



# PHILJA E-Alerts

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## CLERK OF COURT

- **Dishonesty as to educational attainment and falsification of a public document are serious offenses punishable by dismissal from the service**

The Court affirms the OCA's recommendation. We also uphold Judge A's findings and conclusions, which were arrived at after an extensive investigation.

In a case with similar facts, *De Guzman v. Delos Santos*, the Court held that:

ELIGIBILITY TO PUBLIC OFFICE x x x must exist at the commencement and for the duration of the occupancy of such office; it is continuing in nature. Qualification for a particular office must be possessed at all times by one seeking it. An appointment of one deemed ineligible or unqualified gives him no right to hold on and must through due process be discharged at once.

x x x x

We recently ruled that making a false statement in a Personal Data Sheet required under Civil Service Rules and Regulations for employment in the government amounts to dishonesty and falsification of an official document which warrant dismissal from the service upon commission of the first offense. The Court reasoned that the "accomplishment of the Personal Data Sheet being a requirement under the Civil Service Rules and Regulations in connection with employment in the government, the making of an untruthful statement therein was therefore intimately connected with such employment[.] x x x"

In *Aquino v. The General Manager of the Government Service Insurance System*, this Court speaking through Associate Justice Jose B. L. Reyes ruled that misrepresentation by a government employee as to his educational attainment contained in a sworn application for civil service examination is an act of dishonesty and is expressly made a ground for disciplinary action under the Civil Service Rules. Acts of this kind, which combine both perjury and falsification of an official document, infirm a public officer's integrity and reliability, qualities that are necessarily connected with the discharge of his functions and duties.

x x x x

We have repeatedly said that persons involved in the dispensation of justice, from the highest official to the lowest clerk, must live up to the strictest standards of integrity, probity, uprightness, honesty and diligence in the public service. This Court will not tolerate dishonesty for the judiciary expects the best from all its employees who must be paradigms in the administration of justice. An employee who falsifies an official document to gain unwarranted advantage over other more qualified applicants to the same position and secure the sought-after promotion cannot be said to have measured up to the standards required of a public servant. While we commiserate with respondent who has been in the judiciary for 26 years and who may have been simply motivated by a desire

to improve his family's lot, we simply cannot condone the means resorted to which was not justified by its end. x x x

x x x x

Under the laws governing our civil service, dishonesty is classified as a grave offense the penalty of which is dismissal from the service at the first infraction. For having misrepresented the fact that he was a college graduate when in reality he was not, we are constrained to hold respondent liable for dishonesty by misrepresentation and falsification of an official document. As an accessory penalty, his retirement benefits are forfeited due to the falsehood and deceit that have marked his assumption into office, traits that are undesirable and unbecoming of a public officer or employee. With respect to accrued leave credits, there must be a distinction between credits earned prior to December 10, 1991 and those earned from December 10, 1991 to the present. Delos Santos is entitled to credits earned prior to December 10, 1991, if any, as he was employed in positions for which he was qualified. Credits earned from December 10, 1991 to the present, if any, are forfeited for the reason that his ineligibility to assume positions requiring a Bachelor's degree retroacts to the date of his appointment as Information Officer I on December 10, 1991.

Public office is a public trust. A public officer or employee does not merely have an obligation to obey and respect the law; it is his sworn duty to do so. Assumption of public office is impressed with the paramount public interest that requires the highest standards of ethical conduct. A person aspiring to public office must observe honesty, candor and faithful compliance with the law. Nothing less is expected. This ideal standard ensures that only those of known probity, competence and integrity are called to the challenge of public service.

Here, Judge A determined that respondent clerk of court is not a college degree holder and he misrepresented this fact in his PDS when he applied for the Clerk of Court position. The Court concurs with her findings and conclusion on dishonesty and falsification of a public document. The dishonesty is serious in nature as it affects his eligibility as Clerk of Court.

Following our ruling in *Boston Finance and Investment Corp. v. Gonzalez*, we apply the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS) on the imposition of penalty.

[O]ffenses under civil service laws and rules committed by court personnel constitute violations of the [Code of Conduct for Court Personnel], 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.

Section 50, paragraph A, Rule 10 of the 2017 RACCS classifies serious dishonesty as a grave offense and is punishable by dismissal from the service.

