

EN BANC**[MTJ NO. 05-1606, December 09, 2005]****OFFICE OF THE COURT ADMINISTRATOR, PETITIONER, VS.
JUDGE HENRY B. AVELINO, RESPONDENT.****R E S O L U T I O N****GARCIA, J.:**

This administrative matter is a consequence of the judicial audit conducted in the Municipal Circuit Trial Court, Pontevedra-Panay, Capiz presided by Judge Henry B. Avelino. Dated June 28, 2004, the audit report submitted by the Court Management Office, Office of the Court Administrator (CMO-OCA), disclosed a slow movement of cases in the audited court. More specifically, the report contains the following findings:

I CASES submitted for decision:

CRIMINAL CASES		DUE DATE
1.Criminal Case No. 1091	People vs L. Lambarte & E. Lambarte	5-27-96
2.Criminal Case No. 1432	People vs. PO3 E. Bansale	1-26-00
3.Criminal Case No. 1463	People v. G. Tumlos	9-15-03
4.Criminal Case No. 1483	People vs. D. Degala and M. Iclang	10-18-03
5.Criminal Case No. 1817	People vs. J. Manzano	5-20-03
6.Criminal Case No. 1618	People vs. J.Arceño	2-25-04

CIVIL CASES		DUE DATE
1.Civil Case No. 363	Sps. Buenvenida vs. P. Ibarra	12-97
2.Civil Case No. 382	A. Beluso vs. Sps. N. Billones	3-15-02
3. Civil Case No. 412	Sps. G. Penetrante vs. Sps. G. Estinopo	7-12-04
4.Civil Case No. 411	Sps. G. Penetrante vs. Sps. S. Barbacion	7-12-04

II. CASES WITH PENDING MOTION/ INCIDENT FOR RESOLUTION:

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CRIMINAL CASES		DATE SUBMITTED FOR RESOLUTION
1. Criminal Case No. 1818	People vs. L. Blanco	3-9-04
2. Criminal Case No. 1831	People vs. M. Balgas	1-12-03
3. Criminal Case No. 1652	People vs. J. Beldia	8-22-01
4. Criminal Case No. 1523 & 1524	People vs. J. Bertuso	3-8-00
5. Criminal Case No. 964	People vs. R. Espartero & L. Yap	7-24-02
6. Criminal Case No. 1612	People vs. M. Buenvenida	3-21-02
7. Criminal Case No. 1627 & 1628	People vs. SPO4 Bonete, et al.	10-5-01
8. Criminal Case No. 1800	People vs. T. Bolvider	4-6-04
9. Criminal Case No. 1704	People vs. F. Esportuno	2-5-02

CIVIL CASES	
1. Civil Case No. 03-02-362	Bigcas Jr. vs. C. Bernales
2. Civil Case No. 362	F. Bernabe vs. C. Capote
3. Civil Case No. 367	A. Barroquillo vs. Sps. Baticados
4. Civil Case No. 368 & 369	A. Ericshima vs. F. Dullano
5. Civil Case No. 401	R. Avelino vs. O. Guirnela
6. Civil Case No. 344	T. Arrobang vs. L. Dadivas
7. Civil Case No. 391	D. Arcenas, et al. vs. M. Amador
8. Civil Case No. 410	Sps. Bunsalan vs. Sps. Bernales

In addition to the above list, 17 criminal cases and 5 civil cases with no further action, have been pending for a considerable length of time. It was also discovered that the records of Election Protest No. 10 cannot be accounted for examination.

In a Memorandum^[1] dated 6 July 2004, the Office of the Court Administrator (OCA) directed Judge Henry B. Avelino to:

1. **EXPLAIN** the causes of the delay in deciding the following cases within the 90-day reglementary period, to wit: Criminal Case Nos. 1091, 1432, 1463, 1483, 1817, 1618 and Civil Case Nos. 363, 382.
2. **INFORM** the Court whether the following cases which are considered submitted for decision but still within the mandatory period to decide, have already been decided, to wit: Civil Case Nos.

412 and 411 and to submit a copy of the decision.

3. **EXPLAIN** why the pending motions/incidents in the following cases have not been resolved within the reglementary period, namely: Criminal Case Nos. 1831, 1652, 1523, 1524, 964, 1612, 1627, 1628, 1800, 1704 and Civil Case Nos. 03-02-362, 367, 368, 369 and 344.
4. **INFORM** the Court whether the pending motions in the following cases but still within the reglementary period to resolve have already been resolved, to wit: Criminal Case Nos. 1818 and Civil Case Nos. 391 and 410.
5. **EXPLAIN** why the following cases have not been acted upon for a considerable length of time, to wit: Criminal Case Nos. 1825, 1659, 1680, 1681, 1688, 1584, 1624, 1636, 1648, 1605, 1803, 1760, 1766, 1772, 1773, 1774, and 1599 and Civil Case Nos. 359, 378, 390, 397 and 257.
6. **INVESTIGATE** the loss of the records of Election Protest No. 10 and to make a report to the Court.

In compliance, Judge Avelino submitted a Memorandum^[2] dated August 2, 2004 attributing his delay in deciding the cases to lack of computers and resource materials. He likewise justified the slow progress cases in his court to his being designated as Acting Presiding Judge in other first level courts and to hear inhibited cases which allegedly consumed most of his time.

With regards to the investigation he conducted on the loss of records of Election Protest No. 10, Judge Avelino claimed that the records thereof were brought home by former Presiding Judge Mariano M. Malicudio.

It is indisputable that Judge Avelino failed to decide seven (7) cases and to resolve the pending incidents and motions in ten (10) cases within the 90-day reglementary period therefor. He also failed to act on twenty two (22) cases which have been dormant for a considerable length of time. Judge Avelino's failure to promptly dispose of the business of his court undoubtedly reflects on his lack of dedication to the office he had sworn to serve with utmost competence, integrity, honesty and diligence.

Unquestionably, delay in the disposition and resolution of cases constitutes a serious violation of the parties' constitutional right to a speedy disposition of their grievances in court.^[3] Criminal Case No. 1091 (People vs. L. Lambarte) for Grave Oral Defamation was filed on February 14, 1991, and submitted for decision on February 27, 1996 after the accused failed to present his evidence. Yet, on the date of audit in 2004, that case remained unresolved. Eight years of delay in the disposition of said case is unjustifiable. Similarly, Criminal Case No. 1432 (People vs. PO3 E. Bansale and N. Bansale) for slight physical injuries remain undecided for five (5) years, in violation of Section 10 of the Revised Rules on Summary Procedure which directs a judge to decide the case within thirty (30) days from receipt of the last affidavits and position papers, or the expiration of the period for filing the same.