

EN BANC

[**A.M. No. MTJ-05-1572 (Formerly A.M. No. 04-8-208-MTCC), January 30, 2008**]

IN RE: PARTIAL REPORT ON THE RESULTS OF THE JUDICIAL AUDIT CONDUCTED IN THE MTCC, BRANCH 1, CEBU CITY.

D E C I S I O N

PER CURIAM:

EXPOSED in this administrative case are several instances of anomalous conduct that had been occurring in the Municipal Trial Court in Cities (MTCC), Cebu City. The irregularities uncovered were perpetrated and made possible by members and personnel of the judiciary of varying ranks.

This provides a reminder that everyone in the judiciary, from the presiding judge to the lowliest clerk, bears a heavy responsibility in the proper discharge of one's duty. It behooves each one to steer clear of any situation in which the slightest suspicion might be cast on his conduct.^[1]

Professionalism, respect for the rights of others, good manners and right conduct are expected of all judicial officers and employees, because the image of the judiciary is necessarily mirrored in their actions.^[2]

In mid-June of 2004, an audit was conducted in the MTCC, Branch 1, Cebu City. To enable the Court to immediately address the anomalies found, the judicial audit team^[3] submitted a partial report on July 23, 2004 to the Office of the Court Administrator (OCA), recommending that:

1. **Judge Mamerto Y. Coliflores** (Retired), former Presiding Judge, MTCC, Br. 1, Cebu City, be DIRECTED to submit a written explanation to the Court within fifteen (15) days from notice of his acts in:
 - (a) imposing a penalty beyond the jurisdiction of his court upon accused Jimmy Pepito Digawan in Crim. Case No. 118324-R;
 - (b) promulgating two (2) decisions on the same day, i.e. December 4, 2002, in Crim. Case No. 117409-R, in which he imposed two conflicting penalties upon accused Dennis Bugwat Guerrero;
 - (c) deciding Crim. Case No. 108731-R, entitled *People v. Capin*, on March 18, 2003 despite the

absence of [1] the records in the court, and [2] scheduled hearing on said date;

(d) either granting the petitions for bail or in ordering the confinement and rehabilitation of drug dependents or in ordering the release of drug dependents from the drug rehabilitation center in the following cases even if said petitions were not raffled and assigned to Branch 1 as required under Circular No. 7, dated September 23, 1974, and over which his court has no jurisdiction;

Docket No.	Title/Nature	Date Decided
Sp. Proc. No. 01-99	People v. Rico Caja, et al.	Feb. 12, 1999
Sp. Proc. No. 18	Urgent Petition to Post Bail	Sep. 30, 1999
Sp. Proc. No. 04	Petition for Voluntary Submission of Drug Dependent Aljoe Mari Loquinario	Dec. 22, 1999
Sp. Proc. No. 5	Petition for Voluntary Submission of Drug Dependent Ernesto Palanca	Dec. 21, 2000
Sp. Proc. No. 9	Petition for Voluntary Rehabilitation of Mary Annelynne Dungog Abella	June 29, 2001
Sp. Proc. No. 06	Petition for Voluntary Rehabilitation of Drug Dependent Jimmy Escalante Duarte	July 4, 2001
Sp. Proc. No. 10	Petition for Voluntary Rehabilitation of Leo Nick Del Mar	July 5, 2001
Sp. Proc. No. 11	Petition for Voluntary Rehabilitation of Jose Cecil Lim Ormoc	July 6, 2001
Crim. Case 117249	People v. Villaceran	July 10, 2002
Sp. Proc. No. 6 (sic)	Petition for Voluntary Rehabilitation of Drug Dependent Roderick Pakson	March 1, 2003

2. **Judge Anastacio S. Necesario** of the Municipal Trial Court in Cities, Branch 2, Cebu City be DIRECTED to submit a written explanation to the Court within fifteen (15) days from notice of his acts in granting the petition for voluntary rehabilitation of drug dependent Eduardo T. Sia in Sp. Proc. No. 18 (sic) and in ordering the release of drug dependent Froilan W. Sentones in Sp. Proc. No. 16, which cases were taken cognizance of by Branch 1 in violation of Circular No. 7, dated September 23, 1974, and over which

Branch 1 has no jurisdiction;

3. **Mr. Jose A. Legazpi**, Branch Clerk of Court, MTCC, Br. 1, Cebu City, be DIRECTED to SHOW CAUSE within fifteen (15) days from notice why no disciplinary sanction should be taken against him for his:

- (a) willful disregard of Circular No. 7, dated September 23, 1974, requiring all cases filed with the court in multi-sala stations to be assigned or distributed to the different branches by raffle, and which provides that no case may be assigned to any branch without being raffled, when he received and docketed the following cases:

Docket No.	Title/Nature	Date Filed
Sp. Proc. No. 18	Urgent Petition to Post Bail	Sep. 30, 1999
Sp. Proc. No. 04	Petition for Voluntary Submission of Drug Dependent Aljoe Mari Loquinario	Dec. 22, 1999
Sp. Proc. No. 5	Petition for Voluntary Submission of Drug Dependent Ernesto Palanca	Dec. 21, 2000
Sp. Proc. No. 9	Petition for Voluntary Rehabilitation of Mary Annelynne Dungog Abella	June 29, 2001
Sp. Proc. No. 06	Petition for Voluntary Rehabilitation of Drug Dependent Jimmy Escalante Duarte	July 4, 2001
Sp. Proc. No. 10	Petition for Voluntary Rehabilitation of Leo Nick Del Mar	July 5, 2001
Crim Case 117249	People v. Villaceran	July 10, 2002
Sp. Proc. No. 6 (sic)	Petition for Voluntary Rehabilitation of Drug Dependent Roderick Pakson	March 1, 2003
Sp. Proc. No. 18	Petition for Voluntary Rehabilitation of Drug Dependent Eduardo T. Sia	
Sp. Proc. No. 16	Petition for Voluntary Rehabilitation of Drug Dependent Froilan W. Sentones	