The Court found respondent clerk of court guilty of serious dishonesty and falsification of a public document and was dismissed from the service with forfeiture of all retirement benefits, except accrued leave credits from September 1, 1986 to August 10, 2005. The Court likewise declared him perpetually disqualified from holding public office in any branch or instrumentality of the government, including government-owned or controlled corporations. The Office of the Court Administrator was directed to file the appropriate criminal charges against respondent clerk of court. This decision is immediately executory. **[A.M. No. P-19-4024 (Formerly OCA IPI No. 09-3282-P), December 3, 2019]**

## **SHERIFF**

- **Grave misconduct**

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. It is intentional wrongdoing or deliberate violation of a rule of law or standard of behavior and to constitute an administrative offense, the misconduct should relate to or be connected with the performance of the official functions and duties of a public officer. In order to differentiate gross misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, and not a mere error of judgment, or flagrant disregard of established rule, must be manifest in the former.

In a long line of cases, this Court has held that solicitation or receiving money from litigants by court personnel constitutes grave misconduct. Under Section 46 (A) of Revised Rules on Administrative Cases in the Civil Service, this is punishable by dismissal from service even for the first offense. While there are cases in which the Court has mitigated the imposable penalty for humanitarian reasons and other considerations such as length of service, acknowledgment of infractions, feelings of remorse, and family circumstances, none of these is applicable to the case at hand. Hence, respondent's dismissal is proper.

After a judicious study of the case, the Court finds no reason to depart from the findings and recommendation of the Office of the Court Administrator that the evidence on record sufficiently demonstrate respondent sheriff's culpability for grave misconduct. This being an administrative proceeding, the quantum of proof necessary for a finding of guilt is only substantial evidence, or such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. This requirement has been met in this case.

In the instant case, it is clear that in the afternoon of February 29, 2012, respondent sheriff contacted A through a series of text messages regarding B's Motion to Declare Defendants in Default in Civil Case No. XXXXX-YYY then pending before Branch CCC of Z City. x x x

x x x x

Consequently, when B and respondent sheriff met the next day, it was there that respondent intimated to B that they can have the Order in Civil Case No. XXXXX-YYY reversed in favor of complainant B for a fee, x x x

x x x x

C, who accompanied B at that time, confirmed that respondent sheriff extorted money from B in his testimony during cross-examination after showing the order denying the motion of complainant, x x x

x x x x

On the other hand, a reading of the respondent sheriff's Comment shows that he vehemently denies all the alleg[a]tions hurled against him stating that no one in Branch X has the courage to even talk to the Judge regarding any of the pending cases. Aside from that, respondent sheriff avers that, as sheriff, his position does not authorize him to influence the court proceedings and that his only participation in the proceedings is to implement the orders of the court against its litigants.

In sum, there are three acts where the respondent sheriff can be made liable for. First, communicating to a litigant who had a pending case in court where he was assigned; Second, showing a court order, which was not yet released to the parties, to persons who were not privy

thereto, in violation of Section 1, Canon II of the New Code of Judicial Conduct; and Third, making it appear that he could influence a judge to modify or change the prepared order in exchange for money, which constitutes grave misconduct.

The Court has always emphasized that all members of the judiciary should be free from any whiff of impropriety, not only with respect to their duties in the judicial branch but also to their behavior outside the court as private individuals, in order that the integrity and good name of the courts of justice be preserved. Court personnel cannot take advantage of the vulnerability of desperate party-litigants for monetary gain.

Grave misconduct merits dismissal. In some cases, the court exercised its discretion to assess mitigating circumstances such as length of service or the fact that a transgression might be the first infraction of respondent. However, due to the gravity of the acts of respondent, no mitigating circumstances can be appreciated.

Throughout the years this court has received many complaints from party-litigants against court employees extorting money from them. This court has already heard various reasons given by court employees for receiving money from party-litigants. However, there is no defense that could justify asking or receiving money from party[-]litigants. The act itself makes court employees guilty of grave misconduct. They must bear the penalty of dismissal.

Employees of the judiciary should be guided to be circumspect in the way they conduct themselves both inside and outside the office. Any scandalous behavior or any act that may erode the people's esteem for the judiciary is unbecoming of an employee and may not be countenanced. Any transgression or deviation from established norm of conduct, work related or not, amounts to a misconduct.

