



PHILJA E-Alerts

The PHILJA Electronic Alerts is published by the Research, Publications and Linkages Office of the Philippine Judicial Academy, with office at the 3rd Floor of the Supreme Court Centennial Building, Padre Faura Street corner Taft Avenue, Manila.

Tel. No: 02 5529524 Fax No: 02 5529621

E-mail address

philja@sc.judiciary.gov.ph
research_philja@yahoo.com

Website address

<http://philja.judiciary.gov.ph>

PHILIPPINE JUDICIAL ACADEMY

Justice Adolfo S. Azcuna
Chancellor

Dean Sedfrey M. Candelaria
*Head, Research, Publications
and Linkages Office*

Atty. Ma. Melissa R. Dimson-Bautista
Editor

Editorial, Research and Circulation
*Research, Publications
and Linkages Office*

Issue 18-12
December 2018

Guidelines on administrative liabilities of justices, judges and court personnel.

The Court is aware that in previous cases, it had indeed applied Section 50, Rule 10 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS) in imposing penalties on erring judges who were found guilty of multiple administrative charges or counts. x x x

In contrast, in another set of cases x x x, the Court had imposed separate penalties on respondent judges who were found guilty of two or more offenses. x x x

Recognizing these diverging strands of jurisprudence, the Court finds it opportune to herein settle the conflict by resolving that henceforth, **in administrative cases involving judges and justices of the lower courts, the respondent shall be charged and penalized under Rule 140 of the Rules of Court, and accordingly, separate penalties shall be imposed for every offense.** The penalty provisions under the RRACCS shall not apply in such cases. x x x

Fundamentally, the setting of parameters pertaining to the discipline of all court personnel, including judges and justices, clearly fall within the sole prerogative of the Court. The Supreme Court's exclusive authority to set these parameters is based on no other than the 1987 Constitution, which provides:

ARTICLE VIII

SEC. 6. The Supreme Court shall have **administrative supervision over all courts and the personnel** thereof.

In this relation, Section 11, Article VIII of the Constitution particularly states that “[t]he Supreme Court *en banc* shall have the power to discipline judges of lower courts, or order their dismissal x x x.”

Anchored on these constitutional mandates, the Court issued two separate bodies of rules to govern judicial discipline cases, to wit: (a) **Rule 140 of the Rules of Court to apply to judges and justices of lower courts**; and (b) **the Code of Conduct for Court Personnel (CCCP)**, which incorporates the RRACCS, **to apply to all judiciary personnel “who are not justices or judges.”** Each shall be discussed in turn.

In its present form, Rule 140 of the Rules of Court is entitled, “Discipline of Judges of Regular and Special Courts and Justices of the Court of Appeals and the *Sandiganbayan*.” As its titular heading denotes, Rule 140 was crafted to specifically govern the discipline of judges and justices of the lower courts, providing therein not only a distinct classification of charges but also the applicable sanctions. A perusal of the offenses listed therein shows that they are broad enough to cover all kinds of administrative charges related to judicial functions, as they even **include violations of the codes of conduct for judges, as well as of Supreme Court directives.** It is likewise apparent that the list of offenses therein includes even violations of the civil service

rules, such as acts of dishonesty, gambling in public, and engaging in partisan political activities. The Court therefore holds that violations of civil service laws and rules are subsumed under the charges enumerated in Rule 140 of the Rules of Court. x x x

x x x x

Hence, in resolving administrative cases against judges or justices of the lower courts, reference need only be made to Rule 140 of the Rules of Court as regards the charges, as well as the imposable penalties. **If the respondent judge or justice is found liable for two or more charges, separate penalties shall be imposed on him/her** such that Section 50 of the RRACCS shall have no application in imposing sanctions.

On the other hand, as regards other court personnel who are not judges or justices, the CCCP governs the Court's exercise of disciplinary authority over them. It must be pointed out that the CCCP explicitly incorporates civil service rules, x x x.

x x x x

Hence, offenses under civil service laws and rules committed by court personnel constitute violations of the CCCP, for which the offender will be held administratively liable. However, considering that the CCCP does not specify the sanctions for those violations, the Court has, **in the exercise of its discretion,** adopted the penalty provisions under existing civil service rules, such as the RRACCS, including Section 50 thereof.

