

**RE: LETTER OF PRESIDING JUSTICE CONRADO M. VASQUEZ, JR. ON
CA-G.R. SP NO. 103692 [ANTONIO ROSETE, ET AL. V. SECURITIES AND
EXCHANGE COMMISSION, ET AL.]**

A.M. NO. 08-8-11-CA. October 15, 2008

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PER CURIAM:

For consideration of this Court are several motions for reconsideration of our Decision dated September 9, 2008, sanctioning several justices of the Court of Appeals (CA) for improprieties or irregularities in connection with CA G.R.-SP No. 103692, entitled "Antonio Rosete, et al. v. Securities and Exchange Commission, et al." (the Meralco-GSIS case). The incidents to be resolved are:

(a)

Motion for Reconsideration dated September 24, 2008 filed by Justice Vicente Q. Roxas;

(b)

Motion for Reconsideration dated September 15, 2008 filed by Justice Jose L. Sabio;

(c)

Motion for Reconsideration dated September 24, 2008 filed by Presiding Justice Conrado M. Vasquez, Jr.;

(d)

A Plea for Compassion and Clemency dated September 22, 2008 filed by Justice Myrna Dimaranan Vidal (which we shall consider a motion for reconsideration); and

(e)

Motion for Reconsideration dated September 26, 2008 filed by Mr. Francis de Borja.

At the outset, the Court stresses that our Decision was fully supported by the facts on record and is in accordance with the law and prevailing jurisprudence. After a perusal of the various arguments presented in the pleadings listed above, we find that there are no substantial grounds for the Court to reverse its previous judgment in this administrative matter.

We now discuss each incident in greater detail.

**MOTION FOR RECONSIDERATION
OF JUSTICE VICENTE Q. ROXAS**

In his Motion, Justice Vicente Q. Roxas (Justice Roxas) seeks a reconsideration of the imposition of the penalty of dismissal upon him and prays that should a penalty still be imposed, the penalty be accordingly reduced to two months suspension at the most.

Justice Roxas attempts to explain the "haste" in which his decision was promulgated by claiming that it was but due to his intention (a) to "efficiently" dispose of the Meralco-GSIS case and (b) to preserve confidentiality (i.e. avoid leakages and outside influence). He likewise asserts that he was in compliance with Canon 6, Section 5 of the Code of Judicial Conduct, which provides: "Judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness."

Certainly, the speedy resolution of a case in itself is not indicative of any wrongdoing on the part of a judge or magistrate. However, it must be recalled that the haste in which the decision was promulgated was taken in context with other suspicious circumstances and improprieties on Justice Roxas' part which led the Panel and this Court to believe that he was unduly interested in the Meralco-GSIS case. We need not elaborate on these circumstances and improprieties here as we have extensively discussed them in our Decision. Moreover, Justice Roxas cannot seek refuge in Canon 6, Section 5 of the Canons of Judicial Conduct. That provision does not sanction procedural shortcuts with dubious motivations such as non-resolution of pending incidents or drafting a decision before all required pleadings have been filed. Indeed, instead of protecting the integrity of the appellate court as Justice Roxas claims he was doing, he brought the institution he works for to disrepute.

Justice Roxas further cites the confusion that arose due to the chairmanship dispute between Justices Jose L. Sabio, Jr. and Bienvenido L. Reyes. He asserts that he acted in good faith and believed by virtue of the reorganization of the CA and their internal rules it was the Eighth Division which should decide the Meralco-GSIS case. To our mind, Justice Roxas' full knowledge of the existence of the chairmanship dispute and the differences of opinion among his colleagues regarding the proper interpretation of the rules should have all the more induced him to wait for a final resolution of the dispute before deciding the case. His "rush to judgment," as one member of the Panel termed it, despite the pendency of the chairmanship dispute and his own request for an opinion from the Presiding Justice, only opened his act of deciding the case to more questions and attacks not only from the other justices but from the public as well.

As regards the "Transcript of Deliberation" which the Panel found to be a fabrication and containing falsehoods, Justice Roxas claims it was better termed "Minutes of the Deliberation" and being unsigned, should be considered a "draft" and not an official document. We find that line of argument flimsy and a mere afterthought since they are proffered only after the Panel already questioned those irregularities attending the production of said "Transcript of Deliberation."

As for the promulgation of his ponencia not being intended to be a discourtesy to the Presiding Justice since Justice Roxas believed the Presiding Justice, who was of the opinion that he had no authority to act on the matter, would not resolve Justice Roxas' interpleader petition, we cannot give such claim credit. Presiding Justice Conrado Vasquez, Jr. testified that when Justice Roxas personally filed the interpleader petition he told Justice Roxas that he will study the matter^[1] and in fact rendered his opinion within days from the filing of the interpleader petition.

Justice Roxas also asserts that he believed that he had either resolved all pending motions, or that said motions had become moot in view of transpiring events. For one, it is a matter of record that there were still pending motions unresolved and Justice Roxas, who had possession of the rollo of the case most of the time prior to the promulgation of his decision, could not have been unaware of said motions. Second, the transpiring event, i.e. the promulgation of the decision, which he claims had mooted certain motions, being an event of his making, could hardly be cited in his defense. Also if Justice Roxas truly believed that certain motions, such as the Motion for Inhibition, were unmeritorious then we have greater reason to believe that Justice Roxas could have easily resolved them before rendering a decision on the merits.

With respect to arguments related to the acts of others involved in the controversy, these do not aid Justice Roxas' cause. To begin with, Justice Roxas' actions must be judged on their own and the improprieties committed by others will not negate nor mitigate his own liabilities in the matter at hand. Indeed, Justice Roxas' choice of personalities whose improprieties and wrongdoings were highlighted in his motion does not reflect well on Justice Roxas who has already been found to have shown undue interest in the case.

With respect to his claim that his decision in CA-G.R. SP No. 103692 was anchored on existing law and jurisprudence and evidenced his good faith, we cannot rule upon this point considering that the said decision is under appeal with this Court and we cannot preempt the resolution of that appeal on the merits. Nevertheless, we must emphasize that the subject matter of this administrative case involves the irregularities and improprieties that attended the deliberation, drafting and/or promulgation of the decision which should be deemed entirely separate from and independent of the merits of the decision itself.

As for his complaint that he was not informed by the Panel that he was a "respondent" or "accused" and thus, he was not able to emphasize his intentions for greater efficiency and confidentiality in the discharge of his functions during the investigation, we find little merit in the same. It is common knowledge that the mandate of the Panel was to investigate the alleged improprieties of the actions of the Justices of the Court of Appeals in CA-G.R. SP No. 103692. The Panel was not limited to the chairmanship dispute nor to the bribery allegations of Justice Jose L. Sabio, Jr., as Justice Roxas claims to believe. Moreover, the questions asked by the Panel and his colleagues in relation to his actions in the Meralco-GSIS case could lead to no other conclusion but that the propriety of Justice Roxas' conduct was under scrutiny in these proceedings. In any event, Justice Roxas was given by the Panel ample opportunity to present his side and his evidence and to cross-examine the testimonies of the other participants in the investigation.

