

EN BANC

[A.M. No. 14-11-350-RTC, December 05, 2017]

RE: JUDICIAL AUDIT CONDUCTED IN THE REGIONAL TRIAL COURT, BRANCH 20, CAGAYAN DE ORO CITY, MISAMIS ORIENTAL

DECISION

DEL CASTILLO, J.:

The present administrative matter arose from the judicial audit conducted on March 12 and 13, 2013, of Branch 20 of the Regional Trial Court (RTC) of Cagayan de Oro City, Misamis Oriental, then presided by Judge Bonifacio M. Macabaya (Judge Macabaya).

In a Memorandum^[1] dated April 17, 2013, the audit team found that out of the 573 cases examined by it, (1) 69 cases were submitted for decision but have yet to be decided despite the lapse of the 90-day period [as mandated by par. 1, Section 15, Article VIII of the 1987 Constitution];^[2] (2) 33 cases with pending incidents were not yet resolved despite the lapse of the reglementary period to resolve them; and (3) 155 cases were dormant and unacted upon for a considerable length of time.

The audit team noted the following irregularities:

1. In Criminal Case No. 2001-888 entitled *People [v.] Jabinao*, the [RTC] issued an Order dated 22 November 2011 directing the accused to secure another bond within five (5) days from notice, '*it appearing that the bond put up by the accused had already expired.*' The Order [goes against] Sec. 2(a) of Rule 114 of the Revised Rules of Criminal Procedure, which provides that '*(t)he undertaking shall be effective upon approval, and unless cancelled, shall remain in force at all stages of the case until promulgation of the judgment of the Regional Trial Court, irrespective of whether the case was originally filed in or appealed to.*'^[3]

2. In Criminal Case Nos. 2000-260 and 2000-316, both entitled *People [v.] Alba, et. al.* as well as Criminal Case Nos. 2002-098 and 2002-100, [also] both entitled *People [v.] Alba*, the [RTC] issued twin Orders, both dated 26 September 2006, directing the issuance of a Warrant of Arrest against the accused for his failure to appear[,], and directing the Branch Clerk of Court '*to receive evidence of the prosecution through ex-parte hearing*' - [in violation of] the Revised Rules of Criminal Procedure [and by] existing jurisprudence x x x.^[4]

Moreover, the audit team noted inaccuracies in the RTC's February 2013 report. It failed to include 43 cases already submitted for decision and 13 cases with unresolved motions, while it prematurely reported six cases^[5] as submitted for decision, although the records did not show that the appellees received the

appellants' briefs or memoranda, against which the prescribed period within which to submit the formers' briefs or memoranda should be reckoned.^[6] These omissions and inaccuracies in the report violated paragraph 8 of the Guidelines and Instructions in Administrative Circular No. 61-2001 dated December 10, 2001, which state that "*(i)nfilling up Item No. VI x x x where all the data needed must be indicated, include all cases with unresolved motions which may determine the disposition of the cases, e.g., Motion to Dismiss on Demurrer to Evidence. Patent non-indication of undecided cases or unresolved motions is tantamount to falsification of official document.*"

In addition, the audit team discovered that the docket books for civil cases were not updated regularly; the docket inventory for the period July-December 2012 suffered from a number of defects in form; and, there was no judgment book, no book of entries of judgment, nor an execution book.^[7]

The audit team furthermore noted the constant presence and active participation of Judge Macabaya's wife during the entire judicial audit although she was not a court employee. She was observed to be handing over case records to, and talking with, the court staff. When this matter was brought to the attention of Judge Macabaya, the latter assured the audit team that he was in full control of the actions of his wife, and even acknowledged "that she has been a big help x x x [in] overseeing the administrative functions of his office, [thus allowing] him to focus his attention on his judicial functions."^[8]

In a Letter^[9] dated April 4, 2013, Judge Macabaya's Clerk of Court V Atty. Taumaturgo U. Macabinlar (Atty. Macabinlar) submitted a copy of an Action Plan^[10] for the Period April 2013 to April 2014, bearing the signature of Judge Macabaya himself. The Action Plan was "formulated as a result of (their) discussions with the Supreme Court Audit Team and (their) brainstorming session with all the Branch 20 staff," and "is intended to make a more lasting plan of action to prevent recurring audit exceptions."^[11]

The audit team noted that the action plan provided for a single strategy only and an inflexible time frame for the disposition of three kinds of cases.^[12] Hence, the audit team recommended that the Action Plan be revised to make it more specific and more results-oriented for easier measurement of output.