Accordingly, in cases where a respondent court personnel had committed multiple infractions, the Court has applied Section 50 of the RRACCS. x x x

Consistent with these cases, the Court resolves that in administrative cases wherein the **respondent court personnel commits multiple administrative infractions, the Court, adopting Section 50 of the RRACCS, shall impose the penalty corresponding to the most serious charge, and consider the rest as aggravating circumstances.**

Thus, to summarize the foregoing discussion, the following **guidelines** shall be observed:

- (a) Rule 140 of the Rules of Court shall exclusively govern administrative cases involving **judges or justices of the lower courts.** If the respondent judge or justice of the lower court is found guilty of multiple offenses under Rule 140 of the Rules of Court, the Court shall impose **separate penalties for each violation;** and
- (b) The administrative liability of court personnel (who are not judges or justices of the lower courts) shall be governed by the Code of Conduct for Court Personnel, which incorporates, among others, the civil service laws and rules. If the respondent **court personnel** is found guilty of multiple administrative offenses, the Court shall **impose the penalty corresponding to the most serious charge, and the rest shall be considered as aggravating circumstances.**

The multiplicity of penalties to be imposed on judges and justices is consistent with the higher level of decorum expected from them. Nevertheless, it must be pointed out that the guidelines herein set forth are based on the prevailing legal framework in judicial discipline cases, which the Court may, in its discretion, eventually revise through the proper administrative issuance. After all, the power of supervision over all judiciary personnel is exclusively vested in the Court. **[A.M. No. RTJ-18-2520 (Formerly OCA I.P.I. No. 14-4296-RTJ), October 9, 2018]**

JUDGES

- **Gross ignorance of the law; Undue delay in rendering an order**

“To be able to render substantial justice and maintain public confidence in the legal system, judges should be embodiments of competence, integrity[,] and independence. Judges are also expected to exhibit more than just a cursory acquaintance with statutes and procedural rules and to apply them properly in all good faith. Judges are likewise expected to demonstrate mastery of the principles of law, keep abreast of prevailing jurisprudence, and discharge their duties in accordance therewith.”

In this case, respondent’s “cease and desist” Order issued on November 19, 2010 was, as the OCA had correctly pointed out, in the nature of a TRO. However, the aforesaid order failed to justify the necessity for its issuance, as it merely issued the directive to the Clerk of Court, acting as *Ex Officio* Sheriff, and the Deputy Sheriff without stating the reasons therefor. Likewise, it did not specify any period for its effectivity, in essence making the same indefinite. These omissions on respondent’s part are contrary to the provisions of Section 5, Rule 58 of the Rules of Court, which provides:

SEC. 5. Preliminary injunction not granted without notice; exception. – No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that **great or irreparable injury would result to the applicant before the matter can be heard on notice**, the court to which the application for preliminary injunction was made, **may issue a temporary restraining order to be effective only for a period of 20 days from service** on the party or person sought to be enjoined, except as herein provided. Within the said 20-day period, the court must order said party or person to show cause, at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order. x x x

However, and subject to the provisions of the preceding sections, if the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of a multiple-sala court or the presiding judge of a single sala court may issue *ex parte* a temporary restraining order effective for only 72 hours from issuance but he shall immediately comply with the provisions of the next preceding section as to service of summons and the documents to be served therewith. Thereafter, within the aforesaid 72 hours, the judge before whom the case is pending shall conduct a summary hearing to determine whether the temporary restraining order shall be extended until the application for preliminary injunction can be heard. **In no case shall the total period of effectivity of the temporary restraining order exceed 20 days, including the original 72 hours provided herein.** x x x

x x x x

In issuing an indefinite cease and desist order, respondent clearly failed to observe the rules and restrictions regarding the issuance of a TRO, which are basic tenets of procedure, and hence, renders him administratively liable for gross ignorance of the law. Case law states that “when a law or a rule is basic, judges owe it to their office to simply apply the law.” It is of no moment that he was motivated by good faith or acted without malice, as these affect his competency and conduct as a judge in the discharge of his official functions. According to jurisprudence, gross ignorance of the law or incompetence cannot be excused by a claim of good faith.

