

EN BANC

[A.M. No. RTJ-12-2337 (Formerly A.M. No. 12-10-224-RTC), June 23, 2020]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, V.
HON. MARILYN B. LAGURA-YAP, FORMER PRESIDING JUDGE,
BRANCH 28, REGIONAL TRIAL COURT, MANDAUE CITY, CEBU
(NOW ASSOCIATE JUSTICE OF THE COURT OF APPEALS),
RESPONDENT.**

D E C I S I O N

PER CURIAM:

This is an administrative complaint against Hon. Marilyn B. Lagura-Yap, Associate Justice of the Court of Appeals, in her capacity as then Presiding Judge, Branch 28, Regional Trial Court (*RTC*), Mandaue City, Cebu, for gross inefficiency and incompetence for failing to decide cases within the reglementary period to decide, and for dishonesty for her failure to indicate in her application for the position of Associate Justice of the Court of Appeals her caseload and/or cases submitted for decision, and to accurately and truthfully reflect the actual number of cases submitted for decision in the Monthly Report of Cases submitted to the Office of the Court Administrator (*OCA*).

To recapitulate, Hon. Lagura-Yap filed her application for the position of Associate Justice of the Court of Appeals on September 20, 2011 with the Judicial and Bar Council (*JBC*). Subsequently, on February 24, 2012, Hon. Lagura-Yap was appointed as Associate Justice of the Court of Appeals. She then requested for the issuance of a Certificate of Clearance. On July 30, 2012, Atty. Tranne Lee Digao-Ferrer, Branch Clerk of Court, Branch 28, *RTC*, Mandaue City, Cebu, issued a Certification which enumerated the one hundred thirty-four (134) pending cases submitted for decision during her stint as presiding judge of Branch 28, *RTC*, Mandaue City, Cebu.^[1]

Thus, in its Memorandum Report^[2] dated October 17, 2012, the *OCA* averred that Hon. Lagura-Yap neither requested for additional time to decide the subject cases nor did she give a valid reason regarding the non-resolution of the said pending cases. Consequently, the *OCA* withheld the processing of Hon. Lagura-Yap's application for clearance.

The *OCA* likewise stated that in the nomination letter dated November 28, 2011 issued to Hon. Lagura-Yap, she was reminded of A.M. No. 04-5-19-SC which requires that before she could take her oath of office and assume her new responsibilities, she should submit a certification manifesting that she had decided or disposed of the cases assigned to her in her previous position. However, Hon. Lagura-Yap still failed to submit the required certification, and just took her oath of office and assumed her new responsibilities without resolving all the cases submitted for decision in Branch 28, *RTC*, Mandaue City, Cebu.^[3]

Thus, considering Hon. Lagura-Yap's administrative liability arising from her failure to decide pending cases submitted for resolution prior to her promotion, the OCA recommended to the Court that (a) the matter be re-docketed as a regular administrative matter against Hon. Lagura-Yap, former Presiding Judge, Branch 28, RTC, Mandaue City, Cebu; (b) she be imposed a fine in the amount of One Hundred Thousand Pesos (P100,000.00) for gross inefficiency for her failure to decide one hundred twenty-eight (128) cases submitted for decision within the reglementary period prior to her promotion; and (c) she be admonished to be more circumspect in the performance of her sworn duty.^[4]

On November 26, 2012, in a Resolution,^[5] the Court, upon the recommendation of the OCA, resolved to re-docket this matter as a regular administrative matter against Hon. Lagura-Yap.

Subsequently, in a Resolution^[6] dated March 13, 2013, the Court directed the OCA to:

- 1) Investigate further whether or not the respondent, in her application to the position of Associate Justice of the Court of Appeals filed before the Judicial and Bar Council, failed to indicate her case load and/or cases submitted for decision that were pending before her court at the time of her application.
- 2) Investigate further if respondent filed a true and accurate monthly report to the OCA with respect to the status of pending cases and cases submitted for decision before her court prior to and at the time of her application to the position of Associate Justice of the Court of Appeals.
- 3) Make a report on such findings, together with its recommendation, within ten (10) days from receipt of this Resolution.^[7]

Thus, in compliance with the Court's Resolution, the OCA organized a team to conduct a judicial audit and physical inventory of pending cases, including cases submitted for decision and cases with unresolved/pending motions, in Branch 28, RTC, Mandaue City, Cebu.

