



PHILJA E-Alerts

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JUDGE

- **Resolutions of the Supreme Court cannot be overturned by mere agreement among judges; proper penalty for lower court judges and Justices found guilty of multiple offenses; gross ignorance of the law and violation of A.M. No. 03-3-03-SC dated July 8, 2014**

In the Judicial Audit Report dated June 2, 2015, the judicial team headed by Atty. A released its findings against respondent judge, to wit:

1. The court failed to transfer the following commercial cases, which have not yet reached the trial stage, to Branch FFF, Regional Trial Court, XXX City, after Branch GGG was relieved of its designation as a Special Commercial Court, in violation of the Court's Resolution dated July 8, 2014 in A.M. No. 03-3-03-SC, which was received by the court on July 18, 2014, directing Branch GGG to transfer all commercial cases to Branch FFF, except those cases in the trial stage and those already submitted for decision.

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After being directed by Deputy Court Administrator Jenny Lind R. Aldecoa-Delorino, through a Memorandum dated June 2, 2015, respondent judge offered the following explanations:

1. As to the failure to transfer commercial cases, which have not yet reached the trial stage, to Branch FFF, RTC, XXX City—respondent judge did not deny knowing about A.M. No. 03-3-03-SC which ordered his court to transfer all its commercial court cases to Branch FFF. He justified the delay in the transfer, however, in this wise:
 - (a) [T]he agreement between Judge D of Branch FFF and Judge E in the presence of Attys. B and C that all commercial cases which commenced trial in whatever stage [including conduct of hearing on TRO/Injunction] shall remain in Branch GGG;
 - (b) [T]he pagination of numerous volumes of case folders is a tedious process and takes time to accomplish. [He claimed that], it takes about two to three days to paginate a four-volume case before it can be forwarded to the Office of the Clerk of Court for re-affle; and
 - (c) [T]he failure of the Executive Judge and the OCA to react to his letter informing them of the agreement mentioned above. [He pointed out] that had he been informed [about] any infirmity in the retention of the cases, he would have acted accordingly [with the order of the OCA. Moreover,] except for Case Nos. RRRR and SSSS which were undergoing JDR before Branch HHH, the six other commercial cases subject of this administrative

matter were transferred to Branch FFF on May 27 and 28, 2015, or after the conduct of the judicial audit, pursuant to A.M. No. 03-3-03-SC.

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Whether respondent judge is guilty of gross ignorance of the law and of violation of Supreme Court rules, directives, and circulars.

We adopt the recommendation of the OCA which found respondent judge guilty of four counts of gross ignorance of the law under Section 8, paragraph 9, Rule 140 of the Rules of Court and of violation of a Supreme Court directive under Section 11(B), Rule 140 of the Rules of Court. However, we deem it proper to modify the penalty to conform to recent jurisprudence.

The reasons offered by respondent judge as to the delay in the transfer of the subject commercial cases to Branch FFF cannot be countenanced. Respondent judge was well aware of the Resolution in A.M. No. 03-3-03-SC, a copy of which was received by his court on July 18, 2014, 10 months prior to the conduct of the judicial audit in May 2015. However, he disregarded the said Resolution based on his purported agreement between Judges D and E that all commercial cases which have commenced trial shall remain with Branch GGG.

Moreover, he never presented his letter to the OCA, which allegedly informed the OCA about the agreement, and even passed the blame on said office for not acting on the purported letter. Such kind of reasoning is unacceptable as the Resolution is categorical in ordering the transfer of all commercial cases in his *sala* to Branch FFF. Resolutions of the Supreme Court cannot be overturned by mere agreement among judges.

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In sum, the Court finds respondent judge liable for: (1) violation of A.M. No. 03-3-03-SC dated July 8, 2014 when he deliberately failed to transfer eight commercial cases to Branch FFF; and (2) four counts of gross ignorance of the law and procedure when he (a) transferred cases for JDR to Branch HHH without conducting the first stage of judicial proceedings, including JDR, in violation of the Consolidated and Revised Guidelines to Implement the Expanded Coverage of CAM and JDR; (b) ordered the consolidation of Civil Case No. UUUU pending in his court with Civil Case No. VVVV pending in Branch JJJ, RTC, XXX City, in violation of Section 1, Rule 31 of the Rules of Court; (c) issued a TRO that was effective beyond the 20-day period prescribed in Section 5, Rule 58 of the Rules of Court and Administrative Circular No. 20-95 in Civil Case No. ZZZZ; and (d) issued a TRO against the DOTC in SP M-QQQ, in violation of Section 3 of RA No. 8975.

It is important to note that previously, respondent judge was found guilty in two other administrative cases. In A.M. No. RTJ-14-2410, a Resolution was issued on March 11, 2015 which found him guilty of gross ignorance of the law, gross inefficiency and serious misconduct, for which he was fined P10,000. Likewise, in a Resolution dated September 14, 2016 in A.M. No. RTJ-16-2474, he was found guilty of undue delay in resolving a motion in violation of the Code of Judicial Conduct and was fined P20,000 with a stern warning that repetition of the same or similar act shall be dealt with more severely.

