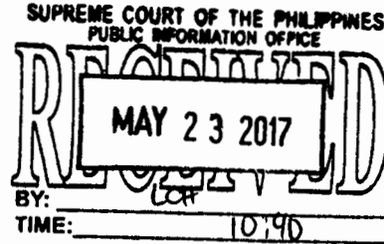




Republic of the Philippines
Supreme Court
 Baguio

EN BANC



**THE OFFICE OF THE
 COURT ADMINISTRATOR,**
 Complainant,

A.M. No. RTJ-09-2212
 (Formerly A.M. No. 09-11-446-RTC)

Present:

SERENO, C.J.,
 CARPIO,
 VELASCO, JR.,
 LEONARDO-DE CASTRO,
 PERALTA,
 BERSAMIN,
 DEL CASTILLO,
 MENDOZA,
 REYES,
 PERLAS-BERNABE,
 LEONEN,
 JARDELEZA,
 CAGUIOA,
 MARTIRES, and
 TIJAM, JJ.

-versus -

**JUDGE JUSTINO G.
 AVENTURADO,**
 Respondent.

Promulgated:

April 18, 2017

x-----*Justin G. Aventura*-----x

DECISION

PER CURIAM:

Failing to comply with the mandate to decide cases within the period prescribed by the Constitution, the laws, the *Rules of Court* and the administrative circulars and guidelines constitutes gross inefficiency and incompetence, for which the judge may be held to account. Retirement from the Bench does not exempt the judge from liability for disobeying or ignoring the mandate.

Antecedents

In view of the optional retirement of respondent Judge, the Office of the Court Administrator (OCA) conducted separate judicial audits on Branch 1 and Branch 2 of the Regional Trial Court in Tagum, Davao del Norte, and on Branch 5 of the Regional Trial Court in Mati, Davao Oriental, the courts in which he presided. On November 6, 2009, the OCA submitted a consolidated report on the judicial audits to Chief Justice Reynato S. Puno.¹

Accordingly, on December 16, 2009, the Court resolved to docket the consolidated report as an administrative complaint against respondent Judge for: (1) gross irregularity and serious misconduct, and gross inefficiency and incompetence for failure to decide the 12 cases that were the subjects of his requests for extension of time to resolve; and (2) gross violation of Administrative Circular No. 43-2004 dated September 6, 2004 (*Adopting New Guidelines on the Filing of Applications for Optional Retirement*) for continuing to function as a judge beyond the stated effectivity period of his optional retirement.²

On April 9, 2010, respondent Judge wrote to the Members of the First Division of the Court in an attempt to get their sympathy.³ Under the resolution promulgated on September 6, 2010,⁴ the Court treated this communication as his comment on the administrative complaint, and referred the entire matter to the OCA for evaluation, report and recommendation.

Findings and Recommendations of the OCA

Through its memorandum⁵ dated December 2, 2010, the OCA summarized the charges against respondent Judge, and submitted the following findings and recommendations on the disciplinary actions to be taken, to wit:

x x x x

Regarding the first charges, petitions for extension of time to decide cases were filed by Judge Aventurado. These are Crim. Case No. 11757 (A.M. No. 05-4-257-RTC), Crim. Case No. 13268 (A.M. No. 05-12-771-RTC), Civil Case No. 3619 (A.M. No. 07-2-107-RTC), Civil Case No. 3207 (A.M. No. 08-3-117-RTC), and Civil Case No. 3718 (A.M. No. 09-1-34-RTC) pending with the Regional Trial Court, Branch 2, Tagum,

¹ *Rollo*, pp. 1-37.

² *Id.* at 217-237.

³ *Id.* at 279-282.

⁴ *Id.* at 294-295.

⁵ *Id.* at 296-301.

