree with the findings of the OCA. However, the recommended fine is not commensurate to the gravity of respondent's misdeed.

Respondent maintains that he had already issued the resolution dated September 4, 2000<sup>[5]</sup> finding a *prima facie* case for Multiple Rape against accused. However, this does not inspire belief. Particularly damaging for respondent is the letter dated June 25, 2002<sup>[6]</sup> by the Information Officer of the Municipality of Quezon, Isabela addressed to the OCA, in response to a query as to the status of Criminal Case No. 1903. The letter discloses that to date - over *five* (5) years after the criminal complaint was filed with the 12th Municipal Trial Circuit Court on June 12, 1997 - *no* resolution on the preliminary examination has yet been issued. Meanwhile, accused Rolando Guerrero, who has remained behind bars for five (5) years, *has yet to be formally charged in a proper court*.

The conduct of preliminary investigation by judges of municipal trial courts and municipal circuit trial courts is a non-judicial function, which is an exception to their usual duties and their findings are subject to review by the Provincial Prosecutor concerned.<sup>[7]</sup> The performance of this non-judicial or executive function,<sup>[8]</sup> however, does not place them beyond the disciplinary power of this Court for any act or omission in relation or as an incident to their task, which is only in addition to their judicial functions.<sup>[9]</sup> Thus, the Court has imposed disciplinary sanctions on judges for their ignorance or deliberate disregard of the laws on preliminary investigation.<sup>[10]</sup>

In a litany of cases we have reminded members of the bench that the unreasonable delay of a judge in resolving a pending incident is a violation of the norms of judicial conduct and constitutes a ground for administrative sanction against the defaulting magistrate.<sup>[11]</sup> Indeed, we have consistently impressed upon judges the need to decide cases promptly and expeditiously on the principle that justice delayed is justice denied.<sup>[12]</sup>

This oft-repeated adage requires the expeditious resolution of disputes, much more so in criminal cases where an accused is constitutionally guaranteed the right to a speedy trial,<sup>[13]</sup> which, as defined, is one "[c]onducted according to the law of criminal procedure and the rules and regulations, *free from vexatious, capricious and oppressive delays*."<sup>[14]</sup> The primordial purpose of this constitutional right is to prevent the oppression of the accused by delaying criminal prosecution for an indefinite period of time.<sup>[15]</sup> It is likewise intended to prevent delays in the

administration of justice by requiring judicial tribunals to proceed with reasonable dispatch in the trial of criminal prosecutions.<sup>[16]</sup>

Consistent, therefore, with an accused's right to a speedy trial, respondent had the duty to promptly forward the case to the Provincial Prosecutor.<sup>[17]</sup> Indeed, Rule 112, Section 5 of the Revised Rules of Criminal Procedure states in no uncertain terms that –

SEC. 5. *Resolution of investigating judge and its review.* – Within **ten (10) days** after the preliminary investigation, the investigating judge shall transmit the resolution of the case to the provincial or city prosecutor, or to the Ombudsman or his deputy in cases cognizable by the *Sandiganbayan* in the exercise of its original jurisdiction for appropriate action. x x x.

In the case at bar, respondent judge cannot deny that he failed to act on the preliminary examination for more than *five (5) years*. Worse, as early as August 2000 - over *three (3) years* after accused was arrested -Complainant filed a petition for *habeas corpus* with the Regional Trial Court of Roxas, Isabela, Branch 23, where the same was docketed as Special Proceeding Case No. Br. 23-31,<sup>[18]</sup> because of respondent's inaction on the rape case.

As has been often said, delay in the disposition of cases undermines the people's faith in the judiciary. Hence, judges are enjoined to decide cases With dispatch. Their failure to do so constitutes gross inefficiency and warrants the imposition of administrative sanctions on them.<sup>[19]</sup> Appellate magistrates and judges alike, being paradigms of justice, have been exhorted time and again to dispose of the court's business promptly and to decide cases within the required periods.<sup>[20]</sup> Delay not only results in undermining the people's faith in the judiciary from whom the prompt hearing of their supplications is anticipated and expected; it also reinforces in the mind of the litigants the impression that the wheels of justice grind ever so slowly.

