

RE: LETTER OF JUDGE AUGUSTUS C. DIAZ, METROPOLITAN TRIAL COURT OF QUEZON CITY, BRANCH 37, APPEALING FOR JUDICIAL CLEMENCY.

A.M. No. 07-7-17-SC. September 19, 2007

Ponente: CORONA, J.

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CORONA, J.:

In a letter dated July 18, 2007, Judge Augustus C. Diaz, presiding judge of Branch 37 of the Metropolitan Trial Court of Quezon City, informed the Court that he is an applicant for judgeship in one of the vacant Regional Trial Court branches in Metro Manila. In connection therewith, he was interviewed by the Judicial and Bar Council on July 10, 2007. He was told to seek judicial clemency due to the fact that he was once fined P20,000 "for not hearing a motion for demolition." He claims that this lapse happened only once as a result of "oversight." He requests judicial clemency and, in particular, that he be allowed to "again be nominated to one of the vacant branches of the Regional Trial Court of Manila or in any of the cities where [his] application [is being] considered."

In a subsequent letter,[1] Judge Diaz stated that he has been the presiding judge of Branch 37 of the Metropolitan Trial Court of Quezon City since March 1, 1995. He expressed deep remorse for the lapse for which he was held administratively liable in *Alvarez v. Diaz*. [2] He confessed that "[t]he stain of the penalty has taught [him] a bitter lesson" and promised to avoid the commission of the same or similar acts. He submitted himself to the judicious discretion of this Court for whatever action the Court may take on his plea for judicial clemency.

In *Alvarez*, Judge Diaz was found guilty of gross ignorance of the law when he granted the following motions: (1) a motion for execution which was fatally defective for lack of notice to the defendant and (2) a motion for demolition without notice and hearing. His action on the motion for demolition also made him liable for grave abuse of authority. [3] He was fined P20,000. [4]

Section 5, Rule 4 of the Rules of the Judicial and Bar Council provides:

SEC. 5. Disqualification. - The following are disqualified from being nominated for appointment to any judicial post or as Ombudsman or Deputy Ombudsman:

- Those with pending criminal or regular administrative cases;
- Those with pending criminal cases in foreign courts or tribunals; and
- Those who have been convicted in any criminal case; or in an administrative case, where the penalty imposed is at least a fine of more than P10,000, unless he has been granted judicial clemency. [5] (emphasis supplied)

Under the said provision, Judge Diaz is disqualified from being nominated for appointment to any judicial post, until and unless his request for judicial clemency is granted.

Concerned with safeguarding the integrity of the judiciary, this Court has come down hard [6] and wielded the rod

of discipline against members of the judiciary who have fallen short of the exacting standards of judicial conduct.[7] This is because a judge is the visible representation of the law and of justice.[8] He must comport himself in a manner that his conduct must be free of a whiff of impropriety, not only with respect to the performance of his official duties but also as to his behavior outside his sala and as a private individual.[9] His character must be able to withstand the most searching public scrutiny because the ethical principles and sense of propriety of a judge are essential to the preservation of the people's faith in the judicial system.[10]

Clemency, as an act of mercy removing any disqualification, should be balanced with the preservation of public confidence in the courts. The Court will grant it only if there is a showing that it is merited. Proof of reformation and a showing of potential and promise are indispensable.[11]

In the exercise of its constitutional power of administrative supervision over all courts and all personnel thereof,[12] the Court lays down the following guidelines in resolving requests for judicial clemency:

- There must be proof of remorse and reformation.[13] These shall include but should not be limited to certifications or testimonials of the officer(s) or chapter(s) of the Integrated Bar of the Philippines, judges or judges associations and prominent members of the community with proven integrity and probity. A subsequent finding of guilt in an administrative case for the same or similar misconduct will give rise to a strong presumption of non-reformation.
- Sufficient time must have lapsed from the imposition of the penalty[14] to ensure a period of reformation.
- The age of the person asking for clemency must show that he still has productive years ahead of him that can be put to good use by giving him a chance to redeem himself.[15]
- There must be a showing of promise[16] (such as intellectual aptitude, learning or legal acumen or contribution to legal scholarship and the development of the legal system or administrative and other relevant skills), as well as potential for public service.[17]
- There must be other relevant factors and circumstances that may justify clemency.

In this case, Judge Diaz expressed sincere repentance for his past malfeasance. He humbly accepted the verdict of this Court in Alvarez. Three years have elapsed since the promulgation of Alvarez. It is sufficient to ensure that he has learned his lesson and that he has reformed. His 12 years of service in the judiciary may be taken as proof of his dedication to the institution. Thus, the Court may now open the door of further opportunities in the judiciary for him.

Accordingly, the letter dated July 18, 2007 of Judge Augustus C. Diaz is hereby NOTED. His request for judicial clemency is GRANTED.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Garcia, Velasco, Jr., Nachura, and Reyes, JJ., concur.
Carpio, J., no part, related to Judge Diaz.

[1] Dated August 28, 2007.

[2] A.M. No. MTJ-00-1283, 03 March 2004, 424 SCRA 213.

[3] Id.

[4] Id.

[5] The disqualification in the second clause of Section 5, Rule 4(3) of the Rules of the Judicial and Bar Council applicable to those found guilty "in an administrative case, where the penalty imposed is at least a fine of more than P10,000" means that the person was found guilty of at least a less serious charge. Under Section 11(B), Rule 140 of the Rules of Court, a less serious charge is penalized with either suspension from office without salary and other benefits for not less than one nor more than three months or a fine of more than P10,000 but not exceeding P20,000. The disqualification does not apply to someone found guilty of a light charge because under Section 11(B), Rule 140 of the Rules of Court the maximum penalty imposable in such a case shall not exceed P10,000.

[6] *Castillo v. Calanog, Jr.*, A.M. No. RTJ-90-447, 16 December 1994, 239 SCRA 268.

[7] *Junio v. Rivera, Jr.*, A.M. No. MTJ-91-565, 05 October 2005, 472 SCRA 69.

[8] Id.

[9] Id.

[10] Id.

[11] *Castillo v. Calanog, Jr.*, *supra*.

[12] Section 6, Article VIII, Constitution.

[13] *Castillo v. Calanog, Jr.*, *supra*. See also *Junio v. Rivera, Jr.*, *supra*.

[14] Id.

[15] Id.

[16] Id.

[17] Id.

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