Respondent sheriff was found guilty of grave misconduct and was dismissed from the service immediately, with forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to his reemployment in any branch or agency of the government, including government-owned or controlled corporations. **[A.M. No. P-14-3188 (Formerly OCA IPI No. 12-3879-P), January 28, 2020]**

#### **SHERIFF AND COURT STENOGRAPHER**

- **Grave misconduct and conduct prejudicial to the best interest of the service**

At the outset, the procedural issue raised by both respondent stenographer and respondent sheriff—that the person who filed the complaint, BBB's mother, was not a real party-in-interest in this case and had no personal knowledge of the facts and circumstances surrounding BBB's complaint—is unmeritorious. For one, BBB had affirmed and confirmed the contents of her Letter-Complaint during the hearing conducted by Executive Judge X, thus, the allegations therein were no longer hearsay. Moreover, as correctly pointed out by the OCA, jurisprudence dictates that the issue in administrative cases is not whether the complainant has a cause of action against the respondent, but whether the employee concerned has breached the norms and standards of the judiciary. Thus, the fact that BBB was not the one who filed the complaint is irrelevant in the case at bar.

Moving on to the substantial issues, the Court finds that respondent sheriff is guilty of grave misconduct. Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law, or to disregard established rules, which must be established by substantial evidence. Under the

2011 Revised Rules on Administrative Cases in the Civil Service (2011 RRACCS), grave misconduct is punishable by dismissal from service for the first offense.

X X X X

Here, the evidence shows that respondent sheriff had asked and received money from BBB and made her believe that he could finish the annulment process within 6 months to 1 year. Respondent sheriff had also used his previous assignment with the Family Court to convince BBB and even dropped the name of his wife, Fiscal C, who would supposedly help them speed up the process. It is apparent that BBB would not have parted with her money if not for these misrepresentations. Considering that the circumstances herein are analogous to *Pinlac*, and the acts herein are even more unscrupulous than the acts in said case, the Court finds that the act of respondent sheriff in asking and receiving money from BBB as some sort of a package deal for the purported speedy processing of the annulment proceedings constitutes grave misconduct.

On the other hand, as correctly highlighted by Executive Judge X, there was no clear showing that respondent stenographer had received any share from the money given by BBB. While respondent stenographer's acts may not squarely fall under the definition of "fixing" tantamount to grave misconduct since his participation did not involve the acceptance of fees, the Court finds that respondent stenographer should still be held administratively liable.

Conduct prejudicial to the best interest of the service refers to acts or omissions that violate the norm of public accountability and diminish, or tend to diminish, the people's faith in the judiciary. Respondent stenographer cannot extricate himself from liability by claiming that he merely accommodated BBB's request. From the facts, it is apparent that his acts and representations led to the negotiations between BBB and respondent sheriff. By getting personally involved, respondent stenographer had transgressed the strict norm of conduct prescribed for court employees, that is, to avoid any impression of impropriety, misdeed, or misdemeanor, not only in the performance of his duty, but also in conducting himself outside or beyond his duties. It bears stressing that he must still maintain a hands-off attitude in dealing with party-litigants as an employee of the judiciary. Because his acts had, in effect, compromised the integrity of the service and jeopardized the public's faith in the impartiality of the courts, he should be held administratively liable for conduct prejudicial to the best interest of the service, which is punishable under the 2011 RRACCS by suspension of 6 months and 1 day to 1 year for the first offense.

As the OCA correctly pointed out, several circumstances should be appreciated in favor of respondent stenographer, namely: the length of his service, the lack of clear showing that he had received any share from the money given by BBB, and the lack of showing that he had taken advantage of his position. There is no basis, however, for the OCA to further reduce his penalty to one month. Section 49(a) of the 2011 RRACCS states that the minimum of the penalty shall be imposed where only mitigating and no aggravating circumstances are present. Because there are only mitigating circumstances in favor of respondent stenographer, the minimum of the penalty, *i.e.*, suspension of 6 months and 1 day should be imposed.