Finally, Justice Roxas interposes a plea of mercy in consideration of the difficulties he and his family has had to face in the wake of his dismissal from the service. The Court is not at all insensitive to situation of dismissed court officials and personnel, especially in these turbulent economic times. However, we must emphasize that where the finding of administrative guilt is well supported by the evidence on record, as in this case, this Court must impose the penalty warranted under the law and prevailing jurisprudence. This is in accord with our duty to protect and preserve the integrity and independence of the Court of Appeals and the whole Judiciary.

MOTION FOR RECONSIDERATION OF JUSTICE JOSE L. SABIO, JR.

On September 17, 2008, Justice Jose L. Sabio, Jr. (Justice Sabio) filed a Motion for Reconsideration, praying that the Court (a) review the portion of our Decision finding Justice Sabio guilty of simple misconduct and conduct unbecoming of a justice of the Court of Appeals and (b) remove the two month suspension imposed upon him.

In seeking the reversal of our Decision with respect to his participation in CA G.R.-SP No. 103692, Justice Sabio cites the following arguments:

- Justice Sabio did not violate any Canons of Professional Ethics by speaking with his brother, Camilo - truth is
- Justice Sabio declined his brother's offer. How can that be taken against him?
- Although Justice Sabio defended Camilo's having telephoned him (during the hearings), that was mere obiter dicta which cannot render the Justice liable for his brother's act. (a) Justice Sabio did not initiate the phone call; (b) Justice Sabio did not agree to the request of Camilo; (c) Justice Sabio stated he would rule on the matter based on good conscience. (d) The brothers never spoke again on the matter. What was Justice Sabio's wrongdoing?
- The panel's conclusion that "Justice Sabio adamantly refused to yield the chairmanship" and had "unusual

interest in holding on to the case" is mischaracterization. (a) The un rebutted testimonies of Justice Sabio and of Justice Villarama establish that the latter advised Justice Sabio on June 23, 2008, the very morning of the hearing in issue, to remain as Chairman because that was the correct interpretation of the rules; (b) Likewise, the suspicious actuations of Justice Reyes and Justice Roxas constrained Justice Sabio "to stand his ground" in order to protect the integrity of the CA.

- The panel's findings that Justice Sabio failed to tell De Borja that "he could not, and would not talk about the MERALCO case" is factual misappreciation and mischaracterization. The un rebutted affidavit and testimony in open hearing of Justice Sabio is that he did not know and could not have known the reason for De Borja's urgent plea to meet. In truth, Justice Sabio told off De Borja when the latter came to the Ateneo Faculty Lounge. But since De Borja kept badgering Justice Sabio by text messages, Justice Sabio finally had to call De Borja to warn him against his pestering texts

- The Honorable Court's conclusion that Justice Sabio's conversations with his brother and with Mr. De Borja were "indiscreet and imprudent" would only be true and correct if Sabio knew before the fact of (a) what was to be discussed or (b) if he agreed to the proposals. Justice Sabio is not guilty of either.

- Justice Sabio initiated this investigation by his letter to PJ Vasquez. Justice Sabio spoke the truth at great personal risk to himself and to his family. He even prejudiced his older brother whom he dearly loves by his revelations. Should this not have been at the very least positively noted by the investigating panel in its findings? Are the panel's findings not sending a subconscious message: that Justice Sabio would have been far better-off had he accepted the bribe offer (or kept silent about it); correspondingly ignoring the perceptible infidelities all about him?[2]

After a careful consideration of the foregoing justifications, we find no reason to overturn our previous findings with respect to Justice Sabio.

Justice Sabio's Telephone Conversation With His Brother Chairman Camilo Sabio

In the Motion, Justice Sabio claims he did not violate Canon 13 of the Code of Professional Responsibility[3] considering that: (a) it was his brother Chairman Camilo Sabio (Chairman Sabio) of the Presidential Commission on Good Government (PCGG) who initiated the call; (b) all Justice Sabio did was answer a call from his brother without knowing beforehand what the call was about; (c) Justice Sabio told his brother that he would vote according to his conscience and did not do as his brother asked; (d) after that call, they never spoke on the matter again; (e) even though Justice Sabio defended his brother's "act of enlisting the Justice's support," he (Justice Sabio) should not be made liable for his brother's act.

From the foregoing, it would appear that Justice Sabio is arguing from the mistaken premise that he was likewise being held accountable under Canon 13 of the Code of Professional Responsibility or that he is being held accountable for the acts of his brother. The Panel of Investigators indeed used Canon 13 to characterize his conversation with his brother as improper and the same provision was the basis for this Court to refer Chairman Sabio's act to the Bar Confidant for appropriate action. However, as Justice Sabio noted in his own motion, the Panel found him in violation of the following provisions of the Canon of Judicial Conduct on independence:

Canon 1

Independence

Sec. 1. Judges shall exercise the judicial function independently x x x free from extraneous influence, inducement, pressure, threat or interference, direct or indirect, from any quarter or for any reason.

x x x

Sec. 4. Judges shall not allow family, social, or other relationships to influence judicial conduct or judgment.

The prestige of judicial office shall not be used or lent to advance the private interests of others, nor convey or permit others to convey the impression that they are in a special position to influence the judge.

Sec. 5. Judges shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must also appear to be free therefrom to a reasonable observer.

This Court agrees with the panel that Justice Sabio, by his own action, or more accurately inaction, failed to maintain the high standard of independence and propriety that is required of him.

While it is true that Justice Sabio could not have possibly known prior to his brother's call that his brother intended to speak to him about the Meralco-GSIS case, the fact remains that Justice Sabio continued to entertain a call from his brother, who also happens to be an officer of the executive branch, despite realizing that the conversation was going to involve a pending case. In his Motion, Justice Sabio asks the Court if he should have immediately slammed the phone on his brother. Certainly, such boorish behavior is not required. However, as soon as Justice Sabio realized that his brother intended to discuss a case pending before him or in his division, Justice Sabio should have respectfully but firmly ended the discussion. Justice Sabio in his own affidavit narrated that Chairman Sabio told him of matters in the Meralco-GSIS case that Justice Sabio himself had not been formally informed.[4] He further alleged that his brother tried to convince him of rightness of the stand of GSIS and the Securities and Exchange Commission. The improper substance of the conversation was confirmed in Chairman Sabio's own statement before the Panel.[5] Justice Sabio had no business discussing with his brother court matters (such as his assignment to a particular case, the possibility of issuance of a TRO, etc.) which by his own account are not yet "official" and more importantly, he should not have allowed the conversation to progress to a point that his brother was already discussing the merits of the case and persuading him (Justice Sabio) to rule in favor of one of the parties.

That Justice Sabio did not do as his brother asked is of no moment. Section 5, Canon 1 of the Code of Judicial Conduct maintains such a high bar of ethical conduct that actual influence is not a prerequisite before a violation is deemed committed. If a magistrate's actions allow even just the appearance of being influenced, it is deemed a violation. To be sure, as a complement to Canon 1, the Code of Judicial Conduct likewise provides:

Canon 4

Propriety

Propriety and the appearance of propriety are essential to the performance of all the activities of a judge.

