

ELMER CRIS L. RILLO, PETITIONER, VS. OFFICE OF THE OMBUDSMAN AND TERESITA REYES-DOMINGO, RESPONDENTS.

Ponente: SORONGON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/76b0d73399c9/>

SORONGON, J.:

This petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure seeks to nullify the following issuances of the Office of the Deputy Ombudsman for Luzon (Ombudsman) in OMB-C-A-06-0558-J (LSC): (1) Decision[1] dated September 3, 2009 finding petitioner Elmer Cris L. Rillo guilty of Simple Misconduct; and (2) Order[2] dated May 31, 2011 denying petitioner's motion for reconsideration.

The Factual Antecedents

Private respondent Teresita Reyes-Domingo (Domingo) is the Assistant Secretary for Legislative Affairs and concurrent Officer-in-Charge of the Technical Staff of the Department of Justice (DOJ). As head of the Technical Staff, she had under her supervision several lawyers and one of whom is herein petitioner Elmer Cris L. Rillo (Rillo).

Rillo incurred tardiness and absences from his work due to several trips abroad. A verification with the Bureau of Immigration (BOI) revealed that Rillo traveled abroad on January 16, 2005, November 27, 2005 and December 17, 2005 without securing the necessary travel authority from the DOJ for the said travels as required by Section 2 of Executive Order (E.O.) No. 459[3]. It was also discovered that Rillo did not file his Statement of Assets, Liabilities and Networth (SALN) for the years 2001 and 2002 while his SALN for the years 2000, 2003, 2004 and 2005 showed his meager income which is not enough to afford his frequent travels.

On September 13, 2006, Domingo filed a Complaint-Affidavit[4] against Rillo with the Ombudsman for violation of Section 7 of Republic Act (RA) No. 3019[5] for non-filing of his SALN for the years 2001 and 2002, unexplained wealth under Section 8 of RA No. 3019 and violation of Section 2 of E.O. 459 for unauthorized travels abroad.

In his Counter-Affidavit[6], Rillo vehemently denied the accusations against him in this wise: he submitted his SALN for the years 2001 and 2002 with the Office of the Personnel, DOJ as shown by the matrix issued by the Civil Service Commission (CSC). As regards his travels abroad, he did not secure the necessary travel authority when he went to Japan on November 27, 2007 to meet his former fiancée because he left the country on a Sunday and returned the next day, which was a public holiday. Besides, E.O. 459 is not applicable to his case because the law pertains to travel that would entail the use of government funds. He is a government lawyer for five (5) years and out of his meager income he was able to save money to pay for his airfare. He did not violate the Anti-Graft and Corrupt Practices Act.

In her Reply,[7] Domingo insisted that with Rillo's salary as his only source of income, it is highly doubtful for him to sustain an expensive lifestyle, i.e., sending Php20,000.00 to Php30,000.00 a month to his family in the province; and owning a Mercedes Benz, classy cellphones and expensive perfumes. His SALN for the years 2000 to 2005 drastically increased as shown by his previous networth which started only with Php15,000.00, then

Php30,000.00, Php40,000.00, Php144,000.00, Php340,000.00 and Php410,000.00.

In his Rejoinder[8], Rillo stressed that the changes in his networth is the result of long years of accumulation of certain properties. His Mercedes Benz is a 1994 model which he purchased on installment and the downpayment for it came from his brother who is working abroad.

Ruling of the Ombudsman

On September 3, 2009, the Ombudsman rendered the herein assailed judgment finding Rillo guilty of simple misconduct, the dispositive portion whereof reads:

WHEREFORE, premises considered, this Office finds respondent Elmer Cris L. Rillo, State Counsel III, Technical Staff, Department of Justice, GUILTY of SIMPLE MISCONDUCT for his failure to secure the requisite authority to travel abroad prior to his travel to Japan on November 27, 2005 and as such, is imposed the penalty of SIX MONTHS SUSPENSION FROM OFFICE WITHOUT PAY pursuant to Section 10 of Administrative Order No. 07 as amended otherwise known as the "Rules of Procedure of the Office of the Ombudsman", effective upon receipt of a copy of this Decision. The respondent is hereby exonerated of the other two charges.

Pursuant to Section 7, Administrative Order 17 of the Office of the Ombudsman and the Ombudsman Memorandum Circular No. 01, Series of 2006, the Honorable Secretary, Department of Justice, is hereby directed to implement this Decision and to submit promptly a Compliance Report within five (5) days from receipt indicating the OMB case number, to this Office, thru the Central Records Division, 2[nd] Floor, Ombudsman Building, Agham Road, Government Center, North Triangle, Diliman, 1128, Quezon City.