Over and above that, respondent judge has nine pending administrative cases. x x x

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Anent the imposition of the proper penalty on respondent judge, Section 11(A), Rule 140 of the Rules of Court provides that a serious charge, such as Gross Ignorance of the Law, may be punishable by: (a) dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned and controlled corporations, provided, however, that the forfeiture of benefits shall in no case include accrued leave credits; (b) suspension from office without salary and other benefits for more than three, but not exceeding six months; or (c) a fine of more than P20,000, but not exceeding P40,000.

On the other hand, Section 11(B) of the same Rule provides that a less serious charge, such as Violation of Supreme Court Rules, Directives, and Circulars, may be punishable by: (a) suspension from office without salary and other benefits for not less than one nor more than three months; or (b) a fine of more than P10,000, but not exceeding P20,000.

As aptly observed by Senior Associate Justice Estela M. Perlas-Bernabe during the deliberations on this case, the Court, in *Boston Finance and Investment Corp. v. Gonzales*, has held that “[i]f 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.”

Accordingly, as penalty for the first count of Gross Ignorance of the Law and in view of his supervening retirement (which obviates the implementation of the penalty of dismissal from service), the Court deems it proper to **forfeit all of respondent judge’s retirement benefits except accrued leave credits**, and likewise impose the **accessory penalty of disqualification from reinstatement or appointment to any public office, including government-owned and controlled corporations**.

In addition, the Court imposed the following: (a) for the other three counts of Gross Ignorance of the Law, fines in the amount of P40,000 each; and (b) for his violation of A.M. No. 03-3-03-SC dated July 8, 2014, a fine in the amount of P20,000, **respondent judge is therefore fined a total of P140,000**, which amount is to be deducted from his accrued leave credits. In case his leave credits are insufficient, the OCA is directed to order respondent judge to pay within 10 days from notice, the said amount.

The Court found respondent judge guilty of four counts of gross ignorance of the law, as well as of violation of A.M. No. 03-3-03-SC dated July 8, 2014. Accordingly, as explained above, all his retirement benefits except accrued leave credits, were forfeited. He was further meted with the accessory penalty of disqualification from reinstatement or appointment to any public office, including government-owned and controlled corporations. In addition, he was fined the total amount of P140,000, to be deducted from his accrued leave credits. In case his leave credits were insufficient, the Office of the Court Administrator was directed to order respondent judge to pay within 10 days from notice, the said amount. **[A.M. No. RTJ-20-2578 (Formerly A.M. No. 19-11-268-RTC), January 28, 2020]**

CASHIER III

- **Serious Dishonesty: Using a falsified Certificate of Civil Service Professional Level Eligibility**

Respondent cashier currently holds the position of Cashier III, Checks Disbursement Division, Financial Management Office, Office of the Court Administrator. He has worked with the Court in different capacities for almost 35 years.

Acting on confidential reports that he did not actually pass the Civil Service Professional Examination, the Office of Administrative Services (OAS) discovered that his 201 File did not

bear a Certificate of his Civil Service Professional Level Eligibility. What his 201 File contained was his Letter dated October 4, 1999 which he submitted to the Court's Selection and Promotion Board, claiming he had a Civil Service Professional Level Eligibility in support of his application for the position of Cashier II. His 201 file also contained several Personal Data Sheets which he submitted to the Court. In all these Personal Data Sheets, he declared that he obtained a rating of 80.51% in the May 16, 1999 Civil Service Professional Examination.

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The CSC consistently confirmed that respondent cashier obtained a fail rating of 36.51% in the May 16, 1999 Civil Service Professional Examination as shown by its Master List of Passing/Failing Examinees in the May 16, 1999 Civil Service Professional Examination. More, respondent cashier's name does not appear in its Regional Register of Eligibles. These official records bear the highest probative value. Every entry found therein is presumed genuine and accurate, unless proven otherwise.

There is no doubt, therefore, that respondent cashier's Certificate of Civil Service Professional Level Eligibility dated May 31, 1999 is spurious. His act of using a falsified Certificate of Civil Service Professional Level Eligibility for the purpose of securing employment with the Court and later supporting his bid for promotion constitutes falsification of official document and serious dishonesty.

In the absence of a satisfactory explanation, a person who has in his or her possession or control a falsified document and who makes use of the same, is presumed to be the forger or the one who caused its forgery.

Here, respondent cashier is presumed to have falsified his Certificate of Civil Service Professional Level Eligibility dated May 31, 1999. Notably, respondent cashier did not adduce any single piece of evidence to rebut this presumption. He is, thus, guilty of falsification of official document.