Respondent sheriff was found guilty of grave misconduct punishable with dismissal from the service with forfeiture of all his retirement and other benefits, except accrued leave credits, with prejudice to reemployment in any government office, including government-owned and controlled corporations. Respondent sheriff was further directed to immediately restitute the money given to him by complainant amounting to P150,000, which shall be subject to the interest rate of 6 percent *per annum* from the finality of this Resolution until full payment.

The Court found respondent stenographer guilty of conduct prejudicial to the best interest of the service and was suspended for a period of 6 months and 1 day from notice. **[A.M. No. P-20-4042 (Formerly OCA IPI No. 16-4624-P), January 28, 2020]**

#### **LEGAL RESEARCHER AND CLERK**

- **Grave misconduct and soliciting and accepting money and gifts in connection with a transaction affecting their official functions**

Here, CCC, who worked in the Local Civil Registrar, would meet potential litigants in need of legal assistance in their problems with regard to birth certificates. He would refer them to respondent legal researcher and respondent clerk, who were both working in the RTC which has jurisdiction to resolve a petition for collection/cancellation of entries in a birth certificate. Respondent legal researcher, as a law graduate, would prepare the necessary pleading and documents. She would ask Atty. E of PAO to sign the pleading. Respondent clerk, as civil cases docket clerk, would handle the mailing, publication, and sending of court processes. In short, respondents were fixers, and they carry out this arrangement for a fee.

As correctly held by Judge F, respondents violated several provisions of A.M. No. 03-06-13-SC or the Code of Conduct for Court Personnel (Code), promulgated on April 13, 2004:

x x x x

Respondent legal researcher and respondent clerk demanded P9,000 from AAA for the preparation and filing of a petition in court. Not satisfied, respondent legal researcher further solicited gifts from her. Asking and accepting money and goods on top of their compensation is prohibited. Worse, they did so to assist a party in initiating a special proceeding in the court. Their actions violated the code on fidelity to duty and conflict of interest.

As it happened, AAA's petition was raffled to RTC, Branch X, where respondents are working. There was a conflict of interest between the expectation to deliver positive results for having prepared the pleading, and the expectation to be impartial and faithful to their duties as personnel. Evidently, respondents violated two canons of the code.

II. Section 1, Canon I on Fidelity to Duty and Section 1, Canon IV on Performance of Duties:

#### **CANON I** Fidelity to Duty

**SECTION 1.** Court personnel shall not use their official position to secure unwarranted benefits, privileges or exemptions for themselves or for others.

#### **CANON IV** Performance of Duties

**SECTION 1.** Court personnel shall at all times perform official duties properly and with diligence. They shall commit themselves exclusively to the business and responsibilities of their office during working hours.

Respondents used their court positions to run their scheme. As legal researcher and officer-in-charge, respondent legal researcher used her legal background and knowledge of court operation to initiate a special proceeding. Respondent clerk, as civil cases docket clerk, took care of the mailing, publication, and sending of court processes. To a naive or desperate litigant, this arrangement seemed favorable because he/she was dealing with someone working in the court. An unassuming litigant would easily part with money to solve a legal problem.

Logically, this also means that respondents are not devoting their time solely for official work. Their official time is divided between doing official work and running their scheme.

Furthermore, respondent clerk was remiss in her duty as civil cases docket clerk when she did not send out the court orders to AAA or to her counsel, Atty. E. Clearly, respondents' actions resulted in several infractions of the code on fidelity to and performance of duties.

III. Respondent clerk violated Section 5, Canon I on Fidelity to Duty.

CANON I  
Fidelity to Duty

**SEC. 5.** Court personnel shall use the resources, property and funds under their official custody in a judicious manner and solely in accordance with the prescribed statutory and regulatory guidelines or procedures.

Atty. H testified that the logbook showed respondent clerk's signature; thus, making her the recipient of the publication fee of P3,520. However, there was no publication. Respondent clerk did not explain the lack of publication or the money's whereabouts. She simply remitted the money to Atty. H so that the latter can return it to AAA. Respondent clerk failed to use the publication fee for its intended purpose, which is a breach of her duty.

