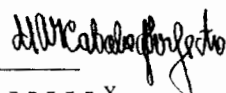


## SECOND DIVISION

A.M. No. MTJ-10-1770 (Formerly A.M. OCA IPI No. 10-2255-MTJ) OFFICE OF ADMINISTRATIVE SERVICES—OFFICE OF THE COURT ADMINISTRATOR, *Complainant*, v. JUDGE IGNACIO B. MACARINE, Municipal Circuit Trial Court, General Luna, Surigao del Norte, *Respondent*.

Promulgated:

JUL 18 2012 

x-----x

### DISSENTING AND CONCURRING OPINION

**SERENO, J.:**

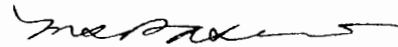
The *ponencia* holds respondent Judge Ignacio B. Macarine (Judge Macarine) administratively liable for violating Office of the Court Administrator (OCA) Circular No. 49-2003, which directs judges and court personnel to submit the complete requirements for foreign travel two weeks before their intended departure. I agree with the imposition of a penalty on Judge Macarine for his failure to (a) file an application for leave and (b) submit a report on the conditions of the docket pending in his sala prior to his travel abroad. However, I do not agree that he should be penalized for his failure to request a travel authority from the OCA.

The policy of the Court requiring judges and court personnel to secure a travel authority must be re-examined. As stated in the Dissenting Opinion of Senior Associate Justice Antonio T. Carpio, the Guidelines on Request for Travel Abroad of all Members and Personnel of the Appellate Courts and Trial Courts, and Officials and Personnel of the Supreme Court and the Office of the Court Administrator<sup>1</sup> call for a “wholistic review of the guidelines for travels abroad of all members and personnel of the Judiciary.”

<sup>1</sup> A.M. No. 12-6-13-SC, 13 June 2012.

Requiring judges and court personnel prior submission of a request for travel authority impairs their right to travel, a constitutional right that cannot be unduly curtailed. During the approved leave of absence of a judge or court personnel, he or she should be accorded the liberty to travel within the country or abroad, as any other citizen, without this Court imposing a requirement to secure prior permission therefor.<sup>2</sup> Moreover, the Court cannot inquire into the purpose of the intended travel of a judge or court personnel, as doing so would be an unwarranted interference into his or her private affairs.<sup>3</sup>

Thus, Judge Macarine should not be held administratively liable for his failure to secure a permit to travel prior to his intended departure, as such action would amount to an unjustified restriction to his constitutional right to travel. However, on account of his failure to file (a) an application for leave and (b) a report on his caseload prior to his travel abroad, I agree that he should be admonished.



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

---

<sup>2</sup> See Dissenting Opinion of Senior Associate Justice Antonio T. Carpio in *Leave Division, Office of Administrative Services-OCA v. Heusdens*, A.M. No. P-11-2927, 13 December 2011.

<sup>3</sup> *Id.*