On the charge of serious dishonesty, we reckon with the basic definition of dishonesty. It is the disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray. Although dishonesty covers a broad spectrum of conduct, CSC Resolution No. 06-0538 sets the criteria for determining the severity of dishonest acts.

According to Section 3 of CSC Resolution No. 06-0538, for dishonesty to be considered serious, any of the following circumstances must be present:

1. The dishonest act caused serious damage and grave prejudice to the government;
2. The respondent gravely abused his authority in order to commit the dishonest act;
3. Where the respondent is an accountable officer, the dishonest act directly involves property; accountable forms or money for which he is directly accountable; and respondent shows intent to commit material gain, graft and corruption;
4. The dishonest act exhibits moral depravity on the part of the respondent;
5. **The respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment;**
6. **The dishonest act was committed several times or on various occasions;**

7. **The dishonest act involves a Civil Service examination irregularity or fake Civil Service eligibility such as, but not limited to, impersonation, cheating and use of crib sheets.**
8. Other analogous circumstances.

Here, 5, 6, and 7 characterized respondent cashier's act of dishonesty. He employed fraud and/or falsification in falsely declaring under oath that he was a Civil Service Professional Level Eligible. He committed this act of dishonesty on various occasions. Last, his act of dishonesty involved the use of a fake Certificate of Civil Service Professional Level Eligibility. He, therefore, becomes liable for serious dishonesty.

Section 50 of the Revised Rules on Administrative Cases in the Civil Service classifies both falsification of official document and serious dishonesty as grave offenses that warrant the penalty of dismissal from the service.

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Respondent cashier was found liable for the administrative offenses of falsification of official document and serious dishonesty. Thus, he was dismissed from the service. The Court also ordered the forfeiture of all of his retirement benefits, except accrued leave credits and is perpetually banned from reemployment in any branch or instrumentality of the government, including any government-owned or controlled corporations. **[A.M. No. 2019-18-SC, January 28, 2020]**

CLERK III

- **Grave Misconduct: Removing documents in *custodia legis*; gross neglect of duty**

In this case, the Court finds that the complaint sufficiently proved with substantial evidence that respondent clerk committed grave misconduct. Respondent clerk admitted that she removed the subject titles and tax declarations as property bonds in Criminal Case Nos. AAAA and BBBB and delivered these official court documents to Atty. X, former counsel of accused. These documents are under *custodia legis* and should not have been taken by any court employee for personal reasons and without authorization from the court. Respondent clerk even concealed her acts by making it appear that the property bonds of the accused were intact. She also admitted that she tampered with the RTC Order dated October 5, 2006, by not reflecting that the tax declarations of her properties were used for the property bonds of these cases to hide her transgressions.

The explanation she gave for unlawfully taking the subject titles and tax declarations in *custodia legis* is utterly insufficient. She claimed that she delivered the said documents in order to help the accused, who are mostly labor farmers. However, this is completely unsubstantiated and it is absolutely unjustified to tamper with court records without proper authority. Thus, respondent clerk's taking of the court documents is a grave misconduct because it is an unlawful behavior or intentional wrongdoing; and there was a clear intent to violate the law when she took great steps to conceal her offenses.

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Section 46, Rule 10 of the Revised Rules of Administrative Cases in the Civil Service (RRACCS) classifies grave misconduct and gross neglect of duty as grave offenses punishable by dismissal from the service even on the first violation. Section 52(a) of the RRACCS states that the penalty of dismissal shall carry with it the cancellation of eligibility, forfeiture of retirement

benefits, and perpetual disqualification from holding public office and bar from taking civil service examinations.

Respondent clerk pleads that the Court exercise its compassion in imposing the penalty against her and to consider her 25 years of service in the Judiciary wherein she had not been previously involved in any irregularity.

However, a review of respondent clerk's administrative records shows that the present case is her third infraction. In the first administrative case filed against her, docketed as A.M. OCA IPI No. P-94-1010, respondent clerk was charged with gross ignorance of the law and negligence in the performance of duty and was reprimanded by the Court. In the second administrative case, respondent clerk was found guilty of simple neglect of duty and was reprimanded. Nevertheless, the Court sternly warned her that commission of the same or similar acts in the future shall be dealt with more harshly.

Accordingly, the Court cannot appreciate respondent clerk's years of service to mitigate her liability due to the gravity of her offenses and the past transgressions she had committed. Time and again, the Court warned respondent clerk that she will be disciplined harshly if she committed similar or graver offenses. However, she did not heed the Court's warning, thus, the ultimate penalty of dismissal must be imposed against her.

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The Court found respondent clerk guilty of grave misconduct and gross neglect of duty. She was dismissed from service with cancellation of civil service eligibility, perpetual disqualification from holding public office, and forfeiture of retirement benefits, except accrued leave credits ***[A.M. No. P-19-4021 (Formerly OCA IPI No. 15-4410-P), January 15, 2020]***