Handwritten signature

Davao del Norte and Civil Case No. 3285 (A.M. No. 08-4-197-RTC), Crim. Case No. 12309 (A.M. No. 08-6-341-RTC), Crim. Case No. 13717 (A.M. No. 08-10-602-RTC), Crim. Case No. 3718 (A.M. No. 08-10-603-RTC), Crim. Case No. 13717 (A.M. No. 08-11-655-RTC), Crim. Case No. 4067 (A.M. No. 08-12-692-RTC) and Crim. Case No. 3958 (A.M. 08-12-693-RTC) pending with the Regional Trial Court, Branch 5, Mati, Davao Oriental. These petitions were granted but despite the expiration of the periods Judge Aventurado failed to decide the said cases.

x x x x

Judge Aventurado is likewise charged with gross violation of Administrative Circular No. 43-2004 dated September 6, 2004 (Adopting New Guidelines on the Filing of Applications for Optional Retirement) which provides that "if on the date specified in the application as the date of the effectivity of the retirement, the applicant has not yet received any notice of approval or denial of his application, he shall cease working and discharging his functions unless directed otherwise.["]

Judge Aventurado filed his application for optional retirement effective on January 30, 2009 but requested for an extension to February 20, 2009 for him to promulgate decisions resolved within the last week of January 2009.

During said period, Judge Aventurado, in Regional Trial Court, Branch 1, Tagum, decided ten (10) civil cases and four (4) criminal cases [15264, 13073, 13074, 12534] wherein the accused in all the said cases were acquitted. In RTC, Branch 2, Tagum, Judge Aventurado dismissed ten (10) criminal cases [15820, 15821, 15954, 15955, 15956, 15889, 15890, 16338, 16267, 16375] and acquitted accused in Crim. Case No. 11903. In RTC, Branch 5, Mati, Judge Aventurado decided Crim Case No. 3958 on January 25, 2009 finding the accused guilty of Murder. The decision thereon was not promulgated with the assumption of Judge Kahulugan who was designated as assisting judge of the branch. Judge Kahulugan rendered a decision on the same case on February 26, 2009 likewise finding the accused guilty as charged. Also, a decision in Crim. Case No. 4067 was prepared by Judge Aventurado acquitting the accused. The same was likewise not promulgated considering the Motion to suspend its promulgation. In connection therewith, Judge Kahulugan issued an Order dated May 25, 2009 requiring the parties to manifest within fifteen (15) days their desire as to who shall decide this case. On February 2, 2009, Judge Aventurado acquitted the accused in Crim. Case No. 4238.

x x x x

In view of the foregoing, it is respectfully recommended that Judge Justino G. Aventurado (Ret.), Regional Trial Court, Branch 2, Tagum City, Davao del Norte, be **FINED** the amount of One Hundred Thousand Pesos (₱100,000.00) for failure to decide cases subject of Petitions for Extension of Time to Decide and One Hundred Thousand Pesos (₱100,000.00) for violation of Administrative Circular No. 43-2004 dated

JG Kahulugan - Done

September 6, 2004 (Adopting New Guidelines on the Filing of Applications for Optional Retirement) to be deducted from his retirement benefits.⁶

x x x x

Ruling of the Court

We consider the foregoing findings and recommendations of the OCA to be in accord with the evidence on record and conformable to the pertinent canons and jurisprudence on judicial misconduct.

The first charge against the respondent Judge concerned his failure to resolve the 12 cases for which he had requested extensions of his period to decide them. The requests for extension were granted, but he did not decide the cases by the time of his optional retirement.

In his written communications to the Court,⁷ respondent Judge attempted to explain his failure to resolve such cases by citing his service in several branches of the Regional Trial Court in Davao. Yet, such explanation did not exculpate him because the additional court assignments or designations imposed upon him as a judge did not make him less liable for the delays.⁸ In taking his oath of office as a judicial officer, he precisely swore to perform his duties efficiently in order not to prejudice the litigants. Efficiency thus became his professional commitment for as long as he was on the Bench. He also well knew that Section 15(1), Article VIII of the 1987 Constitution mandated that cases or matters filed in the lower courts must be decided or resolved within three months from the time they are submitted for decision or resolution. He was further aware of Rule 3.05, Canon 3 of the *Code of Judicial Conduct* by which he was expressly required as a judge to promptly dispose of court business, and to decide cases within the prescribed periods. He was expected to have become apprised that any delays in the disposition of cases would surely undermine the people's faith and confidence in the Judiciary.⁹ Accordingly, he should have been imbued with that high sense of duty and responsibility in the discharge of his duties and obligations to promptly administer justice while he sat as judge.¹⁰ His failure to promptly dispose of court business, and to decide cases within the

⁶ Id. at pp. 297-301.

⁷ Id. at 286-289; 303-305.