Taking a holistic approach, the audit team made the following recommendations to Judge Macabaya to:

x x x x

- 1.1 SUBMIT x x x within fifteen (15) days x x x a revised action plan, incorporating therein the strategies, specific courses of action and the corresponding time frame[s], to be measured by specific number of calendar days, for: (a) the disposition of the cases x x x; (b) the resolution of the incidents or motions x x x; and (c) all the other judicial audit findings above x x x;
- 1.2 Immediately TAKE APPROPRIATE ACTION on the untranscribed stenographic notes taken down by then court stenographer Oscar P. Rabanes, x x x in Civil Case No. 3672,

x x x and SUBMIT to this Office within fifteen (15) days from receipt hereof a written report thereon;

- 1.3 SUBMIT x x x within fifteen (15) days x x x a written status report on the untranscribed stenographic notes x x x in Civil Case No. 6776 and in Criminal Case Nos. 1863 and 3418;
- 1.4 ENSURE that a request for extension of time to decide a case is filed with the Office of the Court Administrator before the expiration of the mandated period for decision, x x x;
- 1.5 TAKE APPROPRIATE ACTION immediately in the cases referred to in Item No. I (7) above, and SUBMIT to this Office within thirty (30) days from receipt hereof a written report thereon, attaching thereto copies of the orders or decisions, if any, issued in connection therewith;
- 1.6 CONDUCT PERSONALLY [a] physical inventory of cases at the end of every semester, and CONSIDER the results of the exercise in the evaluation and assessment of the performance of the court against its existing action plan, and use the same as a basis for drawing up a new action plan to ensure the sustainability of the remedial measures earlier adopted;
- 1.7 ADOPT a firm policy against improvident postponements and ENSURE that cases are heard and disposed of with deliberate dispatch, x x x;
- 1.8 COMMENT in writing on the observations raised in Item No. II, Sub-item Nos. 1 and 2 above, and SUBMIT the same to this Office within fifteen (15) days from receipt hereof;
- 1.9 DISCOURAGE and MINIMIZE his wife's presence in his court, and PREVENT her from interfering with the business of the court with a WARNING that any violation thereof will warrant an administrative action against him; and
- 1.10 SUBMIT to this Office within fifteen (15) days from receipt hereof a written report on the action/s taken on the immediately preceding directive; x x x x^[13]

But in a letter^[14] dated July 22, 2013, Judge Macabaya and his Branch Clerk of Court, Atty. Macabinlar, merely submitted copies of the Decisions and Orders in some of the cases enumerated in the April 17, 2013 Memorandum; and this was done despite the passage of almost 10 months. Thus, in a letter-directive^[15] to Judge Macabaya dated March 14, 2014, Deputy Court Administrator (DCA) Jenny Lind R. Aldecoa-Delorino (DCA Aldecoa-Delorino) reiterated the recommendations above.

In reply thereto, on May 12, 2014, Judge Macabaya attached another set of copies of orders, resolutions, and decisions, without any other explanation other than the

inadvertent attachment of the letter-directive to the RTC's October 2013 monthly report.^[16]

Via a Letter^[17] dated May 19, 2014, one month after the deadline set in the action plan, DCA Aldecoa-Delorino gave an updated summary on the number of cases that had not yet been decided or resolved, and acted upon. This letter likewise reiterated the directive for Judge Macabaya to comply with the audit team's Memorandum, particularly item nos. 2, 3, 8 and 9, with a reminder that "*all directives coming from the Court Administrator and his deputies are issued in the exercise of the Court's administrative supervision of trial courts and their personnel, hence, should be respected. These directives are not mere requests but should be complied with promptly and completely.*"^[18] Thus, DCA Aldecoa-Delorino directed Judge Macabaya to:

1. EXPLAIN x x x the delay in: (a) deciding the remaining thirty [30] cases x x x; (b) resolving the incidents in the remaining fifteen (15) cases listed x x x; and (c) taking appropriate actions [on] the remaining fifty-seven [57] dormant cases x x x; and SUBMIT the same to this Office within fifteen (15) days from receipt hereof;
2. SUBMIT x x x within fifteen (15) from receipt hereof a copy of each of the decisions, orders[,] or resolutions, if any, rendered or issued in the cases referred to above; and
3. SUBMIT x x x within fifteen (15) days from receipt hereof a written report on the actions x x x taken on x x x the directives contained in our Memorandum dated 19 April 2013.^[19]

In a letter-compliance^[20] dated June 30, 2014, Judge Macabaya attached copies of the decisions, resolutions and orders rendered or issued by his court. He then asked for a 90-day extension to decide or resolve the remaining cases, giving as reason therefor the court's heavy caseload and claiming that the remaining cases submitted for decision comprised "mainly of those referred to the Branch Clerk of Court, Atty. Taumaturgo U. Macabinlar[,] for ex-parte hearing x x x."^[21]

Owing to Judge Macabaya's repeated failure to fully comply with the directives of the Office of the Court Administrator (OCA) for more than one year,^[22] this Court on December 1, 2014 resolved to:

1. DIRECT Judge x x x Macabaya, x x x to:
 - a. SHOW CAUSE x x x why no disciplinary action should be taken against him for his failure to: (a) decide the remaining twenty-eight [28] cases due for decision; (b) resolve the incidents in the remaining eleven [11] cases with incidents for resolution; (c) take appropriate actions [on] the remaining thirty-eight [38] cases found to be dormant at the time of the judicial audit, all despite the lapse of more than one year since the said judicial audit was conducted; and (d) comply with the other directives contained in the 19 April 2013 Memorandum of the OCA, x x x;

b. DECIDE with dispatch the remaining twenty-eight (28) cases submitted for decision x x x and SUBMIT x x x copies of the Decisions within thirty (30) days from notice;

c. RESOLVE with dispatch the incidents in the remaining eleven (11) cases x x x referred to above, and SUBMIT x x x copies of the corresponding Orders or Resolutions within thirty (30) days from notice;

d. TAKE APPROPRIATE ACTIONS immediately in the thirty-eight (38) remaining dormant cases referred to above, and SUBMIT x x x copies of the Orders or Decisions, if any, issued in connection therewith; and

e. SUBMIT x x x within fifteen (15) days from notice his compliance with directive Nos. 2, 3, 8, 9[,] and 10 contained in the 19 April 2013 Memorandum of the OCA, with a STERN WARNING that failure to do so will be dealt with more severely;

2. RELIEVE Judge Macabaya of his judicial and administrative functions, effective immediately and to continue until further orders from the Court, EXCEPT to: (a) DECIDE the remaining twenty-eight (28) cases submitted for decision; (b) RESOLVE the remaining eleven (11) cases with incidents for resolution; and (c) TAKE APPROPRIATE ACTIONS [on] the remaining thirty-eight (38) dormant cases;

3. WITHHOLD the salaries and other benefits accruing to Judge Macabaya, effective immediately until such time that the Court shall have ordered the restoration of his judicial and administrative functions;

4. DESIGNATE Judge Gil G. Bollozos, RTC, Br. 21, Cagayan de Oro City, Misamis Oriental, Acting Presiding Judge of RTC, Br. 20, Cagayan de Oro City, Misamis Oriental, effective immediately and to continue until further orders from the Court, x x x and

5. ENTITLE Judge Bollozos to x x x traveling expenses with per diems (if applicable), as well as an additional expense allowance and judicial incentive allowance, x x x^[23]

On February 18, 2015, Judge Macabaya filed a Motion for Reconsideration/Explanation^[24] claiming that the penalties imposed upon him were unjust because they were solely based on the Memorandum dated April 17, 2013; that no formal charge had been filed against him, nor had any investigation been conducted relative to any administrative case filed against him. Simply put, Judge Macabaya insisted that he was not given his day in court, as he "was not apprised of any administrative complaint about him."^[25]

Judge Macabaya then filed a Supplemental Explanation to the Motion for Reconsideration^[26] reiterating the arguments he put forward in his MR, and further claiming that some unresolved cases, those filed between 1971 to 2009, had long been submitted for decision, and were well within the extension of time he had requested in his compliance.^[27] Judge Macabaya claimed that the judicial audit