SECTION 1. Judges shall avoid impropriety and the appearance of impropriety in all of their activities.

x x x

By allowing his brother to discuss with him the merits of one party's position, Justice Sabio gave his brother the opportunity to influence him. Any reasonable person would tend to doubt Justice Sabio's independence and objectivity after such a conversation with a close family member who also happens to hold a high government position. As a magistrate, Justice Sabio has the duty to prevent any circumstance that would cast doubt on his ability to decide a case without interference or pressure from litigants, counsels or their surrogates.

This Court further notes that had Justice Sabio been prudent enough to nip the improper conversation with his brother in the bud, he would have prevented his own brother from violating Canon 13 of the Code of Professional Responsibility. If Justice Sabio and his brother find themselves in such a quandary, it is a quandary of their own making.

Justice Sabio's Various Conversations with Mr. Francis de Borja

Justice Sabio's communications with Mr. Francis de Borja (Mr. de Borja) are inextricably related to the same charge of failure to comply with the canons of judicial independence and propriety cited in his conversation with his brother. By his own admission, Justice Sabio had communications with Mr. de Borja on at least four (4) occasions in relation to the Meralco case:

(a) On May 31, 2008, Mr. de Borja allegedly called Justice Sabio and greeted him with "Mabuhay ka, Justice" and informed the latter that the Makati Business Club is happy with the issuance of a TRO in the Meralco case. Mr. de Borja also praised Justice Sabio for not succumbing to pressure. Justice Sabio allegedly replied that he voted according to his conscience.

(b) On July 1, 2008, Mr. de Borja called up Justice Sabio again and urgently pleaded with the latter to meet on an "important" matter. Justice Sabio allegedly agreed to meet after his 6-8pm class at the Ateneo Law School but told Mr. de Borja that he could not stay long since his wife and daughter would be waiting for him.

(c) Later July 1, 2008, Justice Sabio and Mr. de Borja indeed met face to face at the Lobby Lounge of the Ateneo Law School after Justice Sabio's class. It was during that meeting that Mr. de Borja allegedly offered Justice Sabio Ten Million Pesos to "give way to Justice [Bienvenido L.] Reyes" in their chairmanship dispute over the Meralco-GSIS case. Justice Sabio was shocked and insulted by Mr. de Borja's insinuation that he could be bribed and rejected the offer outright.

(d) On July 3, 2008, Justice Sabio called Mr. de Borja purportedly to tell the latter to stop pestering him with text messages. When Mr. de Borja answered the justice's call, he allegedly said "Mabuti naman Justice tumawag ka, kasi malapit na ang deadline ng submission ng memorandum. Pinag-isipan mo na bang mabuti ang offer namin? Kasi sayang din kung di mo tatanggapin, kasi kahit aabot itong kaso sa Supreme Court, matatalo ka din. Sayang lang yung 10 million. Baka sisihin ka pa ng mga anak mo." [6] Justice Sabio claimed that he was again shocked and insulted that Mr. de Borja would repeat the reprehensible offer that he (Justice Sabio) already rejected.

Anent the first call from Mr. de Borja on May 31, 2008, Justice Sabio would have this Court characterize that conversation as an innocent call from an acquaintance congratulating the justice on his having acted in a certain way in a case of public interest. Justice Sabio further claims that conversation did not give him any inkling that Mr. de Borja was lobbying for Meralco. However, taken with the other circumstances on record, we cannot take the view that first call was entirely proper.

To begin with, in Justice Sabio's "Reaction" to Mr. de Borja's widely publicized Affidavit dated July 31, 2008, [7] Justice Sabio admitted that Mr. de Borja's allegation that he is a businessman engaged in, among others, "brokering contracts," "deal making" and "project packaging" was consistent with what Justice Sabio knows of him. In other words, Justice Sabio was not entirely oblivious to the sort of business that Mr. de Borja dabbled in. Justice Sabio further admits that prior to May 31, 2008, he had not had any communication with Mr. de Borja for about a year. That first call should have already put Justice Sabio on guard, for why would an acquaintance with whom he had lost touch suddenly feel the need to deliberately seek him out just to congratulate him on a particular action in a controversial case? Even then, Mr. de Borja was already making improper insinuations regarding the possibility that Justice Sabio was being subjected to undue pressure in relation to his participation in the Meralco-GSIS case. From that point, Justice Sabio should have viewed with wariness any further communications from Mr. de Borja.

Thus, this Court could not accept Justice Sabio's explanation that the second call from Mr. de Borja was likewise innocent. According to Justice Sabio, there is nothing in that call that could have raised the suspicion Mr. de Borja was going to make him an offer. We disagree. Although Mr. de Borja did not expressly state that the "important matter" he wanted to discuss was the Meralco-GSIS case, considering that Justice Sabio's last conversation with

Mr. de Borja involved said controversial case (a conversation memorable enough that Justice Sabio could even offer a supposed verbatim reproduction of it in his affidavit submitted to the Panel), Justice Sabio should have proceeded with even more caution before agreeing to the face to face meeting at the Ateneo Law School. The prudent course of action for Justice Sabio under the circumstances was to ascertain first the nature of the urgent matter Mr. de Borja needed to discuss with him before acceding to the request for a meeting.

Consequently, if the July 1, 2008 meeting between Justice Sabio and Mr. de Borja turned sour and Justice Sabio felt insulted by Mr. de Borja's alleged attempt to bribe him, Justice Sabio shares part of the blame. Justice Sabio himself provided Mr. de Borja the opportunity to make him an offer. Justices and judges should be immediately wary of persons wishing to speak with them without being upfront regarding their motives [for the motives are likely to be unethical or dishonorable]. Indeed, one can even infer that Mr. de Borja was probably emboldened to make his offer in light of Justice Sabio's willingness to meet with him without even determining beforehand his true motives. It behooves this Court to remind all magistrates to guard their reputations jealously and not put themselves in a position that another person would have the opportunity to corrupt them or sully their good name. As this Court has often held, judges must be like Ceasar's wife - above suspicion and beyond reproach.[8]

As for the July 3, 2008 call of Justice Sabio to Mr. de Borja, Justice Sabio cites in his defense the circumstances that (a) it was the only time he ever initiated any call to Mr. de Borja; and (b) the purpose for the call was to tell Mr. de Borja to stop pestering him once and for all. Justice Sabio likewise takes exception to the following findings of the Panel:

Justice Sabio, Jr. was allegedly shocked and insulted that De Borja would think that he (Justice Sabio, Jr.) could be bribed or bought. The Panel is, however, honestly perplexed why in spite of his outraged respectability, Justice Sabio, Jr. called up De Borja two (2) days later (on July 3, 2008), to tell De Borja to stop "pestering" him with his calls. The Panel is nonplussed because, normally, a person who has been insulted would never want to see, much less speak again, to the person who had disrespected him. He could have just shut off his cell phone to De Borja's calls.xxx[9]

In Justice Sabio's opinion, the conclusion of the Panel that he should have just ignored Mr. de Borja's texts or calls was unwarranted. He cites studies in the field of psychology to the effect that "to fight" is just as natural a reaction as "to flee" when a person is subjected to great stress. He claims that there is no scientific formula, no universal "common sense" reaction to a given situation. Justice Sabio argues his decision "to fight" (i.e. calling Mr. de Borja and demanding that he stop pestering him) was a valid reaction on his part.

