

EN BANC

[A.M. No. 95-6-55-MTC, July 28, 1997]

**RE: REPORT ON AUDIT AND PHYSICAL INVENTORY OF THE
RECORDS OF CASES IN THE MUNICIPAL TRIAL COURT OF
PEÑARANDA, NUEVA ECIJA.**

[A.M. NO. P-96-1173. JULY 28, 1997]

**TERESITA ASTILLAZO, COMPLAINANT, VS. ROLANDO JAMLID,
CLERK OF COURT, MTC-PEÑARANDA, NUEVA ECIJA, RESPONDENT.**

D E C I S I O N**PER CURIAM:**

Before the Court are two consolidated administrative matters which originated from an audit and physical inventory of the pending cases in the Municipal Trial Court of Peñaranda, Nueva Ecija conducted by a team from the Office of the Court Administrator composed of Valeriano P. Pobre, Digna C. Palafox, and Samuel R. Ruñez, Jr.

On May 10, 1995, the said audit team submitted its report with the following findings:

The docket of the said Court disclosed the following number of cases:

Civil Cases	-----16
Election Cases	----- 1
Criminal Cases	----- 71

Of the 16 Civil Cases, Civil Cases Nos. 08-94, 09-94, 10-94, 11-94, 12-94 and of the 71 Criminal Cases, Criminal Cases Nos. 46-94, 47-94, 48-94, 49-94, 51-94, 59-94, 60-94, 61-94, 62-94 and 63-94 will be remanded to the Regional Trial Court for they were inadvertently transferred to the Municipal Trial Court before the effectivity of the expanded jurisdiction of the Municipal Trial Court.

No initial action was taken on the following criminal cases

No.	Nature	<u>Date Filed</u>
05-95	Viol. of P.D. 1602	1-17-95
07-95	Mal. Mischief	1-30-95
66-94	Viol. of BP 22	8-10-94
95-94	Viol. of PD 1602	12-27-94
90-94	Viol. of PD 1602	11-22-94
59-94	Assault upon an agent of a person in authority	7-19-94
01-95	Oral Defamation	1-16-95

No further action was taken on the following criminal cases after the issuance of Warrant of Arrest:

<u>No.</u>	<u>Nature</u>	<u>Date Filed</u>	<u>Date of W/A</u>
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51-93	Grave Threats	12-14-94	6-28-94
44-93	Estafa	10-21-93	6- 7-94
31-92	Grave Threats	7-23-93	6-28-94
05-93	Estafa	3- 2-93	6-28-94
18-93	Acts of Lasciviousness	5-18-93	6-28-94
32-93	Grave Threats	7- 8-93	9- 8-94
68-94	Tax Evasion	8-24-94	8-25-94
44-94	Estafa	7-12-94	8- 4-94
79-94	Frust. Homicide	10-11-94	10-13-94
30-94	Q. Trespass to Dwel.	10-13-94	10-13-94
76-94	Assault Upon an Agent of a Person in Authority	9-28-94	10-11-94
14-94	Estafa	3-17-94	3-22-94
37-94	Q. Theft	6- 7-94	3-14-94
40-94	Estafa	6- 9-94	7- 9-94
81-94	Acts of Lasc.	10-13-94	11- 8-94
92-94	Mal. Mischief	12-15-94	1-17-95

Criminal Case No. 23-94 filed on April 4, 1994 is deemed submitted for decision upon the filing of the last position paper of the litigants on July 27, 1994 and up to now no decision was ever made.

All the other criminal and civil cases are still pending either in the Preliminary Investigation stage or under trial.

It was also discovered during the audit that in Criminal Case No. 78-94 for Homicide under Preliminary Investigation was Provisionally Dismissed per Order dated January 2, 1995 based on an Affidavit of Desistance executed by the complaining witness after being partially paid the amount of P35,000.00 receipt of which is reflected at the back of the minute of the Order of dismissal. The team came into possession of official receipt with No. 6625649 M dated November 11, 1994 issued by the Clerk of Court. Showing the amount of P30,000.00 purporting to be a cash deposit which was a part of the consideration to be paid to complainant for the Provisional Dismissal of the case. Said deposit was never reported to our Revenue Collection Section of the Accounting Division, this Office nor the local Office of the Treasurer. When confronted with this problem, the Clerk of Court of the court under

audit, admitted that the said amount is in his possession and promised to return the same to the depositor.

