

## **EN BANC**

**[ A.M. No. SCC-95-2, March 31, 1998 ]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT VS.  
JUDGE AMER BARA-ACAL, RESPONDENT.**

### **R E S O L U T I O N**

**PER CURIAM:**

A letter signed by "The Concerned Citizens of Tawi-Tawi," dated July 15, 1994, was sent to the office of Chief Justice Andres Narvasa bringing to his attention the alleged failure of Judge Amer Bara-acal to report to his official station at the Shari'a Circuit Court, Bongao, Tawi-Tawi.

The letter was sent for "Discreet Investigation" by the Office of the Court Administrator (OCA) to Judge Carlito Eisma, RTC, Branch 13, Zamboanga City, to determine the veracity of the said anonymous complaint.

On October 28, 1994, Judge Carlito Eisma directed his Legal Researcher II, Abu B. Talipan, of RTC, Branch 13, Zamboanga City to conduct a discreet investigation. The latter reported to Judge Eisma that, according to information received from several persons, namely: (1) the stenographer of the Shari'a Circuit Court; (2) the Staff Assistant II; (3) the Clerk of Court; and (4) the Provincial Chief, Office of Muslim Affairs, respondent Judge had indeed not been reporting regularly for work. The stenographer further stated that from the time he assumed his office on June 1994 to November 1994, Judge Bara-acal never appeared in their office.

On June 26, 1995, the OCA sent a telegram to the Clerk of Court of respondent's station requesting copies of decisions and resolutions by their court from January to May 1995 and the court's calendar for 1994 up to the early part of 1995. In reply, Mr. Alykhan T. Amilbansa sent four orders issued by re on October 2, 1994, November 7, 1994, November 16, 1994 and May 3, 1995. Likewise submitted was the court's calendar showing a total of six (6) settings. Based on said records, it appears that no regular trial and/or hearing was ever conducted by the respondent.

On February 6, 1996, the report of Mr. Abu B. Talipan was treated by the Court as an administrative complaint against Judge Amer Bara-acal. Upon being asked to comment on the administrative complaint against him, respondent denied the allegations therein and moved for its dismissal.

On August 14, 1996, the Court resolved to refer the case to Judge Salvador A. Memoracion, RTC, Branch 85, Isabela, Basilan for investigation, report and recommendation. After interviewing the personnel of the Shari'a Court, Judge Memoracion reported that respondent seldom went to his station in Bongao, Tawi-Tawi, although he regularly received his monthly salary. Furthermore, he reported that respondent's certificates of service for the period January 1994 - April 1994 and June 1994 - October 1994 were a total falsity as respondent never rendered regular service.

On October 16, 1996, the Court referred the case again to Judge Memoracion for a more thorough investigation.

During the second investigation, the following employees of the MCTC, Bongao, Tawi-tawi, stated that they were longtime residents of Bongao and that they had never seen respondent in the said place to wit:

- (1) Mrs. Julieta Morales, 45 years old, Court Stenographer;
- (2) Miss Rapia Ikkao, 44 years old;
- (3) Mr. Abdal-Azing Amilbangsa, Sr., Clerk of Court; and
- (4) Mr. Guillermo Morales, 42 years old, Process Server.

The employees of the Shari'a Court, who had earlier said that they never saw respondent in the said court, however, changed their statements. It was obvious that their turnaround was due to the respondent's talking to them. However, Judge Memoracion concluded that the statements of the employees of the MCTC were more credible than those of the employees of the Shari'a Court who personally told him, when he interviewed them previously on June 26, 1996, that respondent never reported to the office and was always in his hometown in Malondo, Davao del Sur. Judge Memoracion stated that the fact that they later repudiated their statements weakens their credibility.

The Court, after a careful review of the case, is of the opinion that the facts on record show respondent Judge guilty of absenteeism. His mere denial of the charge of the self-serving affidavits of his employees are not enough to rebut the statements given to by independent and disinterested witnesses regarding his failure to report to his office.

The interim Rules and Guidelines implementing Batas Pambansa Blg. 129, promulgated on January 11, 1983, provides:

"5. Session hours. - Regional Trial Courts Metropolitan Trial Court, Municipal Trial Courts and Municipal Circuit Trial Courts shall hold daily session from Monday and Friday from 8:30 a.m. to 12:00 noon and from 2:00 to 4:30 p.m.

6. Duty during weekends and holidays. - All Executive Judges, whether in single sala courts or multiple sala stations shall assign, by rotation, Metropolitan Trial Judges, Municipal Trial Judges and Municipal Circuit Trial Judges within their respective territorial areas to be on duty on Saturdays from 8:00 a.m. to 1:00 p.m. assisted by a skeletal force, also on rotation, primarily to act on petitions for bail and similar matters.

On Saturday afternoons, Sundays and non-working holidays, any Judge may act on bailable offenses conformably to the provisions of Section 7, Rule 112 of the Rules of Court.

All executive Judges, whether in a single sala shall remain on duty on Saturday afternoon.

7. Motion day. - Except those motions requiring immediate action, all motions should be scheduled for hearing on Friday afternoon, or if Friday is a non-working day, in the afternoon of the next business day."