



# Supreme Court of the Philippines Philippine Judicial Academy



## ***PHILJA Fax/Electronic Alerts***

Issue 13-07  
July 2013

### **Judges: Gross Misconduct**

Section 1, Canon 2 of the New code of judicial conduct for the Philippine judiciary states that “judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer.”

Respondent judge had a drinking spree with the litigant who had a pending application for probation in his sala which act violates said Section 1, of Canon 2 of the New Code of Judicial conduct.

For gross misconduct, respondent judge was fined P40,000.00 to be deducted from his retirement benefits. **(A.M. No. RTJ-05-1962, October 17, 2013)**

### **Electrician: Grave misconduct due to his use of prohibited drug**

Section 36, paragraph (d) of Republic Act 9165 provides:

(d) Officers and employees of public and private offices. – Officers and employees of public and private offices, whether domestic or overseas, shall be subjected to undergo random drug test as contained in the company’s work rules and regulations, which shall be borne by the employer, for purposes of reducing the risk in the workplace. Any officer or employee found positive for use of dangerous drugs shall be dealt with administratively which shall be a ground for suspension or termination, subject to the provisions of Article 282 of the Labor Code and pertinent provisions of the Civil Service.

Respondent electrician’s use of prohibited drugs violated the norms of conduct for public service. By indulging in the use of illegal drugs, he committed conduct unbecoming of court personnel which tarnished the very image and integrity of the Judiciary.

For the use of prohibited drug, respondent was dismissed from the service with forfeiture of all benefits and with prejudice to re employment in the government including GOCC’s. **(A.M. No. 2013-08-SC, October 8, 2013)**

Section 7, Rule III of the Implementing Rules and Regulations of Republic Act No. 10154 not applicable to the Judiciary.

The Supreme Court in A.M. No. A. M. No. 13-09-08-SC, dated October 1, 2013, ruled that Section 7, Rule III of the Implementing Rules and Regulations of Republic Act No. 10154 is not applicable to the Judiciary. Said ruling follows:

“Before the Court is a Memorandum dated September 18, 2013 from Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer, Office of Administrative Services of the Supreme Court, requesting guidance/clarification on the applicability to the Judiciary of Section 7, Rule III of the Implementing Rules and Regulations of Republic Act. No. (RA) 10154 which states:

Section 7, Rule III of the Implementing Rules and Regulations of Republic Act No. 10154 not applicable to Court employees

**Section 7. Notice of Pendency of Case.** The retiring employee shall seek clearance of Pendency/Non-Pendency of Administrative Case from his/her employer agency, or in case of presidential appointees, from the Office of the President.

Section 6, Article VII of the 1987 Philippine Constitution (Constitution) exclusively vests in the Court administrative supervision over all courts and court personnel. As such, it oversees the court personnel's compliance with all laws and takes the proper administrative action against them for any violation thereof. As an adjunct thereto, it keeps in its custody records pertaining to the administrative cases of retiring court personnel.

In view of the foregoing, the Court rules that the subject provision - which requires retiring government employees to secure a prior clearance of pendency/non-pendency of administrative case/s from, among others, the CSC – should not be made to apply to employees of the Judiciary. To deem it otherwise would disregard the Court's constitutionally-enshrined power of administrative supervision over its personnel. Besides, retiring court personnel are already required to secure a prior clearance of the pendency/non-pendency of administrative case/s from the Court which makes the CSC clearance as superfluous and non-expeditious requirement contrary to the declared state policy of RA 10154.

To further clarify the matter, the same principles dictate that a prior clearance of pendency/non-pendency of administrative case/s from the Office of the President albeit some court personnel are presidential appointees, e.g. supreme court Justices) or the Office of the Ombudsman should not equally apply to retiring court personnel. Verily, the administrative supervision of court personnel and all affairs related thereto fall within the exclusive province of the Judiciary.

It must, however, be noted that since the Constitution only accords the Judiciary administrative supervision over its personnel, a different treatment of the clearance requirement obtains with respect to criminal cases. As such, a clearance requirement which pertains to criminal cases may be imposed by the appropriate government agency, *i.e* the Office of the Ombudsman, on retiring court personnel as it is a matter beyond the ambit of the Judiciary's power of administrative supervision.

**WHEREFORE**, the requirement of seeking a Clearance of Pendency/Non-Pendency of Administrative Case from the Civil Service Commission embodied in Section 7, Rule III of the Implementing Rules and Regulations of the Republic Act No. 10154 is declared **INAPPLICABLE** to retiring employees of the Judiciary.

**(A.M. No. A. M. No. 13-09-08-SC, dated October 1, 2013)**

***Philippine Judicial Academy***

***Chancellor***

*Adolfo S. Azcuna*

***Founding Chancellor Emeritus***

*Ameurфина A. Melencio Herrera*

***Head, Research, Publication and Linkages Office (RPLO)***

*Prof. Sedfrey M. Candelaria*

***Editors***

*Dean Eulogia M. Cueva*

*Atty. Orlando B. Cariño*

***Staff***

*Nennette G. Zaldivar*

*Rodrigo G. Javier*

The *PHILJA Fax/Electronic Alerts* is issued monthly by the RPLO of the Philippine Judicial Academy with offices at the 3<sup>rd</sup> Floor of the Supreme Court Centennial Building, Taft Avenue, Manila. Tel. No. (02)552-9518; Telefax; (02)552-9621, E-mail address: [research\\_philja@yahoo.com](mailto:research_philja@yahoo.com). For link to e-library: [elibrary.judiciary.gov.ph](http://elibrary.judiciary.gov.ph).

If you have any Fax No. or E-mail address, please let us know so we could send the "Alerts" direct to you.