Thereafter, based on the team's audit report, it was discovered that there were one hundred thirty-three (133) criminal cases and thirty-five (35) civil cases submitted for decision in Branch 28, RTC, Mandaue City, Cebu, before Hon. Lagura-Yap's promotion. There were one (1) criminal case with an unresolved motion filed on January 22, 2010 and five (5) civil cases with pending motions, the earliest of which was filed on September 6, 2011. Many of those cases were later decided/resolved by then Acting Presiding Judges Raphael B. Yrastorza and Sylva G. Aguirre-Paderanga.

The complete list of cases submitted for decision and incidents submitted for resolution before Hon. Lagura-Yap while she was yet the Presiding Judge of Branch 28, RTC, Mandaue City, Cebu, is as follows:

CRIMINAL CASES
SUBMITTED FOR DECISION

CASE NO.	ACCUSED	NATURE	LATEST COURT ACTION
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DU - 8168	Duran	Rape	<p>Order dated Jan. 12, 2005 (Judge Yap), the exhibits formally offered by Pros. Carisma are admitted.</p> <p>Judgment was rendered in June 2012 by Judge Yrastorza. (There was no date indicated in the Decision and information was received that Judge Yrastorza personally encodes his Decisions)</p> <p>Original records were forwarded to the Court of Appeals, Cebu, in an Order dated July 9, 2012.</p>
DU - 12826	Gabuya, et al.	Theft	<p>Theft Order dated Mar. 3, 2007 (Judge Yap), directing the parties to simultaneously submit their Memorandum 30 days from receipt of the Order.</p> <p>No Memorandum filed. PAO's Ex-Parte Motion to Submit Case for Decision dated July 31, 2012</p> <p>Judgment was rendered on Dec. 18, 2012 by Judge Yrastorza.</p>
DU - 12265	Ramsey Pabular (Ramsey Patricio)	Viol. of Sec. 5, Art. II, RA 9165	<p>Order dated March 24, 2008 (Judge Yap), directing the parties to simultaneously submit their respective Memorandum 5 days upon receipt of the Order.</p>

			<p>Memorandum (Accused) filed on Jan. 28, 2010.</p> <p>Order dated June 22, 2010 (Judge Yap), case was submitted for decision.</p> <p>Judgment was rendered on Feb. 25, 2013 by Judge Yrastorza.</p>
DU - 7541	Batulan	Viol. of Sec. 16, Art. III, RA 6425 as amended	<p>Order dated Apr. 9, 2008 (Judge Yap), the Prosecution and the Defense were required to simultaneously submit their respective Memorandum 30 days from receipt of the Order.</p> <p>No Memorandum filed.</p> <p>Order dated Jan. 7, 2011 (Judge Yap), case was submitted for decision.</p> <p>Judgment was rendered on July 17, 2012 by Judge Yrastorza.</p>
DU - 9554	Roliger Casip	Viol. of Sec. 11, Art. II, RA 9165	<p>Joint Order dated Apr. 10, 2008 (Judge Yap), the parties were required to simultaneously submit their respective Memorandum 30 days from receipt of the Order.</p> <p>No Memorandum was filed.</p> <p>Joint Order dated Jan.</p>

			<p>10, 2011 (Judge Yap), case was submitted for decision.</p> <p>Joint Judgment was rendered on Aug. 13, 2012 by Judge Yrastorza.</p>
DU - 9555	Frederick Bojos	Viol. of Sec. 5, Art. II, RA 9165	<p>Joint Order dated Apr. 10, 2008 (Judge Yap), the parties were required to simultaneously submit their respective Memorandum 30 days from receipt of the Order.</p> <p>No Memorandum filed.</p> <p>Joint Order dated Jan. 10, 2011 (Judge Yap), case was submitted for decision.</p> <p>Joint Judgment was rendered on Aug. 13, 2012 by Judge Yrastorza.</p>
DU - 11013	Alabastro, et al.	Viol. of Sec. 5, Art. II, RA 9165	<p>Order dated May 5, 2008 (Judge Yap), parties were required to simultaneously submit their respective Memorandum within 30 days from receipt of the Order.</p> <p>No Memorandum filed.</p> <p>Order dated June 22, 2010 (Judge Yap), case was deemed submitted for decision.</p>
DU - 10743	Mahinay	Viol. of Sec. 11, Art. II, RA 9165	<p>Order dated May 7, 2008 (Judge Yap), the parties were required to simultaneously</p>