Verification made with the Statistics Division of this Office shows that the Quarterly Report ending March 31, 1994 was certified correct by an illegible signature above the printed Presiding Judge. A comparison of the signature of Judge Rodolfo de Guzman from previous reports with that of the illegible signature shows that these signatures are totally different and made by different persons.

Considering that Judge Rodolfo De Guzman has resigned upon filing his certificate of candidacy for Mayor in the town of Jaen, Nueva Ecija on March 21, 1995 it is impossible that he could have certified to the correctness of the Quarterly Report of the Court under audit which report was received by the Statistics Division of this Office on May 4, 1995.

(pp. 1-2, *Rollo*.)

Based on said findings, the Office of the Court Administrator, in its Memorandum dated May 10, 1995, made the following recommendations:

Judge Rodolfo R. de Guzman has been in the government service, exclusively as Judge since June 1, 1971 more than 23 years and being more than 60 years of age, born on November 25, 1934, is qualified to the benefits of RA 910, as amended, should he apply for retirement under said law. To date no such application was ever received by this office.

It was also worth mentioning that Judge Rodolfo R. de Guzman has five (5) pending administrative cases against him, *viz*:

1. R-73 MTJ – Falsification of Records;
2. R-91 MTJ – Ignorance of the Law;
3. R-328 MTJ – Ignorance of the Law;
4. MTJ-89-288 – Corrupt Practices;
5. MTJ-93-850 – Gross Ignorance of the Law.

Recommendation:

In view of the above findings, it is respectfully recommended that:

- 1) Whatever retirement benefits due Judge Rodolfo De Guzman be withheld to answer for any penalty that may be imposed by the Court for:
 - a) Not deciding Criminal Case No. 23-94 which has been deemed submitted beyond the 90 day period;
 - b) No initial action was ever taken on Criminal Cases Nos.05-95, 07-95, 66-94, 95-94, 90-94 and 59-94; and
 - c) No further action was taken on the Criminal Cases after Warrants of Arrest were issued against the accused, and after service of which returned unserved.
- 2) The Clerk of Court, Rolando R. Jamlid be made to explain his undue interference in the Provisional Dismissal of Criminal Case No. 78-94 for promised monetary consideration to the complainant and the latter's failure to report on our Revenue Collection Section of the Accounting Division of the cash deposit in the amount of ₱ 30,000.00

covered by official receipt No.6625649 M dated November 11, 1994 purporting to be a part of the monetary consideration to be paid to the complainant for the dismissal of the above case;

3) Judge GEMINIANO A. ECUARDO, Presiding Judge of Municipal Trial Court, of General Tinio, Nueva Ecija having the least number of cases in its docket and the nearest Municipal Trial Court, be designated to act as a Presiding Judge of the Municipal Trial Court of Peñaranda, Nueva Ecija in addition to his present duties. These Courts are under the same territorial administrative jurisdiction of RTC, Gapan, Nueva Ecija.

4) The Clerk of Court, Rolando R. Jamlid be made to explain the forged signature of the Presiding Judge who certified to the correctness of the Quarterly Report of the Court under audit for the period ending March 31, 1995.

(pp. III-IV, *Rollo*.)

In resolution dated June 27, 1995, the Court resolved to: 1) DIRECT the Fiscal Management and Budget Officer to WITHHOLD retirement benefits of respondent Judge de Guzman to answer for any penalty that may be imposed for: (a) not deciding Criminal Case No. 23-94 which was deemed submitted beyond the 90 day period; (b) not taking any initial action on Criminal Cases No. 05-95, 07-95, 66-94, 95-94, 90-94, and 59-94; and (c) not taking further action on the criminal cases after warrants of arrest were issued against the accused, after service of which were returned unserved; 2) DIRECT respondent Jamlid to EXPLAIN his undue interference in the provisional dismissal of Criminal Case No. 78-94 for promised monetary consideration to the complainant and his failure to report the Revenue Collection of the Accounting Division of the cash deposit in the amount of P 30,000.00 covered by Official Receipt No. 6625649M, dated November 11, 1994, purporting to be a part of the monetary consideration to be paid to the complainant for the dismissal of the aforesaid criminal case; 3) DESIGNATE Presiding Judge Geminiano A. Eduardo, Municipal Trial Court, General Tinio, Nueva Ecija, having the least number of cases in its docket and the nearest Municipal Trial Court, to act as Presiding Judge of the Municipal Trial Court, Peñaranda, Nueva Ecija, in addition to his present duties; and 4) DIRECT respondent Jamlid to EXPLAIN. Within ten days from notice, the forged signature of the Presiding Judge who certified to the correctness of the Quarterly Report of the court for the period ending March 31, 1994 (p. 4, *Rollo*).

