



Republic of the Philippines  
**Supreme Court**  
Manila

**SECOND DIVISION**

**OFFICE OF ADMINISTRATIVE  
SERVICES-OFFICE OF THE  
COURT ADMINISTRATOR,**

Complainant,

**A.M. No. MTJ-10-1770**

(formerly A.M. OCA IPI No. 10-2255-MTJ)

Present:

CARPIO, *J.*, Chairperson,  
BRION,  
ABAD,  
SERENO, and  
REYES, *JJ.*

- versus -

**JUDGE IGNACIO B. MACARINE,**  
Municipal Circuit Trial Court, Gen.  
Luna, Surigao del Norte,  
Respondent.

Promulgated:

JUL 18 2012 *HMabala*

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**DECISION**

**BRION, *J.*:**

The Office of the Court Administrator (OCA) filed the present administrative case against Judge Ignacio B. Macarine (respondent) for violation of OCA Circular No. 49-2003<sup>1</sup> dated May 20, 2003.

OCA Circular No. 49-2003 requires that all foreign travels of judges and court personnel, regardless of the number of days, must be with prior permission from the Court. A travel authority must be secured from the OCA. Judges must submit the following requirements:

Justice Roberto A. Abad was designated as additional member in lieu of Justice Jose P. Perez per Raffle dated July 16, 2012.

<sup>1</sup> Guidelines on Requests for Travel Abroad and Extensions for Travel Stay Abroad.

[1.] application or letter-request addressed to the Court Administrator stating the purpose of the travel abroad[;]

[2.] application for leave covering the period of the travel abroad, favorably recommended by the Executive Judge[; and]

[3.] certification from the Statistics Division, Court Management Office, OCA as to the condition of the docket[.]<sup>2</sup>

The complete requirements should be submitted to and received by the OCA at least two weeks before the intended time of travel. No action shall be taken on requests for travel authority with incomplete requirements.<sup>3</sup> Judges and personnel who shall leave the country without travel authority issued by [the OCA] shall be subject to disciplinary action.<sup>4</sup>

On August 13, 2009, the respondent wrote then Court Administrator, now Associate Justice Jose Portugal Perez, requesting for authority to travel to Hongkong with his family for the period of September 10 - 14, 2009 where he would celebrate his 65<sup>th</sup> birthday. The respondent stated that his travel abroad shall be charged to his annual forced leave. However, he did not submit the corresponding application for leave. For his failure to submit the complete requirements, his request for authority to travel remained unacted upon. The respondent proceeded with his travel abroad without the required travel authority from the OCA.

On January 28, 2010,<sup>5</sup> the respondent was informed by the OCA that his leave of absence for the period of September 9-15, 2009 had been disapproved and his travel considered unauthorized by the Court. His absences shall not be deducted from his leave credits but from his salary corresponding to the seven (7) days that he was absent, pursuant to Section 50 of the Omnibus Rules on Leave.<sup>6</sup> The respondent was also required to

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<sup>2</sup> *Id.*, paragraph B1.

<sup>3</sup> *Id.*, paragraph B2.

<sup>4</sup> *Id.*, paragraph B4.

<sup>5</sup> Letter of Court Administrator Jose Midas P. Marquez.

<sup>6</sup> *Effect of unauthorized leave.* - An official/employee who is absent without approved leave shall not be entitled to receive his salary corresponding to the period of his unauthorized leave of absence. It is understood however, that his absence shall no longer be deducted from his accumulated leave credits, if there are any.

submit his explanation on his failure to comply with OCA Circular No. 49-2003.

In his letter-explanation dated February 25, 2010, the respondent narrated that his daughter, a nurse working in New Jersey, USA, gave him a trip to Hongkong as a gift for his 65<sup>th</sup> birthday. In the first week of September 2009, he received a call from his daughter that she had already booked him, together with his wife and two sons, in a hotel in Hongkong from September 13 to 15, 2009. They flew in to Manila from Surigao City on September 9, 2009, intending to prepare the necessary papers for his authority to travel at the Supreme Court the following day. However, sensing time constraint and thinking of the futility of completing the requirements before their scheduled flight, he opted not to immediately complete the requirements and simply went ahead with their travel abroad. He thought of submitting his compliance upon his return to Manila. He acknowledged his mistake and regretted his failure to comply with OCA Circular No. 49-2003. He promised not to commit the same infraction again. He further requested for reconsideration of the OCA's intended action to deduct his salary corresponding to the seven (7) days that he was absent, instead of charging his absences to his leave credits.