In sum, respondents' infractions are classified as grave offenses and punishable by dismissal from the service under Section 50(A)(3)(10) of the Civil Service Commission Resolution No. 1701077, or the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS), promulgated on July 3, 2017.

x x x x

The Court found respondent legal researcher and respondent clerk guilty of grave misconduct and soliciting and accepting money and gifts in connection with a transaction affecting their official functions. They were dismissed from the service with forfeiture of all retirement benefits, except accrued leaved credits, and perpetually disqualified from holding public office in any branch or instrumentality of the government, including government-owned or controlled corporations.

The Office of the Court Administrator was directed to file the appropriate criminal charges against respondents. The Court also referred the case to the Public Attorney's Office for their information and appropriate action. This decision is immediately executory. ***[A.M. No. P-19-3996 (Formerly OCA-IPI-12-3875-P), January 7, 2020]***

**PROCESS SERVERS AND CLERK**

- **Contracting loans of money or other property from persons with whom the office of the employee has business relations and insubordination for the second time**

The Court observed that in GGG's November 28, 2011 letter to the Court, she recalled that sometime in October 2006, she approached respondent clerk regarding an estafa case that she filed against someone. When respondent clerk learned that she came from abroad, she convinced her to lend her money. Seeing that GGG was hesitant, respondent clerk assured her that their transaction would not result to a lawsuit because she loved her job as a court employee, and promised to pay back in one year.

However, when GGG came to collect, respondent clerk uttered hurtful words, “*tatangang ka, magdemanda ka kung gusto mo tatagal naman yan ng 5 years.*”]

In short, respondent clerk could not have met GGG and later borrowed money from her were it not for her court position. She used her position to convince GGG to lend her money, although GGG was initially hesitant. She also used her position to make it appear that she had an advantage over GGG if the latter decides to file a complaint. The act of contracting loans of money or other property from persons with whom the office of the employee has business relations is punishable by dismissal from the service under the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS).

Moreover, respondent clerk exhibited defiance to the Court’s directives on more than one occasion. First, she was previously ordered to show cause why she should not be held in contempt for not submitting her comment on GGG’s August 7, 2010 letter. Secondly, she continuously failed to comply with the Compromise Agreement as directed by the Court. From the time the Court approved and adopted Judge J’s report and recommendation, respondent clerk was penalized three times: (1) reprimanded with a stern warning for conduct unbecoming of a court employee; (2) suspension for 30 days without pay for conduct unbecoming of a court employee with a stern warning; and (3) suspension for 1 year without pay with a stern warning for insubordination. Therefore, as the OCA correctly concluded, respondent clerk is also guilty of insubordination.

x x x x

Following the Court’s ruling in the *Boston Finance* case, the Court shall impose the penalty corresponding to the most serious charge and the rest shall be considered as aggravating circumstances. Here, contracting loans of money or other property from persons with whom the office of the employee has business relations is a grave offense and punishable by dismissal from the service. On the other hand, insubordination is a less grave offense and punishable by suspension for the first offense and dismissal for the second offense.

As for respondent process server A and respondent process server B, the Court already reprimanded them in a Resolution dated July 1, 2009. In the said Resolution, the Court adopted and approved Judge J’s findings of fact, conclusions of law, and recommendations. She found them guilty of conduct unbecoming of a court employee, and recommended that they be reprimanded with a stern warning that a repetition of the same or similar offense shall be dealt with more severely. Thus, the complaints against them are deemed concluded.

The Court reiterates our pronouncement in *Atty. Jaso v. Londres*.

The Court has consistently reminded court personnel to comply with just contractual obligations, act fairly and adhere to high ethical standards, as they are expected to be paragons of uprightness, fairness and honesty not only in their official conduct but also in their personal actuations, including business and commercial transactions. Having incurred a just debt, it is x x x [a] moral and legal responsibility to settle it when it became due.

The Court found respondent clerk guilty of contracting loans of money or other property from persons with whom the office of the employee has business relations and insubordination for the second time. She was meted the penalty of dismissal from the service with forfeiture of all retirement benefits, except accrued leave credits, and perpetual disqualification from holding public office in any branch or instrumentality of the government, including government-owned or controlled corporations. She was likewise ordered to comply with the Compromise Agreement dated April 20, 2009. **[A.M. No. P-08-2555 (Formerly A.M. OCA IPI No. 08-2780-P), November 26, 2019]**