⁸ *Re: Judicial Audit of the RTC, Br. 14, Zamboanga City Presided Over by the Hon. Ernesto R. Gutierrez, formerly the Presiding Judge thereof*, A.M. No. RTJ-05-1950, February 13, 2006, 482 SCRA 310, 317.

⁹ *Office of the Court Administrator v. Butalid*, AM No. RTJ-96-1337, August 5, 1998, 293 SCRA 589, 601; *Ng v. Ulibari*, AM No. MTJ-98-1158, July 30, 1998, 293 SCRA 342; *Grefaldeo v. Lacson*, AM No. MTJ-93-881, August 3, 1998, 293 SCRA 524.

¹⁰ *Re: Report on the Judicial Audit and Physical Inventory of Cases in the Regional Trial Court, Br. 54, Bacolod City*, A.M. No. 06-4-219-RTC, November 2, 2006, 506 SCRA 505, 520.

Ernesto R. Gutierrez

prescribed periods efficiently constituted gross inefficiency and warranted the imposition of the condign administrative sanction on him.

Section 9, Rule 140 of the *Rules of Court*, as amended by A.M. No. 01-8-10-SC, classifies undue delay in rendering a decision as a less serious charge, and sets the penalty of suspension from office without salary and other benefits from one month to three months, *or* a fine of ₱10,000.00 to ₱20,000.00. Even so, the OCA notes in its report and recommendation that the Court has allowed deviations from the range of the amounts of imposable fines by imposing fines that are either less or more than those prescribed.¹¹ In this connection, we cannot be tolerant of the gross inefficiency of respondent Judge. That he applied for optional retirement but did not exert effort in deciding his pending cases aggravated his inefficiency and lack of dedication to his duties as judge. He thereby manifested a wanton disregard of the constitutional rights of the litigants to the speedy disposition of their cases in the various branches of the Regional Trial Court that he presided. Suspension from office for some length of time without salary and other benefits would be an appropriate penalty, but he already retired from the service. Consequently, the recommendation of the OCA of imposing a fine of ₱100,000.00 as sanction for his failure to decide the cases that were the subject of his requests for extension of time to decide to be deducted from his accrued leave credits becomes just and reasonable.

The second charge against respondent Judge related to his violation of Administrative Circular No. 43-2004 dated September 6, 2004.

Administrative Circular No. 43-2004 required, among others, that the judge applying for optional retirement should already cease working and discharging his functions as judge even “[i]f on the date specified in the application as the date of the effectivity of the [optional] retirement, [he] has not yet received any notice of approval or denial of his application.”

In his case, respondent Judge signified the effectivity of his optional retirement to be January 30, 2009, although he subsequently requested an extension until February 20, 2009 to enable him to promulgate decisions he had supposedly prepared in the last week of January 2009.

The OCA found and reported that in the period in question respondent Judge decided 10 civil cases and four criminal cases assigned in Branch 1 of the Regional Trial Court in Tagum, whereby he acquitted the accused; that he dismissed 10 criminal cases and acquitted the accused in one criminal case assigned in Branch 2 of the Regional Trial Court in Tagum; that he

¹¹ *Rollo*, p. 298; citing *Request of Judge Nino A. Batingana, Regional Trial Court, Branch 6, Mati City, Davao Oriental, for extension of time to decide Civil Case No. 2049*, A.M. No. 09-2-74-RTC, June 29, 2010, 622 SCRA 8, 11.

J. B. Batingana

decided one criminal case assigned in Branch 5 of the Regional Trial Court in Mati on January 25, 2009 in which he found the accused guilty of murder, but the decision was not promulgated because of the intervening designation of another judge as assisting judge of that branch; that he prepared the decision in another criminal case acquitting the accused, but the decision was not promulgated because of the filing of a motion to suspend the promulgation; and that he acquitted the accused in another criminal case on February 2, 2009. He thereby clearly violated the conditions imposed by the Court in Administrative Circular No. 43-2004.