While it may be true that from a psychological stand point ordinary persons can have a wide variety of valid reactions to any given situation, Justice Sabio should bear in mind his high office as a magistrate of the appellate court sets him apart from ordinary persons. Being the subject of constant public scrutiny, members of the bench should freely and willingly accept behavioral restrictions that may be viewed by ordinary citizens as burdensome.[10]

The Court is of the view that the best course of action on the part of Justice Sabio was to cut off all communications with Mr. de Borja after the first alleged bribery attempt. By calling his adversary, no matter what the reason, Justice Sabio merely set himself up for another insult or assault on his integrity. Again, Justice Sabio exhibited poor judgment in exposing himself to yet another compromising or humiliating situation.

Taking his conversation with his brother and his encounters with Mr. de Borja together, Justice Sabio gives the impression that he is accessible to lobbyists who would unfairly try to manipulate court proceedings. Even assuming *arguendo* that Justice Sabio was not moved by his brother's request and that he rejected Mr. de Borja's bribe offer, the Court feels compelled to call Justice Sabio's attention to his own shortcomings under the

circumstances. At the very least, Justice Sabio should have realized that his discussions of court matters, especially those that have not yet been made of public record, with persons who are interested in the case were incredibly indiscreet and tended to undermine the integrity of judicial processes. We see no reason to reverse the Panel's finding that Justice Sabio's conversations with his brother and Mr. de Borja were "indiscreet and imprudent."

Justice Sabio's Refusal to Yield Chairmanship of the Special Division Handling the Meralco-GSIS case

As defenses to this charge, Justice Sabio cites (a) the opinion of Justice Martin Villarama, Jr. that under the Internal Rules of the Court of Appeals (IRCA) Justice Sabio should remain as chairman and (b) the suspicious actuations of Justice Reyes and Justice Roxas that constrained him (Justice Sabio) "to stand his ground" in order to protect the integrity of the CA.

That another senior justice of the CA interpreted the rules in Justice Sabio's favor does not justify his unyielding and hostile stance. We point out that Justice Sabio refused to accept Justice Edgardo Cruz's earlier opinion in favor of Justice Reyes because it was allegedly made in a personal capacity and not as Chairman of the Rules Committee. In other words, Justice Sabio deemed Justice Cruz's personal opinion non-binding. If that is the case, then Justice Villarama's personal opinion or interpretation of the IRCA, even if he is a more senior justice, is likewise non-binding and did not settle the chairmanship dispute.

Neither do Justice Sabio's suspicions of impropriety or wrongdoing on the part of the Justices Reyes and Roxas justify Justice Sabio's aggressive and combative attitude. Again, what this Court finds unbecoming is the failure of Justice Sabio to cooperate with his colleagues in finding an amicable resolution to the conflicting interpretations of the IRCA. Moreover, this Court cannot see why magistrates of the appellate court cannot respectfully disagree and civilly suggest solutions to the chairmanship dispute. Justice Sabio's "fighting stance" against Justice Reyes is unseemly and tends to demean the institution that he claims to protect.

The Court took into account all relevant circumstances in determining the appropriate penalty for Justice Sabio.

Finally, Justice Sabio points out that by writing to Presiding Justice Conrado Vasquez to investigate the irregularities in the Meralco-GSIS case he spoke the truth at great personal risk to himself and his family. He further argues that the Panel's findings which highlighted the faults and ignored the good in the justices investigated send the wrong signal to the public.

We must point out that the Court in fact took into account Justice Sabio's apparent lack of ill-motive and his effort to bring to light irregularities in the Meralco-GSIS case. However, we cannot close our eyes to the improprieties that Justice Sabio undisputedly committed notwithstanding his good faith.

Any transgression or deviation from the established norm of conduct, work-related or not, amounts to misconduct.[11] To constitute grave misconduct, the acts complained of should be corrupt or inspired by an intention to violate the law, or constitute a flagrant disregard of well-known legal rules. It is a transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character and implies wrongful intent and not a mere error in judgment.[12]

In this instance, we found Justice Sabio liable for simple misconduct. Under Rule 140, simple misconduct is considered a less grave offense[13] which is punishable by: (a) suspension from office without salary and other benefits for not less than one (1) month nor more than three (3) months; or (b) a fine of more than P10,000.00 but not exceeding P20,000.00.[14] However, the Court is of the considered view that the penalty of suspension of two (2) months without pay was appropriate in the light of the additional, albeit lighter, offense of conduct unbecoming of a CA Justice, for which we found Justice Sabio also liable.

MOTION FOR RECONSIDERATION OF PRESIDING JUSTICE CONRADO M. VASQUEZ, JR.

In his Motion for Reconsideration, Presiding Justice Conrado M. Vasquez, Jr. (Presiding Justice Vasquez) prays that the findings against him in our Decision be reconsidered and set aside and that the penalty of severe reprimand imposed upon him be removed. He relies upon the following grounds:

(a)

The Panel did not inform him that he was to be a respondent in relation to any administrative charge or liability, to enable him to present a thorough explanation or account of his actions and actuations on the chairmanship impasse between Justices Sabio and Reyes.

(b)

The Panel's characterizations of his actions on the issue of the chairmanship and on the report of the bribe-offer as vacillation and temporizing was unwarranted, considering that he did everything possible and permissible as a primus inter pares to quickly and tactfully resolve the chairmanship impasse. On the report of the bribe offer, he had nothing to go by except the report of Justice Sabio, Jr. who did not share even the identity of the supposed offeror with anyone until the alleged bribe offeror himself came out with an affidavit on the issue.

(c)

The fact that he had two daughters, a sister and a niece employed in GSIS did not influence any action that he took in relation to the Meralco-GSIS case.

First, we emphasize that the Panel was conducting a general investigation precisely to determine if improprieties were committed in relation to CA-G.R. SP. No. 103692 and who were liable for such improprieties. Moreover, every person summoned to the Panel's investigation, including Presiding Justice Vasquez, was given the fullest opportunity to present his or her side. Each of them was given the chance to submit their sworn affidavits and other documentary evidence, to cross-examine the other witnesses and to present rebuttal evidence, if necessary.

Second, in our Decision, although we noted with favor most of the Panel's findings, we cited Presiding Justice Vasquez only for his failure to timely and effectively act in the chairmanship dispute between Justices Sabio and Reyes, which greatly tarnished the image of the institution that he leads. As soon as it became evident that Justices Sabio and Reyes were unable to settle the matter on their own, he should have stepped in to prevent the dispute and enmity between the two from escalating. Even if he honestly believed at the time that the IRCA did not allow him to rule on the matter, Presiding Justice Vasquez could have ordered reconstituted the Rules Committee or submitted the matter to the court en banc. However, we do believe that he acted in good faith for the most part and that there is insufficient evidence that his actions were influenced by the fact that he had relatives in GSIS. Certainly, had we found otherwise, we would have meted out a much more severe penalty than a reprimand.