<sup>[21]</sup>

Rules 1.02 of Canon 1 and 3.05 of Canon 3 of the Code of Judicial Conduct state:

Rule 1.02. - A judge should administer justice impartially and ***without delay***.

Rule 3.05. - A judge shall dispose of the court's business ***promptly*** and decide cases ***within the required periods***.

Likewise, SC Administrative Circular No. 13-87 states, *inter alia*, that:

3. Judges *shall observe scrupulously* the periods prescribed by Article VIII, Section 15 of the Constitution for the adjudication and resolution of all cases or matters submitted in their courts. Thus, all cases or matters must be decided or resolved within twelve months from date of submission by all lower collegiate courts while all other lower courts are given a period of three months to do so. x x x.

The reason proffered by respondent to justify his extreme tardiness in acting on the preliminary examination is not novel and is, at best, a lame excuse. Owing to the nature of his role as a dispenser of justice, respondent Ought to know that bringing case records home and, worse, leaving them on top of his desk is a serious breach

of professional responsibility. Judges, by the very delicate nature of their functions, should be more circumspect in the performance of their duties.<sup>[22]</sup> A judge is charged with exercising extra care in ensuring that records of the cases and official documents in his custody are intact.<sup>[23]</sup> Furthermore, as administrator of his court, a judge should adopt a system of record management and organize his docket in order to bolster the prompt and efficient dispatch of business.<sup>[24]</sup> The temporary loss of the records, as in this case, indicates gross negligence on his part.<sup>[25]</sup>

Respondent judge's tardiness and negligence, however, are not the only misdeeds which warrant our corrective intervention in this case.

The fact that respondent judge failed to comply with the Resolution dated February 12, 2001, requiring him to manifest if he was willing to have the case submitted on the basis of the pleadings filed, *with no explanation as to why he failed to do so*, is not lost upon us. It is hardly necessary to remind respondent that judges should respect the orders and decisions of higher tribunals, much more the Highest Tribunal of the land from which all other courts should take their bearings. A resolution of the Supreme Court is not to be construed as a mere request, nor should it be complied with Partially, inadequately or selectively.<sup>[26]</sup> If at all, this omission not only betrays a recalcitrant flaw in respondent's character; it also underscores his disrespect of the Court's lawful orders and directives which is only too deserving of reproof.

Thus, in one case,<sup>[27]</sup> the failure of respondent judge to comply with the show-cause resolutions of the Court was deemed "grave and serious misconduct affecting his fitness and worthiness of the honor and integrity attached to his office." In *Alonto-Frayna v. Astih*,<sup>[28]</sup> we further held:

A judge who deliberately and continuously fails and refuses to comply with the resolution of this Court *is guilty of **gross misconduct** and **insubordination***. It is gross misconduct and **even outright disrespect** for this Court for respondent to exhibit indifference to the resolutions requiring him to comment on the accusations contained in the complaint against him.

In other words indifference or defiance to the Court's orders or resolutions may be punished with dismissal, suspension or fine as warranted by the circumstances.<sup>[29]</sup> In the cases cited above, the respondents-judges were dismissed from the service.

Lastly, the records also disclose that respondent judge has the predilection for making false representations to suit his ends. Nowhere is this more evident than in his Comment, where he claimed to have issued a resolution on September 4, 2000 on the preliminary examination and attached therein a signed carbon copy of said document.<sup>[30]</sup> However, it appears that respondent judge omitted to *transmit the records of the case to the Provincial Prosecutor's Office for appropriate action*. Particularly revealing in this regard is the letter dated February 14, 2001<sup>[31]</sup> of the Office of the Provincial Prosecutor of Isabela to Atty. Jerson E. Angog, Public Attorney II-OIC, Roxas, Isabela, which reads:

We received on February 9, 2001 your Motion for Early Resolution of Criminal Case No. 1905 entitled "People of the Philippines versus Rolando Guerrero" for Rape.