The Office of the Court Administrator was then furnished a copy of an undated letter of Ms. Teresita Astillazo, demanding from respondent Jamlid the release of the cash deposit made in Criminal Case No. 78-94 in the sum of P30,000.00 covered by OR No. 6625649M issued on November 11, 1994. The demand was made in view of the dismissal of the case and the cancellation of bailbond in an order dated January 2, 1995.

Acting thereon, on the Office of the Court Administrator referred the matter to respondent Jamlid for comment. However, despite due notice, respondent Jamlid failed to file his comment which prompted this Court's Third Division to issue a Resolution dated August 28, 1995 suspending him from the office for a period of one month and ordering him to file his comment within ten days from notice, with warning that failure to do so will be dealt with more severely.

In the meantime, by way of compliance with Resolution of June 27, 1995, respondent Jamlid filed a reply-letter dated July 31, 1995 stating that:

1. Criminal Case No. 23-94, this case was not decided by then former Presiding Judge Rodolfo R. De Guzman within the prescribed 90 day period

due to the fact that it was forgotten despite our reminder to him.

2. Criminal Cases Nos. 05-95, 95-94, 90-94, these cases were not acted upon by Judge Rodolfo de Guzman despite subpoena was issued against the accused and per return of service of the Process Server, all the accused were not contacted.

3. Criminal Case No. 7-95, this case was being settled by Judge Eduardo and the parties have agreed for an amicable settlement when this case was set for hearing last June 13, 1995.

4. Criminal Case No. 66-94, this case was dismissed last April 20, 1995.

5. Criminal Case No. 59-94, the records of this case was already forwarded to the RTC, Gapan, Nueva Ecija last March 14, 1995.

6. With regards to the cash deposits of P30,000.00 intended to be given to the complainant in Crim. Case No. 78-94 which was deposited by one Teresita Astillazo, I have already talked to her that I be given up to August 30, 1995 to settle the said obligation.

7. With regards to the alleged forged signature of Judge Geminiano A. Eduardo in our quarterly report of cases ending March 31, 1995, the said signature was not forged but it was the true signature of Judge Geminiano Eduardo as attested by our Court Interpreter, a copy of her certification is hereto attached.

(p. 6, *Rollo*.)

On the other hand, respondent Judge de Guzman, in his letter dated August 9, 1995, sought reconsideration of the June 27, 1995 Resolution insofar as it withheld his retirement benefits, citing the following grounds:

1. Criminal Case No. 23-94 was never deemed submitted for decision on the merits: (a) because the defense has not presented any evidence yet; (b) the court cannot decide the case on mere position paper; (c) while admittedly the court *a quo* did not resolve the move, no formal or unwritten motion to resolve was ever filed; (d) it is clear under the law that the procedure in the MTC should be the same as with the RTC;

2. Criminal Cases Nos. 05-95, 90-94, and 95-94, subpoenas were issued but they were not served as it is likely that the accused gave fictitious names. Under the premises, the cases should be archived;

3. Criminal Case No. 66-94 is related to Criminal Cases Nos. 41-94, 42-94 and 43-94 which he disposed by amicable settlement. The dismissal of the said cases were realized only on April 20, 1990, for which account, the parties did not appear anymore when the case was set for hearing;

4. Criminal Case No. 07-95 was likewise amicably settled. The settlement was, however, not realized because of his separation from the service on March 21, 1995;

5. Criminal Case No. 59-94 was elevated to the RTC as it falls under the latter's jurisdiction; and

6. On the cases where no further action were taken after the service of notice were returned unserved, the Court should await the "number of