Third, even after a careful consideration of his more extensive explanation of his actions or lack thereof as contained in his Motion for Reconsideration, we find no compelling reason to reverse our ruling that he failed to act promptly and decisively in order to avert a situation that seriously damaged the reputation of the appellate court.

A PLEA FOR COMPASSION AND CLEMENCY FILED BY JUSTICE MYRNA DIMARANAN VIDAL

In her pleading, Justice Myrna Dimaranan Vidal (Justice Vidal) prays that the Court revoke and set aside the admonition meted out to her in our Decision dated September 9, 2008. In support of her plea for clemency, Justice Vidal cites the sufferings she and her family experienced with the promulgation of our Decision, her unblemished

record of 43 years in government service marked by various citations and awards, the probative weight given by the Panel to her testimony against Justice Roxas and the alleged practice of CA Justices to dispense with actual deliberations and simply manifest concurrence or dissent to a ponente's draft. However, she admits to being remiss with respect to being compliant to the representations of Justice Roxas in the Meralco-GSIS case but asserts that she has learned her lesson and will be more circumspect and vigilant in the discharge of her duties.

At the outset, we wish to clarify that our admonition of Justice Vidal was not in the nature of a penalty. What is considered a penalty under Rule 140 of the Rules of Court is an "admonition with warning" which should be distinguished from a plain admonition. This Court has held that an admonition is "a warning or reminder, counseling on a fault, error or oversight, an expression of authoritative advice or warning."^[15] It is in consideration of mitigating circumstances in the case of Justice Vidal that we settled on simply admonishing her for her lapses in the Meralco-GSIS case. We see no need to be even more compassionate than we already have when Justice Vidal herself admits to being "remiss" in this instance.

MOTION FOR RECONSIDERATION OF MR. FRANCIS DE BORJA

In his Motion for Reconsideration, Mr. Francis de Borja (Mr. de Borja) prays for the deletion or clarification of certain statements in our Decision on the grounds that such statements may be construed as our having prejudged his case in violation of his constitutional rights to be presumed innocent, to due process and to equal protection of the laws. He likewise prayed for referral of the actions of PCGG Chairman Camilo R. Sabio and Justice Sabio to the Department of Justice (DOJ) for appropriate action, referral of the actions of lawyers Estrella Elamparo Tayag and Jesus I. Santos to the Office of the Bar Confidant and the DOJ for appropriate action and the modification of the penalties imposed upon Justice Sabio and Presiding Justice Vasquez to dismissal from the service.

First, we must clarify that Mr. Borja is neither a complainant nor a respondent in the present administrative matter, an investigation of the alleged improprieties of certain CA justices in the Meralco-GSIS case. Under the circumstances, he has no personality to seek reconsideration of our Decision except insofar as it affects him directly or personally. Indeed, we do not see how he can be benefited or adversely affected by the findings regarding the other personalities in this case. On the other hand, his choice of persons to include in his prayer for further investigation or more severe sanctions tend to indicate that in filing this motion for reconsideration Mr. de Borja is not acting purely on his own interests but rather the interests of another party.

As for his claim of prejudgment, we find the same unmeritorious. The Panel and this Court could not, and in fact did not, rule upon the criminal charge of attempt or offer to bribe a public officer against Mr. de Borja in these administrative proceedings. It is for this reason that the matter has been referred to the Department of Justice (DOJ) for appropriate action. It is for the DOJ to conduct its own proceedings and to determine whether there is sufficient evidence to find probable cause to hold Mr. de Borja liable for the said charge. We trust that the DOJ would accord Mr. de Borja the fullest opportunity to defend himself and would give due respect to all his constitutional rights. Mr. de Borja's fear that his case will be railroad by the DOJ is speculative and does not warrant a reversal of our decision to refer the matter to that agency, which in the first place has jurisdiction over the criminal investigation.

We find it unnecessary to pass upon the other arguments and reliefs prayed for by Mr. de Borja for lack of standing. This is, however, without prejudice to the continuation or resolution of any complaints that may already have been filed against the personalities mentioned in the motion.

Parenthetically, one of the Justices submitted a separate concurring and dissenting opinion setting forth his observations and evaluation, as follows:

1. On Justice Vicente Q. Roxas

Justice Vicente Roxas is guilty of various infractions of judicial ethics, rendering him unfit to continue as Associate Justice of the CA.

The findings of the Panel on Justice Roxas' actions are sufficient to show his incompatibility with the high judicial office he holds.

First, he ignored or refused to act on several pending motions before him. His excuse that he "believed" that he had already resolved the pending motions or that they had become moot^[16] is, at best, tenuous. It does not justify his non-feasance in his duties. Second, his dishonesty and deceit have no place in the Judiciary. He fabricated the "Transcript of Final Decision," to make it appear that deliberations had been conducted before the drafting of the Meralco decision when, in fact, there had been none. His undue interest and improper haste in having the Meralco decision signed speak of his questionable partiality. His reason for personally bringing a draft of the decision to Justice Dimaranan Vidal is a lie. Moreover, he was utterly disrespectful to his colleagues, Presiding Justice Vasquez and Dimaranan Vidal. These constitute grave misconduct and abuses of judicial ethics that this Court cannot tolerate.

2. On Justice Jose L. Sabio, Jr.

a. It was unethical for Justice Sabio to entertain and expose himself to pressure from PCGG Chairman Camilo Sabio.

Justice Sabio's improper conversation with his brother, Presidential Commission on Good Government (PCGG) Chairman Camilo Sabio, was a flagrant transgression of several judicial ethical principles.

As found by the Panel, by allowing his brother to influence his conduct in the Meralco case, Justice Sabio violated^[17] Sections 1, 4, and 5, Canon 1 of the New Code of Judicial Conduct, impressing upon magistrates the duty to uphold judicial independence. It raised serious questions on his integrity and independence.

Justice Sabio, however, defends the phone call of his older brother by citing Filipino tradition and culture. According to him, "it would be unthinkable for a brother not to call another brother."^[18] He says it is assumed that relatives and friends will call up on a case but it is up to the Justice concerned whether to favor that relative or friend.^[19] Coming from a Justice of the CA, to find nothing improper or unethical about that phone call is appalling. It is a dangerous precedent when a magistrate himself justifies an improper conduct on the basis of filial relations.

The Panel also established that Justice Sabio was remiss in his duty to inform Presiding Justice Vasquez of Chairman Sabio's phone call to him.^[20] While he was very vigilant in his crusade against Francis Roa De Borja's attempt to bribe him, he was selective with respect to his brother. It was only after the Meralco mess hit the fan that he disclosed his brother's unethical conduct.

A judge should not allow family, social, or other relationships to influence judicial conduct or judgment. The prestige of judicial office shall not be used or lent to convey or permit others to convey the impression that they are in a special position to influence the judge.^[21] By continuing his participation in the case, he unduly gave the impression that he could be influenced by external factors or forces.

b. It was highly inappropriate for Justice Sabio to communicate and discuss the Meralco case with De Borja.

