# ATTY. CESAR B. MERIS, COMPLAINANT, VS. JUDGE CARLOS C. OFILADA, RTC-BR. 15, MALOLOS, BULACAN, RESPONDENT.

*A.M. No. RTJ-97-1390. October 17, 2001*

Ponente: BELLOSILLO, J.

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**BELLOSILLO, J.:**

This resolves the request of Ms. Irene Diaz Ofilada, wife of former judge, herein respondent Carlos C. Ofilada, appealing for compassion from the Court contained in her "A Plea of Mercy" to allow her husband to secure his retirement benefits and leave credits.

In the Decision of this Court dated 5 August 1998 Judge Carlos C. Ofilada was found guilty of grave abuse of authority and evident partiality, gross incompetence and ignorance of the law. He was dismissed immediately from the service with forfeiture of all his retirement benefits and leave credits with prejudice to his reemployment in any public office including government-owned or controlled corporation.[1]

According to Ms. Ofilada, her husband was suffering from various illnesses and was already confined to a wheelchair. She added that her husband served the government for thirty-seven (37) years, painstakingly working his way from court janitor to judge of the Regional Trial Court. Since her husband was already old and incapacitated he was in dire need of funds to cover his medical expenses. However, on 30 April 2001, while Ms. Ofilada's letter was being considered by the Court respondent Judge Ofilada died.

Forfeiture of retirement benefits and leave credits is sanctioned by Rule XIV [Discipline] of the Omnibus Rules Implementing Book V of Executive Order No. 292 (Administrative Code of 1987) and Other Pertinent Civil Service Laws which provides -

> Sec. 9. The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits, and the disqualification for reemployment in the government service. Further, it may be imposed without prejudice to criminal or civil liability.

However, in a number of cases involving judges and court personnel this Court has shown compassion in imposing the penalty of forfeiture of leave credits and retirement benefits and disqualification for reemployment in government-owned or controlled corporations.

Thus, in Castillo v. Calanog, Jr.[2] respondent judge was found guilty of immorality and was dismissed from the service with prejudice to his reinstatement or appointment to any public office including a government-owned or controlled corporation, and forfeiture of retirement benefits, if any. Three (3) years hence, however, and upon the filing of a petition for clemency and compassion, the Court lifted the penalty of disqualification from appointment to any public office after respondent showed sincere repentance and after considering his contributions during the period that he was a judge.[3]

Also in Cathay Pacific Airways, Ltd. v. Romillo, Jr.[4] this Court, out of humanitarian considerations, allowed dismissed Judge Romillo, Jr. to enjoy all vacation and sick leave benefits that he earned during his government

service. In Prudential Bank v. Castro[5] this Court likewise allowed respondent judge to enjoy the money equivalent of all his vacation and sick leave benefits.

These cases and similar others laid the groundwork and paved the way for the amendment of Rule 140[6] of the Rules of Court. Before its amendment, Rule 140 only provided for the procedure in case a complaint was filed against a regional trial court judge.[7] There was no mention of specific sanctions that may be imposed as it only provided that "(a)fter the filing of the report, the court will take such action as the facts and law may warrant."[8] When it was amended specific sanctions were already provided. Relatedly, while the "Plea of Mercy" of Ms. Ofilada was pending before us, Rule 140 of the Rules of Court regarding the discipline of Justices and Judges was again amended. It now provides that effective 1 October 2001 the sanctions that may be imposed on erring Justices and Judges, pursuant to Sec. 11[9] of Rule 140 are as follows -

> Sec. 11. Sanctions. - A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:
>
> 1. 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 or controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
>
> 2. Suspension from office without salary and other benefits for more than three (3) but not more than six (6) months; or
>
> 3. A fine of more than P20,000.00 but not exceeding P40,000.00 x x x (underscoring supplied).

Under this amendment, the Court may forfeit respondent's retirement benefits in whole or in part depending on the circumstances of each case. In addition to his accrued leaves, the respondent may be allowed to enjoy a portion of his retirement benefits. Notably, even before the effectivity of this amendment, the Court already had occasion to grant to a dismissed judge not only the money equivalent of his accrued leaves but also a portion of his retirement benefits, as we did in Sabitsana, Jr. v. Villamor.[11]

ACCORDINGLY, the Court Resolves to GRANT the heirs of Judge Carlos C. Ofilada the money equivalent of all his accrued sick and vacation leaves and, in addition, a gratuity equivalent to twenty-five percent (25%) of his retirement benefits. To this extent, the dispositive portion of the Decision dated 5 August 1998 is deemed MODIFIED.

**SO ORDERED.**

Davide, Jr., C.J., Melo, Puno, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.
Vitug, J., on official leave.

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[1] Meris v. Ofilada, A.M. No. RTJ-97-1390, 5 August 1998, 293 SCRA 606.

[2] Adm. Matter No. RTJ-90-447, 12 July 1991, 199 SCRA 75.

[3] Id., 16 December 1994, 239 SCRA 268.

[4] G.R. No. 64276, 12 August 1986, 143 SCRA 396.

[5] Adm. Case No. 2756, 27 June 1988, 162 SCRA 554.


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[6] Approved by the Supreme Court on 22 November 1990.

[7] Sec. 1. Complaint. - All charges against judges of first instance shall be in writing and shall set out disctinctly, clearly and concisely the facts complained of as constituting the alleged serious misconduct or inefficiency of the respondent, and shall be sworn to and supported by affidavits of persons who have personal knowledge of the facts therein alleged, and shall be accompanied with copies of documents which may substantiate said facts.

Sec. 2. Service or dismissal. - If the charges appear to merit action, a copy thereof shall be served upon the respondent, requiring him to answer within ten (10) days from the date of the service. If the charges do not merit action, or if the answer shows to the satisfaction of the court that the charges are not meritorious, the same shall be dismissed.

Sec. 3. Answer; hearing. - Upon the filing of respondent's answer, or upon the expiration of the time for its filing, the court shall assign one of its members, a Justice of the Court of Appeals or a judge of first instance to conduct the hearing of the charges. The Justice or judge so assigned shall set a day for the hearing, and notice thereof shall be served on both parties. At such hearing the parties may present oral or written evidence.

Sec. 4. Report. - After the hearing, the Justice or judge shall file with the Supreme Court a report of his findings of fact and conclusions of law, accompanied by the evidence presented by the parties and the other papers in the case.

Sec. 5. Action. - After the filing of the report, the court will take such action as the facts and the law may warrant.

Sec. 6. Confidential. - Proceedings against judges of first instance shall be private and confidential.

[8] Sec. 5, Rule 140, Rules of Court; See Note 7.

[9] Formerly Section 10, Rule 140, Rules of Court.

[11]A. M. Nos. RTJ No. 90-474 and RTJ No. 90-606, 7 February 1992, 206 SCRA 1.


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