In an Evaluation Report dated September 6, 2010, the OCA found the respondent guilty of violation of OCA Circular No. 49-2003 for traveling out of the country without filing the necessary application for leave and without first securing a travel authority from the Court. The OCA recommended:

- a) this matter be **RE-DOCKETED** as a regular administrative matter;
- b) Judge Ignacio B. Macarine, MCTC, Gen. Luna, Surigao del Norte, be **FINED** in the amount of ₱5,000.00 for Violation for Circular No. 49-2003 dated May 20, 2003; and

c) the Financial Management Office, Finance Division, OCA, be **DIRECTED** to **DEDUCT** the amount equivalent to the seven (7) days salary of Judge Ignacio Macarine as a result of his disapproved and unauthorized leave of absence pursuant to Section 50, Omnibus Rules on Leave, without deducting his leave credits thereof. [emphases supplied]

True, the right to travel is guaranteed by the Constitution. However, the exercise of such right is not absolute. Section 6, Article III of the 1987 Constitution allows restrictions on one's right to travel provided that such restriction is in the interest of national security, public safety or public health as may be provided by law. This, however, should by no means be construed as limiting the Court's inherent power of administrative supervision over lower courts. OCA Circular No. 49-2003 does not restrict but merely regulates, by providing guidelines to be complied by judges and court personnel, before they can go on leave to travel abroad. To "restrict" is to restrain or prohibit a person from doing something; to "regulate" is to govern or direct according to rule.

To ensure management of court dockets and to avoid disruption in the administration of justice, OCA Circular No. 49-2003 requires a judge who wishes to travel abroad to submit, together with his application for leave of absence duly recommended for approval by his Executive Judge, a certification from the Statistics Division, Court Management Office of the OCA, as to the condition of his docket, based on his Certificate of Service for the month immediately preceding the date of his intended travel, that he has decided and resolved all cases or incidents within three (3) months from date of submission, pursuant to Section 15(1) and (2), Article VIII of the 1987 Constitution.<sup>7</sup>

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<sup>7</sup> Section 15. (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.

(2) A case or matter shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the Rules of Court or by the court itself.

For traveling abroad without having been officially allowed by the Court, the respondent is guilty of violation of OCA Circular No. 49-2003. Under Section 9(4), Rule 140 of the Revised Rules of Court, violation of Supreme Court directives and circular is considered a less serious charge and, therefore, punishable by suspension from office without salary and other benefits for not less than one (1) month nor more than three (3) months; or a fine of more than ₱10,000.00 but not exceeding ₱20,000.00.<sup>8</sup>

Section 53, Rule IV of the Revised Rules on Administrative Cases in the Civil Service grants the disciplining authority the discretion to consider mitigating circumstances in the imposition of the proper penalty. The Court had in several instances refrained from imposing the actual penalties in the presence of mitigating facts, such as the employee's length of service, acknowledgement of his or her infractions and feelings of remorse for the same, advanced age, family circumstances, and other humanitarian and equitable considerations.

In the present case, the respondent, after learning that his daughter had already booked him and his family in a hotel in Hongkong, immediately went to Manila to secure his travel authority from the Court. However, with the short period of time from their arrival in Manila on September 9, 2009 up to the time of their booking in Hongkong from September 13 to 15, 2009, he was pressed for time and opted not to complete the required travel authority, with the intention of securing one after his travel. The respondent regretted his failure to comply with the requirements of OCA Circular No. 49-2003. He acknowledged his mistake and promised not to commit the same infraction in the future.

We consider the outlined circumstances as mitigating. Following judicial precedents, the respondent deserves some degree of leniency in imposing upon him the appropriate penalty.

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<sup>8</sup> Section 11(B1 &2), Revised Rules of Court.

**WHEREFORE**, respondent Judge Ignacio B. Macarine, Municipal Circuit Trial Court, Gen. Luna, Surigao del Norte, is hereby given the **ADMONITION** that he acted irresponsibly when he opted not to immediately secure a travel authority and is saved only from the full force that his violation carries by the attendant mitigating circumstances. He is also **WARNED** that the commission of a similar violation in the future will merit a more severe penalty. The recommendation of the Office of the Court Administration that his absences, which were unauthorized, shall not be deducted from his leave credits but from his salary is hereby **APPROVED**.

**SO ORDERED.**

**ARTURO D. BRION**  
Associate Justice

**WE CONCUR:**

**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson

**ROBERTO A. ABAD**  
Associate Justice

**MARIA LOURDES P. A. SERENO**  
Associate Justice

**BIENVENIDO L. REYES**  
Associate Justice