Compliance is respectfully enjoined consistent with Section 3 (e) of R.A. 3019 (Anti-Graft and Corrupt Practices Act) and Section 15 (3) of R.A. 6770 (Ombudsman Act of 1989).

SO ORDERED.[9]

On motion for reconsideration, the Ombudsman modified its earlier ruling by reducing the imposed penalty from six (6) months suspension from office without pay to one (1) month suspension without pay, thus:

WHEREFORE, the motion for reconsideration is hereby DENIED with finality. The imposable penalty against respondent-movant ELMER CRIS L. RILLO is hereby LOWERED from SIX MONTHS SUSPENSION FROM OFFICE WITHOUT PAY to ONE MONTH SUSPENSION FROM OFFICE WITHOUT PAY effective upon receipt of a copy of this ORDER. Pursuant to Section 7, Administrative Order 17 of the Office of the Ombudsman and the Ombudsman Memorandum Circular No. 01, Series of 2006, the Honorable Secretary, Department of Justice, is hereby directed to implement this Order and to submit promptly a Compliance Report within five (5) days from receipt indicating the OMB case number, to this Office, thru the Central Records Division, 2nd Floor, Ombudsman Building, Agham Road, Government Center, North Triangle, Diliman, 1128, Quezon City.

Compliance is respectfully enjoined consistent with Section 3 (e) of R.A. 3019 (Anti-Graft and Corrupt Practices Act) and Section 15 (3) of R.A. 6770 (Ombudsman Act of 1989).

SO ORDERED.[10]

ISSUES

Not satisfied yet, Rillo via this recourse alleged:

I.

THAT THE OMBUDSMAN ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT RENDERED THE ASSAILED DECISION FINDING THE PETITIONER GUILTY OF SIMPLE MISCONDUCT AND IMPOSING THE PENALTY OF SUSPENSION

IN VIOLATION OF ESTABLISHED PROCEDURE IN THE OFFICE OF THE OMBUDSMAN;

II.

THAT THE OMBUDSMAN ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT RENDERED A DECISION WITH FINALITY ONLY AFTER 4-5 YEARS FROM THE TIME THE COMPLAINT WAS FILED IN VIOLATION OF THE CONSTITUTIONAL RIGHT TO SPEEDY TRIAL UNDER THE BILL OF RIGHTS (SECTION 16, ARTICLE III OF THE 1987 CONSTITUTION); AND

III.

THAT THE OMBUDSMAN ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT RENDERED THE ASSAILED DECISION IN VIOLATION OF THE CONSTITUTIONAL RIGHT OF THE RESPONDENT TO TRAVEL AS PROVIDED FOR UNDER SECTION 6, ARTICLE III OF THE 1987 PHILIPPINE CONSTITUTION.

RULING OF THE COURT

Anent the first ground, Rillo argued that the September 3, 2009 Decision of the Ombudsman is not in compliance with Section 6, Administrative Order No. 7, Series of 1990 (Rules of Procedure of the Office of the Ombudsman). The questioned decision was signed by Mark E. Jalandoni (Jalandoni), the Deputy Ombudsman for Luzon. Meaning to say, he acted alone and unilaterally abrogated upon himself the function of prosecuting, drafting, reviewing and approving the said decision. He (Jalandoni) has no authority to decide the case because there was no express designation from the President of the Philippines to perform the functions of the Ombudsman. In case of absence of the Ombudsman, it should be the Overall Deputy Ombudsman that should assume and discharge the Office of the Ombudsman, not Jalandoni who is only the Deputy Ombudsman for Luzon. Hence, the assailed Decision dated September 3, 2009 is illegal.

We do not agree.

The records of the case belied the allegation of Rillo that the assailed decision was prosecuted, decided, reviewed and approved by Jalandoni alone. A Memorandum[11] dated September 3, 2009 states that the questioned decision was initially prepared by Janet C. Cabigas-Vejerano, Graft Investigation and Prosecution Officer (GIPO) II in a draft Decision dated February 29, 2008. It was forwarded for review to another GIPO II in the name Vladimir F. Pelaez, who prepared and drafted the September 3, 2009 Decision. The draft was later on approved and signed by Jalandoni. Thus, the Ombudsman's Rules of Procedure, which is to ensure the correctness of the decision thru a system of review was substantially complied with. Rillo's fear that Jalandoni acted on his own and "signed the decision alone" is unfounded.[12]

With respect to the authority of Jalandoni to render the assailed decision, we agree with the Ombudsman that such power was validly delegated to him, thus:

"Section 15. Powers, Functions and Duties. - The Office of the Ombudsman shall have the following powers, functions and duties:

xxx

(10) Delegate to the Deputies, or its investigators or representatives such authority or duty as shall ensure the effective exercise or performance of the powers, functions, and duties herein or hereinafter provided;

xxx" (underscoring supplied)

Hence, as long as the case is included in those delegated to be signed by then Deputy Ombudsman Jalandoni, such as this one, he may approve or disapprove the same and such act will be a valid official act of the Office

of the Ombudsman.

