

THIRD DIVISION

[A.M. NO. 04-1-56-RTC, February 17, 2005]

REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE RTC, BRANCHES 2 AND 31.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

"The office of a judge exists for one solemn end – to promote the ends of justice by administering it speedily and impartially."^[1]

This administrative matter stemmed from the Report dated January 15, 2004 on the judicial audit and physical inventory of cases^[2] conducted by the Audit Team of the Court Management Office in the Regional Trial Court, Branches 2 and 31, Tagum City, both presided by Judge Erasto D. Salcedo, who retired compulsorily on November 25, 2003.

The Report shows that Judge Salcedo failed to decide the following cases within the mandatory ninety-day period: (a) Branch 31 – Criminal Cases Nos. 12334 and 13506 and Civil Cases Nos. 2308, 2353, 3568, 3584, SCA-402 and SCA-412; (b) Branch 2 – Criminal Cases Nos. 4254, 8393, 10475, 11324, 12049, 12314, 12791, 12099, 13100 and 13429 and Civil Cases Nos. 3341, 3367, 3552, 3566.

Judge Salcedo also failed to resolve the pending motions/incidents in the following cases: (a) Branch 31 – Criminal Cases Nos. 12080 and 12279; (b) Branch 2 – Civil Cases Nos. 3449, SCA-400, DAR-24-97 and DAR 73-01

The Office of the Court Administrator (OCA), through Deputy Court Administrator (DCA) Christopher O. Lock, sent a memorandum to Judge Salcedo directing him to explain in writing why he failed to dispose of the cases and to resolve the pending motions/incidents within the mandatory period.

Meantime, in his Memorandum^[3] for Chief Justice Hilario G. Davide, Jr. dated January 28, 2004, DCA Lock recommended that the amount of **P100,000.00 be withheld** from the retirement benefits of Judge Salcedo. This amount will serve as an undertaking to whatever sanction this Court may impose upon him.

In his two (2) separate letters^[4] dated February 17, 2004 addressed to DCA Lock, Judge Salcedo explained that he had resolved the cases and motions involved before he retired on November 25, 2003. In fact, he has the highest number of cases (70 cases) decided/resolved in the last quarter of 2003. Attached to his letters are the decisions and orders he penned and the tabulation^[5] of the status of the cases and the reasons for the delay.

In sum, Judge Salcedo's reasons for his failure to dispose of the cases on time are: (a) the numerous cases filed with his salas; (b) he was presiding over two court branches; and (c) the parties have yet to submit their memoranda or comments.

On March 1, 2004, this Court issued a Resolution^[6] directing that the amount of P50,000.00 be withheld from the retirement benefits of Judge Salcedo instead of P100,000.00 originally recommended by DCA Lock.

On April 2, 2004, Court Administrator Presbitero J. Velasco, Jr. submitted a Memorandum/Report^[7] to Chief Justice Hilario G. Davide, Jr. containing the following evaluation and recommendation:

"The Constitution mandates judges to decide cases within ninety (90) days from date of submission. Failure of a judge to comply with his mandate constitutes gross inefficiency and warrants administrative sanction on the defaulting judge.

Judges are expected to keep their own listing or schedule of cases submitted for decision so they could decide them promptly and without delay. Having such list, Judge Salcedo could have foreseen the possibility that he could not decide the cases subject of the audit report within the reglementary period. This Court held in Administrative Matter No. MTJ-99-1232, Rosario D. Adriano vs. Judge Francisco D. Villanueva, that a judge 'cannot escape responsibility just because he had a heavy caseload. Nothing prevented him from seeking additional time to dispose of the case. Within the reglementary period, he could have filed a request for an extension of time, but he did not do so. He must therefore face the consequences of his inefficiency and inaction.'

In the present case, although Judge Salcedo requested for extension of time to decide the cases, the reglementary period to decide had already lapsed when he asked for extension of time. The cases are already beyond the period to decide.

Under Rule 140 of the Rules of Court, the failure of Judge Salcedo to decide the cases and resolve the pending motions constitutes a less serious charge. The offense is sanctioned with suspension without pay for not less than one (1) month but not more than three (3) months, or a fine of more than P10,000.00 but not exceeding P20,000.00. However, since Judge Salcedo was able to decide the aforesaid cases before he retired, it can be a mitigating factor in his liability.

ACCORDINGLY, it is respectfully recommended that retired Presiding Judge Erasto D. Salcedo, formerly of the Regional Trial Court, Branch 31, Tagum City, be **FINED** in the amount of **TEN THOUSAND PESOS (P10,000.00)** for his failure to decide within the mandatory period the following five (5) cases in Branch 31, to wit: Criminal Cases Nos. 123334 and 13506, and Civil Cases Nos. 3568, 3584 and SCA-402, and the following fourteen (14) cases in Branch 2, to wit: Criminal Cases Nos. 4254, 8393, 10475, 11324, 12049, 12314, 12791, 13099, 13100 and 13429, and Civil Cases Nos. 3341, 3367, 3552 and 3566, and for his failure to resolve within the reglementary period the pending