Similarly, the Court finds respondent guilty of undue delay in rendering an order for his failure to expeditiously resolve the pending incidents in Civil Case No. XX-YY-ZZ despite complainant’s repeated motions for early resolution. In fact, it was only when the case was

transferred to another judge that it was finally acted upon. Likewise, his explanation for archiving the case on the ground that the parties were in the process of entering into an amicable settlement does not justify the prolonged inaction thereon, in light of the provisions of Administrative Circular No. 7-A-92 or the “Guidelines in the Archiving of Cases,” which provides that a case may be archived only for a period not exceeding 90 days, after which, it shall be immediately included in the trial calendar after the lapse thereof. Respondent’s failure to perform his judicial duty with reasonable promptness in this respect clearly contravenes the provisions of Sections 3 and 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary. x x x

Respondent judge was found guilty of gross ignorance of the law and was ordered to pay a fine of P30,000. Likewise, he was found guilty of undue delay in rendering an order and was imposed a fine of P11,000. He was sternly warned that a repetition of the same or similar offenses shall be dealt with more severely. **[A.M. No. RTJ-18-2520 (Formerly OCA I.P.I. No. 14-4296-RTJ), October 9, 2018]**

SHERIFFS

- **Simple neglect of duty**

It is hornbook law that “[a] sheriff who enforces the writ without the required notice or before the expiration of the three-day period runs afoul with Section 10(c) of Rule 39.” Thus it is provided –

SEC. 10. Execution of judgments for specific act. –

x x x x

(c) *Delivery or Restitution of Real Property.* – The officer shall demand of the person against whom the judgement for the delivery or restitution of real property is rendered and all persons claiming rights under him to peaceably vacate the property within three working days, and restore possession thereof to the judgment obligee; otherwise, the officer shall oust all such persons therefrom with the assistance, if necessary, of appropriate peace officers, and employing such means as may be reasonably necessary to retake possession, and place the judgment obligee in possession of such property. Any costs, damages, rents or profits awarded by the judgment shall be satisfied in the same manner as a judgment for money.

In *Calaunan v. Madolaria*, this Court ruled that “[f]ailure to observe the requirements of Section 10(c), Rule 39 of the Rules of Court constitutes simple neglect of duty, which is a less grave offense punishable by 1 month and 1 day to 6 months suspension” pursuant to Section 52(6)(1), Revised Uniform Rules on Administrative Cases in the Civil Service. Indeed, under Section 46(D)(1), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS), which applies to the instant case, simple neglect of duty is classified as a less grave offense and is punishable by suspension for 1 month and 1 day to 6 months for the first offense, and dismissal from the service for the second offense.

At the risk of belaboring a point, while it is settled that respondent sheriff’s duty to implement the writ was ministerial, it is equally settled that it was respondent sheriff’s mandated duty to first demand that A peaceably vacate the subject lot within three working days after service of the writ.

With respect to the proper penalty, this Court notes that the OCA had appreciated one extenuating circumstance, *i.e.* “[respondent’s] violation of the procedure in the implementation of the writ is not so grave and absent a showing of malice and bad faith.” Under Section 49(a), Rule 10 of the RRACCS, “the minimum of the penalty shall be imposed where only mitigating

and no aggravating circumstances are present.” Hence, suspension for 1 month and 1 day should be the appropriate imposable penalty. Even then, it has been held in some cases that suspension would not be practical as respondent’s work would be left unattended, for which reason a fine may be imposed instead, so that he can perform the duties of his office without interruption. Corollary thereto, it has been held that since sheriffs are actually discharging frontline functions, the penalty of fine may be imposed in lieu of suspension from office pursuant to Section 47(1)(b), Rule 10 of the RRACCS.

Respondent sheriff was found guilty of simple neglect of duty and was ordered to pay a fine equivalent to 1 month and 1 day of his salary, computed on the basis of his salary at the time the decision became final and executory. ***[A.M. No. P-18-3875 (formerly OCA I.P.I. No. 16-4577-P), October 3, 2018]***