Anent the second ground that Rillo's constitutional right to speedy disposition of his case was violated considering that the filing of the complaint-affidavit on September 13, 2006, took the Ombudsman four (4) to five (5) years to render judgment on the said complaint. In *Capt. Roquero vs. The Chancellor of UP-Manila, et al.*[13], the Supreme Court explained the concept of the right to a speedy disposition of cases mandated under Section 16, Article III of the 1987 Constitution, thus:

The right to a speedy disposition of a case, like the right to a speedy trial, is deemed violated only when the proceedings are attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for and secured; or even without cause or justifiable motive, a long period of time is allowed to elapse without the party having his case tried. Equally applicable is the balancing test used to determine whether a defendant has been denied his right to a speedy trial, or a speedy disposition of a case for that matter, in which the conduct of both the prosecution and the defendant is weighed, and such factors as the length of the delay, the reasons for such delay, the assertion or failure to assert such right by the accused, and the prejudice caused by the delay. The concept of a speedy disposition is a relative term and must necessarily be a flexible concept.

Hence, the doctrinal rule is that in the determination of whether that right has been violated, the factors that may be considered and balanced are as follows: (1) the length of delay; (2) the reasons for the delay; (3) the assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay.

Applying the foregoing jurisprudential pronouncement, there was no violation of Rillo's constitutional right to a speedy disposition of his case. The following events transpired from the time of the filing of the complaint-affidavit[14] against him on September 13, 2006: (a) Rillo filed his Counter-Affidavit[15] on December 7, 2006; (b) private respondent submitted his Reply[16] on December 20, 2006, (c) Rillo filed his Rejoinder and Supplemental Rejoinder; (d) the Ombudsman issued the Order dated April 16, 2007 requiring the parties to submit their respective position papers; (e) after parties have complied with the said order of the Ombudsman, the case was then submitted for decision; and (f) the Ombudsman rendered on September 3, 2009 the assailed judgment and convicted Rillo for simple misconduct but dismissed the charges of unexplained wealth and non-filing of SALN. It cannot be argued that these unfolding events were part of a regular proceeding in our judicial system. There was no unnecessary delay in the proceedings or an attempt on the part of the Ombudsman to delay it. Records also reveal that Rillo has not filed any motion or manifestation asking for the speedy and immediate disposal of his case because he knew that the same was moving at a normal phase.

Furthermore, it is well to stress that it did not take four (4) to five (5) years for the Ombudsman to resolve the case. To reiterate, the complaint was filed on September 13, 2006 and the Ombudsman rendered its decision on September 3, 2009. In other words, only three (3) years have lapsed from the filing of the complaint to the resolution of the case. The fact that Rillo received the decision on May 3, 2011 is immaterial and should not be considered in determining whether there was delay in resolving the case. To our mind, the lapse of three years (3) before the case was resolved cannot be considered unreasonable and arbitrary delay tantamount to transgression of his constitutional right to speedy disposition of the case.

Finally, Rillo, in his third assigned issue, maintained that E.O. No. 459 restricts his right to travel guaranteed by Section 6, Article III of the 1987 Constitution[17] if he is required to secure an authority to travel even on his personal trips.

E.O. No. 459 does not make a distinction between official and personal foreign travel of government officials and employees. So, regardless of whether the trips abroad are purely for personal reasons which do not entail government funding, still the required authority to travel cannot be dispensed with. This mandatory requirement,

however, does not amount to a restriction of the constitutional right to travel as provided under the Constitution. In *Leave Division, Office of Administrative Services-Office of the Court Administrator (OCA) vs. Heusdens*,^[18] the Supreme Court held that the constitutional right of a citizen to travel is not without limit. There are laws and rules which have been implemented that restrict the right to travel. Hence, the High Court found respondent, Clerk IV of the Municipal Trial Court of Tagum City, to have violated OCA Circular No. 49-2003 (B) which specifically requires Judges and court personnel, who wish to travel abroad, to secure the necessary travel permit from the Office of the Court Administrator.