- (b) his acts in preparing and subscribing the counter-affidavit of accused Perla Rivera in Crim. Case Nos. 125530-R to 125545-R, despite his knowledge that said cases were at the time pending in Branch 1;

(c) his failure to present to the judicial audit team the cases mentioned in No. 1(d) in the course of the judicial audit on March 21 to 26, 2003;

4. **Ms. Romnie Fernan-Rota**, Clerk II, and **Mr. Roldan Artes**, Court Sheriff III, both of MTCC, Br. 1, Cebu City, be DIRECTED to SHOW CAUSE why no disciplinary action should be taken against them within fifteen (15) days from notice for their acts in receiving the petitions in Sp. Proc. No. 01-99, entitled *People v. Caja, et al.* on February 12, 1999 and Sp. Proc. No. 11, entitled *Petition for Voluntary Rehabilitation of Jose Cecil Lim Ormoc* on July 6, 2001, respectively, in violation of Circular No. 7, dated September 23, 1974, requiring all cases filed with the court in multi-sala stations to be assigned or distributed to the different branches by raffle, and which provides that no case may be assigned to any branch without being raffled;
5. this matter be treated as an administrative complaint against former Judge Mamerto Y. Coliflores, Judge Anastacio S. Necesario, Mr. Jose A. Legazpi, Ms. Romnie Fernan-Rota and Mr. Roldan A. Artes; and
6. the detail of **Mr. Jose A. Legazpi** at the Library of the Regional Trial Court, Cebu City be extended until further orders from this Court.^[4]

In its November 24, 2004 Resolution, the Court resolved to take the recommended course of action, directing those implicated to show cause why no disciplinary action should be taken against them. Respondents Judge Mamerto V. Coliflores (now retired), Judge Anastacio S. Necesario, Mr. Jose A. Legazpi, Ms. Romnie Fernan-Rota and Mr. Roldan A. Artes, all submitted their respective comments.

On March 28, 2005, the Court referred the administrative matter to the OCA for evaluation. Under date of March 27, 2007, the OCA submitted its report. In said report, the OCA found that the evidence did, indeed, point to the existence of the alleged irregularities and that respondents were responsible for them. It thus recommended the following courses of action:

1. **Judge Mamerto Coliflores**, former presiding judge, Municipal Trial Court in Cities, Branch 1, Cebu City, (a) be FOUND GUILTY of gross ignorance of the law and grave misconduct, and (b) that his retirement benefits be FORFEITED, except his accrued leave credits;
2. **Judge Natalio S. Necesario**, Municipal Trial Court in Cities, Branch 2, Cebu City, (a) be FOUND GUILTY of violating a Supreme Court rule, and (b) be FINED in the amount of P11,000.00 with WARNING that a repetition of the same or similar act will be dealt with more severely;
3. **Mr. Jose A. Legazpi**, clerk of court, Municipal Trial Court in Cities, Branch 1, Cebu City, (a) be FOUND GUILTY of grave misconduct, and (b) be DISMISSED from the service with forfeiture of all

benefits, excluding leave credits, and with prejudice to re-employment in any branch or agency of the government including government-owned or controlled corporations;

4. **Ms. Romnie Fernan-Rota**, clerk II, and **Mr. Roldan A. Artes**, Court Sheriff, both of the Municipal Trial Court in Cities, Branch 1, Cebu City are EXONERATED from any administrative liability. They are, however, ADMONISHED to be more circumspect in the performance of their duties to avoid committing acts that are inconsistent with existing laws and procedures as well as with good records management; and
5. (a) The request of **Judge Monalila S. Tecson**, Municipal Trial Court in Cities, Branch 1, Cebu City, to recall the detail of Mr. Jose A. Legazpi at the RTC Library be DENIED; and (b) Judge Tecson be ADVISED to cause the recall of the detail of Ms. Romnie Fernan-Rota at the Office of the Clerk of Court, MTCC, Cebu City, and to designate an acting branch clerk of court from among her staff members.^[5]

Except for some modifications on sanctions to be imposed, We are in accord with the OCA findings. We shall extrapolate from these findings in the discussion below.

Judge Mamerto Coliflores

Now retired Judge Coliflores has been alleged to have committed the following acts:

- 1.) Imposing a penalty beyond the jurisdiction of his court;
- 2.) Promulgating two decisions for the same case on the same day with two conflicting penalties;
- 3.) Deciding a case in the absence of the records and hearing;
- 4.) Granting several petitions for the confinement and rehabilitation or the release of drug dependents even when their cases had not been raffled to his court, hence, without jurisdiction.

Imposing penalty beyond jurisdiction

Under Section 32(2) of Batas Pambansa Blg. 129, as amended, first level courts have exclusive jurisdiction over all offenses punishable with imprisonment not exceeding six (6) years. Judge Coliflores promulgated a sentence in Criminal Case No. 118324-R imposing a penalty of six (6) months and one (1) day of *prision correccional* to six (6) years and one (1) day imprisonment upon the accused. This is a clear violation of the law.

In his letter of June 11, 2004, Judge Coliflores admitted that it was patent error for his court to impose such a penalty beyond its jurisdiction. Further, when required by the Court to comment, he said it was "patent error of judgment duly corrected," adding that then Acting Presiding Judge Econg had already amended his erroneous sentence.