

## FIRST DIVISION

**[ A.M. No. 02-1-27-MCTC, May 07, 2002 ]**

**HOLD-DEPARTURE ORDER ISSUED BY JUDGE SALVADOR M. OCCIANO, MCTC-NABUA, CAMARINES SUR, IN CRIMINAL CASES NOS. 7353 AND 7363.**

### R E S O L U T I O N

**DAVIDE JR., C.J.:**

This administrative matter refers to the Hold-Departure Order issued by Judge-Designate Salvador M. Occiano of the 9<sup>th</sup> Municipal Circuit Trial Court of Nabua-Bato, Camarines Sur, on 3 June 1998 in Criminal Cases Nos. 7353 and 7363 both entitled *People of the Philippines v. Helen S. Zabala, et al.*

The material operative facts are not complicated.

On 3 June 1998, 2<sup>nd</sup> Assistant Provincial Prosecutor Elias Borromeo of Camarines Sur filed in Criminal Cases Nos. 7353 and 7363 a motion for the issuance of a hold-departure order against Helen S. Zabala. On the same day, respondent judge issued the hold-departure order and forthwith furnished the Commissioner of the Commission on Immigration and Deportation (CID) a copy thereof.

On 22 June 1998, Commissioner Homobono A. Adaza of the CID referred to Honorable Serafin V. Cuevas, Secretary of the Department of Justice (DOJ), for appropriate action the hold-departure order issued by respondent judge. Secretary Cuevas, in turn, referred for appropriate action to Court Administrator Alfredo L. Benipayo the said order, considering that pursuant to Supreme Court Circular No. 39-97 a hold-departure order may be issued by a Regional Trial Court only.

In his Comment, respondent judge justified his action by claiming that his court had the inherent power to issue a hold-departure order notwithstanding Supreme Court Circular No. 39-97, which provides that a hold-departure order may be issued by a Regional Trial Court and only in criminal cases within its exclusive jurisdiction. Moreover, in issuing the subject order he had in mind "solely the interest of justice, fair play and above all, so as not to frustrate the expeditious trial and early termination of these cases."

Deputy Court Administrator Jose P. Perez recommends that respondent judge be reprimanded for having issued the order in violation of Circular No. 39-97, which limits the authority to issue hold-departure orders to criminal cases falling within the jurisdiction of the Regional Trial Courts. He also noted that in MTJ-96-1104 entitled "*Francisco Bolilan v. Judge Salvador M. Occiano*," respondent judge was meted the penalty of suspension from office for six months without pay; and in OCA IPI No. 01-1049-MTJ entitled "*Mercedita M. Arenas vs. Judge Salvador Occiano*" which is still pending investigation, respondent is charged with gross ignorance of the law.