From the foregoing cited jurisprudence, it can be easily inferred that E.O. No. 459 can be considered as one of the limitations to regulate the constitutional right to travel. The President, under the Administrative Code of 1987, has ordinance powers in the form of presidential issuances, which include executive orders, administrative orders, proclamations, memorandum orders, memorandum circulars, and general and special orders, intended to guide executive officials for a more efficient and effective administration of government department and agencies. Hence, Rillo cannot validly argue that his right to travel is restricted by the required travel authority even on his personal trips abroad because said right is not absolute.

As to the argument that only official travels are covered by E.O. No. 459. We take our cue from Section 2 of the said law which provides:

"Subject to Section 5 hereof, all other government officials and employees seeking authority to travel abroad shall henceforth seek approval from their respective heads of agencies, regardless of the length of their travel and the number of delegates concerned. For the purpose of this paragraph, heads of agencies refer to the Department Secretaries or their equivalents".

Thus, the rule makes no distinction with respect to the nature of foreign travel by a government official or employee. The law does not specifically state only official travels are covered and personal and private trips of public officials and employees are excluded from the coverage of E.O. No. 459. Applying a cardinal rule in statutory construction: "When the law does not distinguish, we must not distinguish (*Ubi lex non distinguit nec nos distinguere debemus*).". Hence, we agree with the ruling of the Ombudsman and echo its stance on this issue, viz:

This Office's finding on the application of Executive Order 459 (EO 459) in the case of the respondent-movant stands. Verily the Subject EO did not make any qualification or distinction as to the kind of travel it covers. It simply requires government officials and employees to secure authority to travel from their respective office heads every time they intend to leave the country. Further, a reading of E.O. 459 citing the earlier pronouncements covering travels abroad by government officials and employees, i.e., E.O. 6, as amended, and Memorandum Circular 18, shows the mandatory character of the requirement. There may have some reference made to other executive rulings regarding official travels and austerity measures of the government but the same did not render private travels excluded from the scope of EO 459. The respondent-movant's claim on the (non) application of EO 459 is his own interpretation to which he is entitled to, but at this Office's end, it is clear that he failed to secure an authority prior to his travel abroad on November 27, 2005 which is required by the EO. xxx xxx xxx.^[19]

While E.O. No. 459 does not provide for any sanction or penalty in case of violation of its provisions, it does not necessarily mean that Rillo should not be penalized for non-compliance with Section 2 thereof. It must be stressed that Rillo being a public official should bear in mind the basic principle that public office is a public trust. By failing to secure the required travel authority when he took the trip to Japan on November 27, 2005, such act constitutes misconduct which is defined as "an intentional wrongdoing or a deliberate violation of a rule of law or standard of behavior, especially by a government official."^[20] His lack of intention to deliberately violate the law or to commit corrupt acts, the Ombudsman correctly held him liable only for simple misconduct. Under Section

52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service, the penalty for grave misconduct, which is classified as a less grave offense is one (1) month and one (1) day to six (6) months for the first offense. Thus, the penalty imposed by the Ombudsman on Rillo is proper since he is a first-time offender.

WHEREFORE, premises considered, the petition is hereby DENIED. The assailed September 3, 2009 Decision and May 31, 2011 Order of the Office of the Ombudsman are hereby AFFIRMED.

SO ORDERED.

[*]Gonzales-Sison, (Acting Chairman), and [**]Ybañez, JJ., concur.

[*] Acting Chairperson per Office Order No. 485-14 -RSF dated November 24, 2014

[**] Acting Senior Member per Office Order No. 485-14 -RSF dated November 24, 2014

[1] Rollo, p. 36-46.

[2] Rollo, p. 47-54.

[3] Dated September 1, 2005.

[4] Rollo, pp. 55-57.

[5] Also known as "Anti- Graft and Corrupt Practices Act".

[6] Rollo, pp. 78-81.

[7] Rollo, pp. 104-109.

[8] Decision of the Ombudsman, rollo, pp. 39-40.

[9] Rollo, pp. 44-45.

[10] Rollo, pp. 52-53, Order dated May 31, 2011.

[11] Rollo, pp. 167-168.

[12] Comment of Respondent p. 156.

[13] G.R. No. 181851, March 9, 2010.

[14] Rollo, pp. 55-57.

[15] Rollo, pp. 78-81.

[16] Rollo, pp. 104-109.

[17] Sec. 6. The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of national security, public safety, or public health, as may be provided by law.

[18] A.M. No. P-11-2927 [Formerly A.M. OCA IPI No. 10-3532-P], December 13, 2011.

[19] Rollo, pp. 48-49.

[20] Imperial, Jr., vs. GSIS, G.R. No. 191224, October 4, 2011.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.