Even if We accept Justice Sabio's allegation that Francis Roa De Borja attempted to bribe him with P10 million to give up the chairmanship of the Special 9th Division, his own actuations after the offer showed grave misconduct.

First, by meeting De Borja at the Ateneo Law School; entertaining his call on several instances; and discussing the Meralco case, Justice Sabio broke the shield of confidentiality that covers the disposition of cases in

court.[22] He transgressed Section 9, Canon 4 of the New Code of Judicial Conduct which prohibits judges from using or disclosing any confidential information acquired by them for any other purpose related to their judicial duties. Second, it was highly improper for him to fraternize with De Borja, whom he knew from the past as a broker, who had actually given him monetary consideration while he was a sitting judge in Cagayan de Oro City, and who was now interested in the Meralco-GSIS case.

His independence was rendered questionable, not merely by virtue of his conversations with Chairman Sabio, but also by his openness to De Borja who he said was brokering for Meralco. Justice Sabio breached Section 1, Canon 1 of the New Code of Judicial Conduct, that "[j]udges shall exercise the judicial function independently x x x free of any extraneous influence, inducement, pressure, threat or interference, direct or indirect, from any quarter for any reason."

Justice Sabio also ignored Section 3, Canon 3 of the same Code, mandating that judges "shall, so far as is reasonable, so conduct themselves as to minimize the occasions on which it will be necessary for them to be disqualified from hearing or deciding cases."

c. Justice Sabio should have inhibited himself from the Meralco case; instead, he showed unusual interest as he suspiciously held on to it.

When his brother tried to influence him to vote against the TRO, Justice Sabio should have voluntarily inhibited himself from the case. He should have voluntarily recused himself from participating in further proceedings.

I agree with the Panel's finding on Justice Sabio's "unusual interest" in the Meralco case, viz.:

For his part, although Justice Sabio, Jr., against his brother's advice, did sign the TRO in favour of Meralco, his unusual interest in holding on to the Meralco case, seemed to indicate that he may have been actually influenced to "help GSIS" as Secretary Sabio had advised. This may be deduced from the following actuations: - (1) he adamantly refused to yield the chairmanship of the Special Ninth Division although the regular chairman, Justice Bienvenido L. Reyes had returned to duty on June 10, 2008; and, (2) he officiously prepared and signed a resolution (a chore for the ponente Justice V. Roxas to perform), requiring the GSIS and the SEC to comment on Meralco's "Motion for Justice B. Reyes to Assume the Chairmanship of the 9th Division," which he probably intended to delay the decision on the preliminary injunction beyond the life of the TRO to the prejudice of Meralco and the advantage of the GSIS.[23]

Justice Sabio ignored even the opinion of Justice Edgardo Cruz, the CA Rules Committee chairman,[24] on the matter. This, despite Presiding Justice Vasquez' own endorsement of the impasse to Justice Cruz. On June 20, 2008, Justice Sabio received a letter from Justice Cruz addressed to the Presiding Justice, opining that Justice B.L. Reyes should preside over the June 23, 2008 hearing, viz.: [25]

It appears that because of your leave of absence in May 2008, Associate Justice Jose Catral Mendoza was designated as acting chairman. However, Justice Mendoza voluntarily inhibited himself from the case, resulting in his replacement by Associate Justice Jose Sabio, Jr., as acting chairman. It was during the stint of Justice Sabio as acting chairman that the TRO was issued.

Sec 2(d), Rule VI of the Internal Rules of the Court of Appeals, as amended, reads:

"Sec 2. Justices Who May Participate in the Adjudication of Cases. - In the determination of the two other Justices who shall participate in the adjudication of cases, the following shall be observed:

x x x x

(d) When, in an original action or petition for review, any of these actions or proceedings, namely: (1) giving due course; (2) granting writ of preliminary injunction; (3) granting new trial; and (4) granting execution pending appeal have been taken, the case shall remain with the Justice to whom the case is assigned for study

and report and the Justices who participated herein, regardless of their transfer to other Divisions in the same station."

Issuance of a TRO is not among the instances where "the Justice who participated" in the case shall "remain" therein. Consequently, notwithstanding the issuance of the TRO (not writ of preliminary injunction) the case reverted to the regular chairman (Justice Bienvenido Reyes) of the ninth division upon his return.[26] (Emphasis supplied)

Justice Sabio rejected Justice Cruz' opinion on the lame excuse that (1) it was rendered in Justice Cruz' personal capacity, and (2) Justice Cruz is merely his junior in the CA. These, however, do not detract from the fact that Justice Sabio's own superior, Presiding Justice Vasquez, recognized Justice Cruz' expertise on the matter.

Being aware of the persuasions around him, Justice Sabio ought to have recused himself from the case to preclude all doubts on his ability to dispense justice impartially. In not doing so, Justice Sabio ignored the rule that a judge should not take part in a proceeding where his impartiality might reasonably be questioned.[27]

Too, by failing to distance himself from a case where his impartiality and integrity could be tainted, Justice Sabio ran afoul of Section 5, Canon 3 of the New Code of Judicial Conduct which states that "[j]udges shall disqualify themselves from participating in any proceedings in which they are unable to decide the matter impartially or in which it may appear to a reasonable observer that they are unable to decide the matter impartially."

d. Justice Sabio is not a genuine whistle-blower. His wrongful insistence to chair the Roxas division is the root cause of all this mess.

Justice Sabio claimed that pressure from both sides was being exerted on him. He presumed the same or greater pressure on the other justices was not far behind. If Justice Sabio truly wanted to preserve the integrity of the CA, he should have exposed the attempts to influence him at the first instance and then distanced himself from the case.

Sadly, that is not what happened here. He did not divulge his brother's phone call to influence his TRO vote, immediately after it was made on May 30, 2008. He waited from July 1, 2008 (the day De Borja allegedly offered the P10 million to him) to July 26, 2006 (when he finally wrote the Presiding Justice about the bribe offer), before finally going on record about the bribery attempt. His letter to the Presiding Justice regarding the bribe offer came only after Justice L. Bienvenido Reyes' 8th Division promulgated the decision on the Meralco case,[28] leaving him and Justice Vidal out in the cold. What took him so long to publicly denounce these efforts to pressure him? Likewise, he first kept suspiciously silent on the name of the bribe-offeror.[29]

Justice Sabio's obstinate refusal to vacate the chairmanship of the Special 9th Division flames suspicion on his motive. As the Panel intimated, he may have been actually influenced "to help GSIS."

Whistle-blowers are most certainly welcome. However, I cannot in good conscience appreciate it in this case, especially when the claim of whistle-blowing is belated, smacks of afterthought and reeks of dubious motives.

e. Justice Sabio's other admissions show conduct unbecoming of a member of the Judiciary.

During the hearings, De Borja alleged that he gave Justice Sabio P300,000 as token for his legal advice on a Roa property deal when Justice Sabio was still an RTC judge in Cagayan de Oro. Justice Sabio admitted receipt of the P300,000.00. That was an impermissible moonlighting.

While the Panel was only tasked to determine the improprieties of the CA Justices in relation to the Meralco case, Justice Sabio's acceptance of the P300,000 gift is an impropriety that cannot be condoned. It goes into his very fitness to hold a seat in the Judiciary. Judges are prohibited from private practice of law while they are active

members of the judiciary.[30] This includes giving professional advice as members of the bar[31] on cases, pending or otherwise, to litigants and third parties.

Moreover, Justice Sabio himself in a motion admits a regrettable incident that occurred not long ago. During a meeting among division chairmen of the CA, Justice Sabio admitted having challenged the then Presiding Justice to a fistfight.[32] It bears stressing that Justice B. L. Reyes was reprimanded for discourtesy for signing the Roxas ponencia without waiting for the belated action of the Presiding Justice. Justice Sabio's bullying, belligerent conduct towards a Presiding Justice is worse than a discourtesy. It is conduct unbecoming of a magistrate.

f. Justice Sabio's gross improprieties and unethical conduct, aggravated by his teaching of Legal and Judicial Ethics, show that he is unfit to continue in the Judiciary.

Justice Sabio has violated several ethical principles, enshrined in the Canons of Judicial Ethics, Code of Professional Responsibility, and New Code of Judicial Conduct. The violations are not simple but grave misconduct. A brief suspension is disproportionate to the seriousness of the offenses.

It is alarming that Justice Sabio even proudly proclaims his being a professor of Legal Ethics, a member of the Philippine Judicial Academy's (PHILJA) Ethics and Judicial Conduct Department, Mandatory Continuing Legal Education (MCLE) lecturer and Ateneo Law School's Pre-bar reviewer in Legal and Judicial Ethics.[33] His breach of the ethical principles he ought to know by heart aggravates his offenses.

3. On Presiding Justice Conrado M. Vasquez, Jr.

The Panel found that Presiding Justice Vasquez failed to provide the leadership expected of him as head of the CA.[34] While he advances three arguments to strike that down, the finding has strong bases.

First, the CA en banc's decision referring "the propriety of the actions of the Justices concerned" to this Court does not show that the investigation should exclude Presiding Justice Vasquez. No CA justices were specified, and in order to get to the bottom of the truth, the investigation had to be full-blown. In addition to being the Presiding Justice, Vasquez was also personally embroiled in the Meralco controversy. There was no reason for him to think his own actions would not be inquired into by the Panel, or that he would merely be considered a "resource speaker." [35] He cannot justify his acts of omission by merely arguing that he was unable to render "more complete explanations or more focused justifications vis-à-vis the charge against" [36] him. All he had to do during the investigation was to tell the truth, and if the truth revealed lapses on his part, he should be responsible for his actions. Second, during the proceedings, Presiding Justice Vasquez showed his incapacity to lead the CA. As the Panel found, he was indecisive in dealing with the turmoil arising from the Meralco case. He vacillated and temporized in resolving the chairmanship impasse.[37] Having referred the matter to Justice Cruz, he ignored the latter's opinion and deferred to that of Justice Sabio. Worse, he refused to take action on the reported bribe offer by De Borja (or Meralco) to Justice Sabio. He hesitated to assert his authority even when the parties themselves repeatedly urged him to lay down the rule for him to follow.[38] His justification that he wanted Justices B.L. Reyes and Sabio to resolve the chairmanship issue between them[39] precisely shows his lack of leadership. Also, his belief that the dispute was beyond his jurisdiction because it is a judicial matter,[40] is disturbing as it reveals that he does not know what his duties are as Presiding Justice. As the Panel pointed out, he is authorized to act on any matter involving the court and its members.[41] Verily, his failed leadership caused the Meralco situation to deteriorate. Third, intended efforts to clean up the CA will be pointless if not backed up by a strong and coherent leadership that will initiate and implement reforms. Presiding Justice Vasquez has proven himself inadequate in this respect. He cannot be expected to be the torchbearer and forerunner in reforming and restoring faith in the CA. How can the CA "overcome" [42] the difficulties of public distrust and heal itself towards moral recovery with a weak leader at the helm? Vasquez' continued stay in the appellate court

will be ineffective and self-defeating.

4. On Justice Myrna Dimaranan Vidal

Justice Vidal's acts were not merely lapses in judgment; they constitute failure to uphold independence in the Judiciary.

Justice Dimaranan Vidal deviated from the IRCA when she allowed herself to be rushed by Justice Roxas into signing the Meralco decision without having read the parties' memoranda, and without deliberation among its members, given the significance of the case.[43] She admits her lapse when she merely relied on the representation of Justice Roxas that it was urgent for her to immediately sign the decision. These are not mere accidents or mistakes made by an ordinary employee. These indicate lack of caution on the part of one who has been deigned to don the judicial robe.

Thus, she should not expect to be treated with kid gloves for the reasons advanced in her motion for reconsideration, including the fact of her impending retirement.

Accordingly, the writer of the separate opinion voted to deny the motions for reconsideration filed by Presiding Justice Conrado M. Vasquez, and Justices Jose L. Sabio, Jr., Vicente Q. Roxas, and Myrna Dimaranan Vidal. Instead he voted:

- to affirm the dismissal of Justice Roxas from the service, with forfeiture of all benefits, except accrued leave credits, if any.
- to dismiss Justice Jose L. Sabio, Jr. from the service.
- to order Presiding Justice Conrado M. Vasquez' forced retirement with entitlement to leave credits and retirement benefits, without prejudice to re-employment in the government service.[44]
- to substitute reprimand for admonition to Justice Myrna Dimaranan Vidal.

One more Justice who maintains his vote in the Court's per curiam decision wrote a separate concurring opinion, to wit:

Another justice regards the extremely adverse comments and observations about Justice Sabio to be unwarranted nitpicking that sees all the imperfections of individual trees but completely misses the forest. More than anything else, this justice believes that the liability of the CA justices should be taken in the total context of what they did in relation with the problems that confronted them.

More than anything else, this justice believes that the liability of the CA justices should be taken in the total context of what they did in relation with the problems that confronted them.

What should not be missed with respect to Justice Sabio is the fact that he blew the whistle on what was happening, thus triggering the investigation that transpired. Without Sabio's whistleblowing, the whole Meralco-GSIS mess at the CA would have been effectively covered up, ending as one of the stories whispered about in judicial corridors and in gossip columns to the detriment of the whole judicial system. Justice Sabio's act was really the first of its kind in judicial history when one sitting justice spoke about an on-going corruption in the courts. To be sure, this is not the first incidence of corruption in the appellate court and in the judiciary as a whole. The distinguishing feature of this one is that a sitting justice openly spoke and made a proper report about it. As the committee's findings confirm, Justice Sabio reported the attempted bribery to Presiding Justice Vasquez and at some point exerted efforts to report it to the Chief Justice. That was how determined Justice Sabio was to fully expose the anomaly he found himself in. His passion for truth was such that he could have simply kept his brother's call to himself as nobody knew about it except the two of them. Yet, casting aside familial sympathies, he disclosed the matter if only to fully ventilate the totality of what he

knew about the Meralco-GSIS affair. The apparently forgotten bottom line in Justice Sabio's action was the manner he voted; he voted against his brother's side by granting the temporary restraining order that Meralco prayed for.

As a lesson from the whole affair, the commenting Justice bewails that whistle blowing has not been accorded the attention it deserves in the Committee Report as well as in the Court's consideration of the matter. Even our laws have not given whistle blowers recognition although these same laws recognize the need and utilitarian value of state witnesses in criminal prosecutions and accordingly give them special treatment for their contribution. If this is done in the prosecution of crimes in general, with more reason should whistle blowing be given due recognition in graft and corruption cases where the whistle blower is not necessarily a party to the misdeed. Corruption, too, is never done in the open, only in darkness and secrecy where it can be effectively hidden. To effectively combat such easily concealed misdeeds, the law and this Court should not disregard the lights that whistle blowers offer, very often at substantial risk to themselves. Stated positively, these lights should be recognized and appreciated instead of being disregarded, or worse, snuffed out. Thus, Justice Sabio should be treated with understanding and leniency instead of being nitpicked and totally condemned.

Apart from the above-mentioned separate concurring and dissenting opinion of one Justice, the Justices' votes and inhibitions remained unchanged.

WHEREFORE, the Motion for Reconsideration dated September 24, 2008 filed by Justice Vicente Q. Roxas; Motion for Reconsideration dated September 15, 2008 filed by Justice Jose L. Sabio, Jr.; Motion for Reconsideration dated September 24, 2008 filed by Presiding Justice Conrado M. Vasquez, Jr.; A Plea for Compassion and Clemency dated September 22, 2008 filed by Justice Myrna Dimaranan Vidal; and Motion for Reconsideration dated September 26, 2008 filed by Mr. Francis de Borja are DENIED WITH FINALITY.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Austria-Martinez, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, Leonardo-De Castro, and Brion, JJ., concur.
Carpio, J., no part.

[1] Affidavit dated August 7, 2008 of Presiding Justice Conrado M. Vasquez, Jr., par. 13.

[2] Motion for Reconsideration of Justice Sabio, rollo, pp. 761 to 762.

[3] Canon 13 provides: "A lawyer shall rely upon the merits of his cause and refrain from any impropriety which tends to influence, or gives the appearance of influencing the court."

[4] Paragraph 2, from Justice Sabio's Affidavit dated August 7, 2008 reads:

2. On May 30, 2008, on or about 8 o'clock in the morning, while I was at my chambers, I received a call from my brother, PCGG Chairman Camilo Sabio, informing me that I was the third member of the division to which the Meralco-GSIS case was raffled. This was a surprise to me because I had not yet been officially informed about it. He then said that he heard a TRO was already prepared. At this point, he then tried to convince me of the rightness of the stand of the GSIS and the SEC. I then told him that I will vote according to my conscience and that the most I can do is have the issuance of the TRO and injunctive relief scheduled for oral arguments. I also told him that during said hearing respondents must be able to convince me that the TRO did not have legal basis.

[5] Chairman Sabio's statement on pp. 5-6 states:

As we were leaving the Airport, I again got in touch with Justice Sabio. After he confirmed that he was in fact in

the Division which the petition of Meralco had been raffled, I impressed upon him the character and essence of the controversy. I asked him to help GSIS if the legal situation permitted. He said he would decide according to his conscience. I said: of course.

[6] Affidavit of Justice Sabio, par. 23, rollo, p. 107.

[7] Annex C, Affidavit dated August 7, 2008, rollo, p. 122.

[8] In re: Judge Benjamin H. Virrey, A.M. No. 90-7-1159-MTC, October 15, 1991, 202 SCRA 628, 634; Conrado Y. Ladignon v. Judge Rixon M. Garong, A.M. No. MTJ-08-1712, August 20, 2008 .

[9] Panel of Investigators Report dated September 4, 2008, p. 48.

[10] Office of the Court Administrator v. Judge Marcelino L. Sayo, A.M. Nos. RTJ-00-1587, May 7, 2002, 381 SCRA 659, 679.

[11] Alexander D.J. Lorenzo v. Orlando and Dolores Lopez, A.M. No. 2006-02-SC, October 15, 2007, 536 SCRA 11, 18-19.

[12] Rodolfo T. Baquerfo v. Gerry C. Sanchez, A.M. No. P-05-1974, April 06, 2005, 455 SCRA 13, 21.

[13] Section 9, Rule 140, Rules of Court.

[14] Section 11(B), Rule 140, Rules of Court.

[15] Francisco C. Tobias v. Hon. Castrense C. Veloso, G.R. No. L-40224, September 23, 1980, 100 SCRA 177, 184.

[16] Motion for Reconsideration of Justice Vicente Roxas, p. 8.

[17] See Panel of Investigators Report dated September 4, 2008, pp. 45-46.

[18] TSN, August 26, 2008, p. 196.

[19] Id. at 193.

[20] See note 4, at 46.

[21] Code of Judicial Conduct (1989), Rule 2.03, Canon 2.

[22] See note 4, at 48.

[23] See note 4, at 46.

[24] Affidavit of Presiding Justice Conrado Vasquez, p. 3.

[25] Affidavit of Justice Edgardo Cruz, p. 2.

[26] Annex "A," Affidavit of Justice Edgardo Cruz.

[27] Code of Judicial Conduct (1989), Rule 3.12, Canon 3 states:

Rule 3.12. - A judge shall take no part in a proceeding where the judge's impartiality might reasonably be questioned. x x x

[28] See note 4, at 51.

[29] Id. at 50.

[30] Code of Judicial Conduct (1989), Rule 5.07, Canon 5.

[31] Agpalo, R.E., Comments on the Code of Professional Responsibility and the Code of Judicial Conduct, 2001 ed., pp. 491-492.

[32] Respectful Motion for Inhibition of Justice Jose Sabio, Jr., p. 1.

[33] Motion for Reconsideration of Justice Jose Sabio, Jr., p. 25.

[34] See note 4, at 50-54; decision, p. 54.

[35] Motion for Reconsideration of Presiding Justice Vasquez, p. 4.

[36] Id.

[37] See note 4, at 52.

[38] Id.

[39] Motion for Reconsideration of Presiding Justice Vasquez, p. 17.

[40] Id.

[41] See note 4, at 52.

[42] On September 15, 2008, CA Presiding Justice Vasquez and other Justices, as part of the Moral Recovery Enhancement Program launched by the CA Justices, signed a Covenant with the motto: "We shall overcome!"

[43] See note 4, at 59.

[44] Akin to forced resignation. See *Civil Service Commission v. Cortez*, G.R. No. 155732, June 3, 2004, -430 SCRA 593, 603, citing *Marasigan v. Buena*, 348 Phil. 1 (1998), where the Court, taking into consideration respondent's demonstrated repentance, immediate full restitution and sincere effort to reform her life, modified the penalty of dismissal to that of forced resignation ("deemed resigned from the service") with entitlement to leave credits and retirement benefits, without prejudice to reemployment in the government service.

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