It is but appropriate and necessary, therefore, that the Court adopts the findings and recommendation of the OCA to severely sanction respondent Judge for violating Administrative Circular No. 43-2004. For this purpose, the amount of ₱100,000.00 as fine will serve as sufficient sanction. We note, indeed, that despite not having decided the 12 cases subject of his requests for extension of time to decide, he was able to decide other cases in disregard of the conditions defined by Administrative Circular No. 43-2004 dated September 6, 2004. That was very odd on his part, for he should have trained his sudden burst of dedication to judicial work to the cases for which he had requested the extensions of the time to decide. Such uncommon alacrity and ability of disposing of the other cases can only generate a strong suspicion of irregularity against him. He thereby exhibited undue haste in favoring the accused in those criminal cases. The appearance of impropriety became more pronounced because he promulgated his acquittals and dismissals after the supposed effectivity of his optional retirement in violation of Administrative Circular No. 43-2004. He became unmindful of Canon 2 of the *Code of Judicial Conduct*, which demanded of him to avoid not only impropriety but also the mere appearance of impropriety in all activities.¹²

WHEREFORE, the Court FINDS and HOLDS respondent Judge JUSTINO G. AVENTURADO GUILTY:

1. Of GROSS IRREGULARITY AND SERIOUS MISCONDUCT, as well as GROSS INEFFICIENCY AND INCOMPETENCE for failure to decide the 12 cases that were the subject of his requests for extension of time to dispose or to decide cases, and, ACCORDINGLY, FINES him in the amount of ₱100,000.00; and

2. Of GROSS VIOLATION OF ADMINISTRATIVE CIRCULAR NO. 43-2004 dated September 6, 2004 (*Adopting New Guidelines on the Filing of Applications for Optional Retirement*), and, ACCORDINGLY, FINES him in the amount of ₱100,000.00.

¹² *Vidal v. Dojillo, Jr.*, A.M. No. MTJ-05-1591, July 14, 2005, 463 SCRA 264, 267.

Justin G. Aventurado

The Court **DIRECTS** that the fines herein imposed shall be deducted from the retirement benefits of **Judge JUSTINO G. AVENTURADO**.

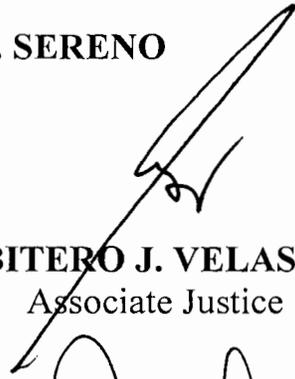
SO ORDERED.



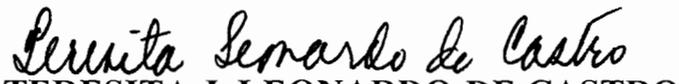
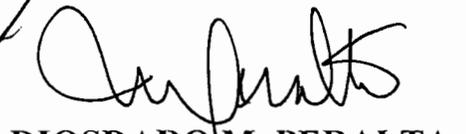
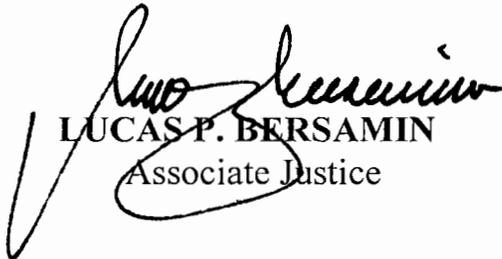
MARIA LOURDES P.A. SERENO
Chief Justice



ANTONIO T. CARPIO
Associate Justice



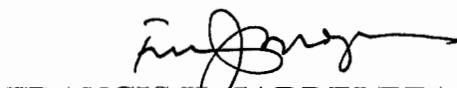
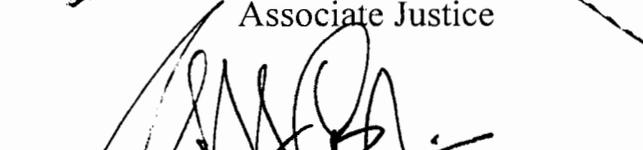
PRESBITERO J. VELASCO, JR.
Associate Justice

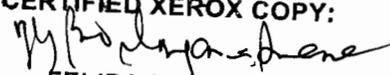

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
Associate Justice
ESTELA M. PERLAS-BERNABE
Associate Justice
MARVIC M.V.F. LEONEN
Associate Justice
FRANCIS H. JARDELEZA
Associate Justice
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
SAMUEL R. MARTIRES
Associate Justice
NOEL C. TIJAM
Associate Justice

CERTIFIED XEROX COPY:

FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT