IN RE: UNDATED LETTER OF MR. LOUIS C. BIRAOGO, PETITIONER IN BIRAOGO V. NOGRALES AND LIMKAICHONG,

A.M. No. 09-2-19-SC. February 24, 2009

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PER CURIAM:

Before this Court is the Report of the Investigating Committee created under the Resolution dated December 10, 2008, to investigate the unauthorized release of the unpromulgated ponencia of Justice Ruben T. Reyes in the consolidated cases of Limkaichong v. COMELEC, Villando v. COMELEC, Biraogo v. Nograles and Limkaichong, and Paras v. Nograles, docketed as G.R. Nos. 178831-32, 179240-41, 179120 and 179132-33, respectively, to determine who are responsible for the leakage of a confidential internal document of the En Banc.

The investigating committee, composed of Mr. Justice Leonardo A. Quisumbing as Chairperson and Mme. Justice Conchita Carpio Morales and Mr. Justice Renato C. Corona as Members, submitted the following report:

INVESTIGATING COMMITTEE CREATED UNDER THE
EN BANC RESOLUTION DATED DECEMBER 10, 2008

MEMORANDUM FOR:

HON. REYNATO S. PUNO, Chief Justice
HON. CONSUELO YNARES-SANTIAGO, Associate Justice
HON. ANTONIO T. CARPIO, Associate Justice
HON. MA. ALICIA AUSTRIA-MARTINEZ, Associate Justice
HON. DANTE O. TINGA, Associate Justice
HON. MINITA V. CHICO-NAZARIO, Associate Justice
HON. PRESBITERO J. VELASCO, JR., Associate Justice
HON. ANTONIO EDUARDO B. NACHURA, Associate Justice
HON. TERESITA J. LEONARDO-DE CASTRO, Associate Justice
HON. ARTURO D. BRION, Associate Justice
HON. DIOSDADO M. PERALTA, Associate Justice

RE: Report on the Investigation of the Unauthorized Release of the Unpromulgated Ponencia of Justice Ruben T. Reyes in the Consolidated Cases of Limkaichong v. COMELEC, Villando v. COMELEC, Biraogo v. Nograles and Limkaichong, and Paras v. Nograles, Docketed as G.R. Nos. 178831-32, 179240-41, 179120 and 179132-33, Respectively, to Determine Who are Responsible for the Leakage of a Confidential Internal Document of the En Banc

Respectfully submitted for the consideration of the Honorable Chief Justice and Associate Justices of the Supreme Court the following report on the results of the investigation of the committee created under the En Banc Resolution dated December 10, 2008.

ANTECEDENT FACTS

During its session on July 15, 2008, the Court En Banc continued its deliberations on the draft of Justice Ruben T. Reyes in the consolidated cases of Limkaichong v. Comelec, Villando v. Comelec, Biraogo v. Nograles and Limkaichong, and Paras v. Nograles, docketed asG.R. Nos. 178831-32, 179240-41, 179120 and 179132-33, respectively, (Limkaichong case) which was used by this Court as a working basis for its deliberations. Since no one raised any further objections to the draft, the En Banc approved it. It having been already printed on Gilbert paper, albeit a number of Justices manifested that they were concurring "in the result," Justice Reyes immediately circulated the ponencia during the same session.

After the session and during lunch, Chief Justice Reynato S. Puno noted that seven of the 13 Justices (excluding Justice Reyes) concurred "in the result" with the ponencia of Justice Reyes (hereafter Gilbert copy or Justice Reyes's ponencia or ponencia or unpromulgated ponencia). Justices Minita Chico-Nazario and Teresita Leonardo-De Castro then informed the Chief Justice that they too wanted to concur only "in the result." Since nine Justices, not counting the Chief Justice, would concur only "in the result," the Justices unanimously decided to withhold the promulgation of the Gilbert copy. It was noted that if a majority concurred only "in the result," the ponencia would have no doctrinal value. More importantly, any decision ousting a sitting member of the House of Representatives should spell out clearly the legal basis relied upon by the majority for such extreme measure. Justice Antonio T. Carpio then volunteered to write his Reflections on Justice Reyes's ponencia for discussion in the following week's En Banc session.

During its session on July 22, 2008, the En Banc deliberated on Justice Carpio's Reflections which had in the meantime been circulated to the members of the Court. As a result, the En Banc unanimously decided to push through and set the date for holding oral arguments on the Limkaichong case on August 26, 2008.

On the request of Justice Reyes, however, the Limkaichong case was included in the agenda of July 29, 2008 where it was listed as Item No. 66. The decision to hold oral arguments remained, however.

On December 9, 2008, Louis C. Biraogo, petitioner in Biraogo v. Nograles and Limkaichong, G.R. No. 179120, held a press conference at the Barrio Fiesta Restaurant in Maria Orosa Street, Ermita, Manila, and circulated to the media an undated letter signed by him, together with what appeared to be a xerox copy of the unpromulgated ponencia. In his letter, Biraogo insinuated that the Court, at the instance of the Chief Justice and with the implied consent of the other Justices, unlawfully and with improper motives withheld the promulgation of the ponencia.

Noting that the unauthorized release of a copy of the unpromulgated ponencia infringed on the confidential internal deliberations of the Court and constituted contempt of court, the Court, in a Resolution dated December 10, 2008, directed

- The creation of an Investigating Committee, chaired by Senior Associate Justice Leonardo A. Quisumbing, with Associate Justice Consuelo Ynares-Santiago, Chairperson, Third Division and Associate Justice Antonio T. Carpio, Working Chairperson, First Division, as Members to investigate the unauthorized release of the unpromulgated ponencia of Justice Reyes to determine who are responsible for this leakage of a confidential internal document of the En Banc, and to recommend to the En Banc the appropriate actions thereon;

- Mr. Louis C. Biraogo to SHOW CAUSE, within ten (10) days from receipt of this Resolution, why he should not be punished for contempt for writing the undated letter and circulating the same together with the unpromulgated ponencia of Justice Reyes.

As directed, the committee, composed of the aforementioned three senior Justices, conducted initial hearings on December 15 and 16, 2008.

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In the meantime, in compliance with the Court's above-quoted Resolution dated December 10, 2008, Biraogo submitted to the Court his Compliance dated December 22, 2008 to which he attached the following annexes: (1) an undated photocopy of a 3-page printed letter addressed to "Dear Mr. Biraogo" which purportedly was sent by a "Concerned Employee" as Annex "A"; (2) a June 12, 2008 note handwritten on a memo pad of Justice Reyes reading:

> Re: G.R. Nos. 178831-32, etc. [the comma and "etc." are handwritten]
> Dear Colleagues,
> I am circulating a revised draft of the ponencia.
>
> (Sgd.)
> RUBEN T. REYES,

together with a copy of Justice Reyes's Revised Draft ponencia for the June 17, 2008 agenda as Annex "B"; (3) a photocopy of the unpromulgated ponencia bearing the signatures of 14 Justices as Annex "C"; and (4) a photocopy of Justice Carpio's Reflections as Annex "D".

Justice Ynares-Santiago later inhibited herself upon motion of Justice Ruben T. Reyes while Justice Carpio voluntarily inhibited himself. They were respectively replaced by Justice Renato C. Corona and Justice Conchita Carpio Morales, by authority of the Chief Justice based on seniority. Additional hearings were then held by the reconstituted committee on January 14, 16, 19, 20, 21 and 22, 2009.

The following witnesses/resource persons were heard:

- Armando A. Del Rosario, Court Stenographer III, Office of Associate Justice Ruben T. Reyes
- Rodrigo E. Manabat, Jr., PET Judicial Staff Officer II, Office of Associate Justice Ruben T. Reyes
- Atty. Rosendo B. Evangelista, Judicial Staff Head, Office of Associate Justice Ruben T. Reyes
- Associate Justice Minita V. Chico-Nazario
- Associate Justice Antonio Eduardo B. Nachura
- Associate Justice Teresita J. Leonardo-De Castro
- ACA Jose Midas P. Marquez, Chief, Public Information Office
- Ramon B. Gatdula, Executive Assistant II, Office of the Chief Justice
- Atty. Ma. Luisa D. Villarama, Clerk of Court En Banc
- Major Eduardo V. Escala, Chief Judicial Staff Officer, Security Division, Office of Administrative Services
- Atty. Felipa B. Anama, Assistant Clerk of Court
- Willie Desamero, Records Officer III, Office of the Clerk of Court
- Glorivy Nysa Tolentino, Executive Assistant I, Office of Associate Justice Antonio Eduardo B. Nachura
- Onofre C. Cuento, Process Server, Office of the Clerk of Court
- Chester George P. Del Castillo, Utility Worker, Office of Associate Justice Ruben T. Reyes
- Conrado B. Bayanin, Jr., Messenger, Office of Associate Justice Ruben T. Reyes

- Fermin L. Segotier, Judicial Staff Assistant II, Office of Associate Justice Antonio Eduardo B. Nachura

- Retired Justice Ruben T. Reyes

SUMMARIES OF TESTIMONIES

Below are the summaries of their testimonies:

1. ARMANDO A. DEL ROSARIO, Court Stenographer III, Office of Associate Justice Ruben T. Reyes, testified as follows:

> He was in charge of circulating ponencias for the signatures of the Justices and of forwarding signed (by all the Associate Justices who are not on leave) ponencias to the Office of the Chief Justice (OCJ).
>
> On July 15, 2008, after the En Banc session, he received from Justice Reyes the original of the unpromulgated ponencia (Gilbert copy). Because he was busy at that time, he instructed his co-employee Rodrigo Manabat, Jr. to bring the Gilbert copy to the Office of Justice Nachura for signature and to wait for it. He instructed Manabat to rush to Justice Nachura's office because the latter was going out for lunch. After more than 30 minutes, Manabat returned with the Gilbert copy already signed by Justice Nachura, who was the last to sign.[1] Del Rosario then transmitted the Gilbert copy together with the rollo, temporary rollos, and diskettes to the OCJ pursuant to standard operating procedures for the promulgation of decisions. The documents were received by Ramon Gatdula on the same day at around 3:00 p.m.
>
> The following day, on July 16, 2008, at around 4:00 p.m., Justice Reyes instructed him to retrieve the Gilbert copy and the accompanying documents and diskettes as he was told that the promulgation of the ponencia had been placed on hold. He brought the Gilbert copy to Justice Reyes who told him to keep it. He then placed the Gilbert copy in a sealed envelope and placed it inside his unlocked drawer and wrote a note in his logbook when he retrieved the Gilbert copy that its promulgation was on hold and would be called again on July 29, 2008.[2]
>
> The Gilbert copy was in his sole custody from July 16, 2008 until December 15, 2008 (when the investigating committee held its first hearing).[3] He never opened the envelope from the day he sealed it on July 16, 2008 until December 10, 2008, when Justice Reyes told everybody in their office that the Gilbert copy had been photocopied and leaked. He did not have any news of any leakage before then. And he also did not photocopy the Gilbert copy. The seal placed on the envelope was still intact when he opened it on December 10, 2008.[4] Although the lawyers in their office knew that he kept original copies of drafts in his unlocked drawer, he believed that nobody in his office was interested in photocopying the Gilbert copy. He was solely responsible for keeping the Gilbert copy. He did not know any of the parties to the case and none of them ever called him. And he did not know what Gatdula did after receiving the Gilbert copy.[5]
>
> The Limkaichong case was called again on July 29, 2008 as Item No. 66. The Office of Justice Reyes received the En Banc agenda for the said date on July 25, 2008. Upon receipt of the said En Banc agenda and the new item number, their office prepared a new cover page and attached it to the Gilbert copy. The original cover page of the Gilbert copy for the agenda of July 15, 2008 showing the case as item number 52 was thrown away.[6]
>
> On being recalled on January 20, 2009, Del Rosario further testified as follows:
>
> On July 15, 2008 when the Justices were about to leave the En Banc session room after the adjournment of the session, he entered the room just like the rest of the aides.[7] He carried the folders of Justice Reyes, returned them to the office, and went back to, and waited for Justice Reyes until Justice Reyes finished lunch at the En Banc dining room.[8] The Gilbert copy was left with Justice Reyes.[9] Before 1:00 p.m., after the Justices had taken lunch,[10] Justice Reyes, who was then carrying an orange envelope, handed to him the Gilbert copy and

instructed him to speed up the ponencia's signing by Justice Nachura (who was not taking part in the oral arguments of a case scheduled at 1:30 p.m. that day) since the latter might be leaving.[11] He heard Justice Reyes say "Ihabol mo ito... Ihabol na ipapirma kay Justice Nachura" in the presence of Judicial Staff Head, Atty. Rosendo Evangelista, as the three of them were going down the stairs to their office from the session room.[12]

He was not the one who brought the ponencia to the Office of Justice Nachura because he gave the task to Manabat to whom he relayed the instruction.[13] There were already signatures on page 36 of the ponencia when he gave it to Manabat and only the signature of Justice Nachura was missing.[14] He pointed this to Manabat saying, "ito na lang ang walang pirma, dalhin mo doon." Manabat obliged him.[15]

After a few minutes, Manabat returned to their office bearing the Gilbert copy. He went to Atty. Evangelista, showing him that the ponencia had already been signed by Justice Nachura. Atty. Evangelista then instructed him to have the ponencia promulgated by delivering the same to the OCJ. He (Del Rosario) complied, personally handing the Gilbert copy with the rollo, records and diskettes to Ramon Gatdula of the OCJ at 3:30 p.m., also of July 15, 2008.[16] The ponencia stayed at the OCJ until the afternoon of the following day, July 16, 2008.[17]

He was not told that the promulgation of the ponencia was on hold until the afternoon of July 16, 2008, when Justice Reyes called him to his chambers and instructed him to retrieve the ponencia. He also stated that someone from the OCJ called their office and requested them to retrieve the ponencia because its promulgation was on hold.[18] At 4:00 p.m. that day, he retrieved the ponencia etc. from the OCJ[19] and gave the ponencia to Justice Reyes.[20]

He merely showed the ponencia to Justice Reyes who ordered him to keep it ("tabi mo muna yan").[21] He then placed a note "Hold, reset July 29" in his logbook after being informed by Atty. Evangelista of such date of resetting.[22] He reiterated that he placed the Gilbert copy in a brown envelope, sealed it with the officially issued blue and white seal provided by the Printing Office, and placed the envelope inside his unlocked drawer. The envelope was still sealed when he checked it on December 10, 2008.[23] He admitted that from the time he kept the Gilbert copy in his drawer until the Special En Banc meeting on December 10, 2008, he and no one else was in possession of the Gilbert copy. But he denied that he ever opened the envelope or photocopy the Gilbert copy. In fact, he did not mind it.[24] And nobody inquired about it since July 16, 2008 until December 10, 2008.[25] He likewise denied that he knew Congressman Paras or Biraogo or that the two ever called his office.[26]

When asked if he could produce the envelope into which he placed the Gilbert copy, he replied that Justice Reyes had taken it.[27] He also informed that what was placed on the face of the brown envelope was a computer print-out containing the title of the case, the names of the ponente and the other Justices, and the manner they voted.[28]

When he was asked by Justice Carpio Morales whether it was possible for him to recognize any tampering if, for instance, the envelope and the seal were replaced with a similar envelope and blue and white seal with a similar print-out information on the face of the envelope, he answered in the negative.[29] (At that point, Justice Carpio Morales remarked that Del Rosario, therefore, could not have been certain when he said that the envelope remained sealed from July 16, 2008 to December 10, 2008.)[30]

Nobody else knew where he put the Gilbert copy--in the same place as the other drafts. It was possible for someone to take the Gilbert copy from his drawer and photocopy it on a weekend or after office hours.[31] Nobody told him to guard the Gilbert copy.[32]

Everybody in the office knew how to operate the xerox machine.[33] He drew a sketch of the layout of the desks inside the office of Justice Reyes, illustrating that his location was two desks away from the table of April Candelaria, a secretary in the office, and that the xerox machine was situated at the back of the long table

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of the receiving clerks.[34]

He stayed in the office as long as Justice Reyes was still there but he could not say for sure that nobody photocopied the Gilbert copy after office hours as he also went out of the office to smoke in the nearby garden area or repair to the toilet.[35]

He never reported to office on Saturdays and there was one time Justice Reyes went to office on a Saturday as he was also asked to report but he refused.[36] Justice Reyes sometimes dropped by the office on Sundays after attending services at the United Methodist Church along Kalaw Street, as told to him by the driver.[37]

He also circulated copies of the Revised Draft of the decision to the other Justices but he never received a copy of Justice Carpio's Reflections.[38] He did not offer an explanation why the Gilbert copy, which was in his possession, and the Revised Draft, were leaked.[39] No information was supplied by his officemates, friends or relatives to help explain the leakage.[40] Among his relatives working in the Court are his mother-in-law, Jasmin P. Mateo of the OCJ, sister of former Court Administrator Ernani Pano, and Mrs. Mateo's sibling, who works at the Hall of Justice Committee.[41]

He and the driver of Justice Reyes were given keys to the main door of the Office of Justice Reyes but he could not say that only the two of them held keys to the main door.[42] April Candelaria and Atty. Ferdinand Juan asked for and got duplicates of the key, but could not remember exactly when. Atty. Juan got a duplicate of the key because the lawyers sometimes went out for dinner and needed to go back to the office to retrieve their personal belongings.[43]

April Candelaria's secretarial functions included recording of the social activities of Justice Reyes and delivering door-to-door papers to his chambers.[44] Candelaria and the driver were in the staff of Justice Reyes since the latter's stint at the Court of Appeals, while Atty. Juan was employed ahead of him.[45]

Everybody in the office knew how to operate the xerox machine because all of them photocopied personal documents and were too ashamed to ask other officemates to do it for them.[46]

When news of the leakage came out, Justice Reyes called all his legal staff and him to a meeting. In a tone that was both angry and sad, Justice Reyes asked them if they knew anything about the leakage.[47] A meeting among Justice Reyes, Atty. Evangelista, Manabat and him took place on December 15, 2008, before the initial hearing by the investigating committee.[48] Justice Reyes also talked to him one-on-one and asked him if a copy of Justice Carpio's Reflections was attached to the Gilbert copy and other documents when they were sent to the OCJ. He replied that there was none and that he just kept the Gilbert copy in his drawer and had in fact forgotten all about it until Justice Reyes inquired about it in December.[49] He was not able to read Jarius Bondoc's column about the leakage of the Gilbert copy (which came out in the Inquirer in October 2008 about the Gilbert copy) nor had Justice Reyes confronted him about said column before December 2008.[50]

During the initial hearing in December 15, 2008, nobody talked to him or knew that he was testifying as he was even surprised that he was called to testify.[51] When confronted with the testimony of his officemate, Chester Del Castillo, who testified that Justice Reyes called only one meeting, he opined that Del Castillo might not have known about the meeting with the lawyers since Del Castillo was frequently absent.[52]

2. RODRIGO E. MANABAT, JR., PET Judicial Staff Employee II, Office of Associate Justice Ruben T. Reyes, testified as follows:

He was the personal aide of Justice Reyes. On July 15, 2008, he brought the Gilbert copy to the Office of Justice Nachura for signature upon the instruction of Del Rosario and Atty. Evangelista.[53] He gave the Gilbert copy to the receptionist and waited outside the said office. After ten minutes, the document was returned to him.[54] He then immediately gave it to Del Rosario. It took him not more than 15 minutes to return the document to Del Rosario.[55] He averred that he did not photocopy the Gilbert copy nor did he notice if anybody from the Office of Justice Nachura photocopied it.[56] He also did not know if Del Rosario

placed the document in a sealed envelope or photocopied it.[57] After returning the Gilbert copy to Del Rosario, he went back to Justice Reyes who asked him if Justice Nachura had already signed the ponencia. He answered yes and told Justice Reyes that the ponencia was already with Del Rosario.[58]

3. ATTY. ROSENDO B. EVANGELISTA, Judicial Staff Head, Office of Associate Justice Ruben T. Reyes, testified that as follows:

Around 1:00 p.m. on July 15, 2008, Justice Reyes instructed him to have signature page 36 of the ponencia reprinted and circulated for signing allegedly because Justice Minita Chico-Nazario wanted to change her qualified concurrence thereon--"in the result"--to an unqualified concurrence. He thus instructed Jean Yabut, the stenographer in charge of finalizing drafts, to reprint page 36 of the Gilbert copy.Then he ordered the reprinted page circulated for signatures together with the other pages of the ponencia. He assumed that the original page 36 was discarded as it was no longer in their files. He likewise assumed that the signatures were completed on the reprinted page 36 as the Gilbert copy was forwarded around 3:00 p.m. to the OCJ per standard operating procedure.[59] He was not informed then by Justice Reyes or anybody that the promulgation of the Gilbert copy had been put on hold per agreement of the Justices.[60] He came to know that it was on hold only on July 17, 2008, when Del Rosario informed him upon his arrival at the office. Because the information was unusual and because it was his duty to make sure that signed decisions were promulgated, he asked Justice Reyes. Justice Reyes then confirmed that the promulgation of the ponencia was on hold.[61] After that, he just assumed that the Gilbert copy was in their office with Del Rosario who was assigned to keep such documents. However, he did not know exactly where in his work area Del Rosario kept it.[62] He did not make a photocopy of the Gilbert copy nor did he order Del Rosario and Manabat to make photocopies. Neither did he know how the Gilbert copy was photocopied. He only came to know about the leakage last December 10, 2008.[63]

When, on January 22, 2009, he was recalled by the committee, he further testified as follows:

He occupied the last cubicle in the lawyers' room and the xerox machine was located outside the lawyers' room.[64] It was upon the instruction of Justice Reyes that their office reprint page 36 of the Gilbert copy and circulate it for signature. The instruction to circulate the reprinted page, which was circulated together with the other pages of the Gilbert copy, was given by him to either Manabat or Del Rosario.[65] He saw the original page 36 where Justice Chico-Nazario (supposedly) wrote the phrase "in the result" on top of her signature.[66] Aside from him, Court Attorney VI Czar Calabazaron, who principally researched on the case, also saw the qualification in Justice Chico-Nazario's signature while the Gilbert copy lay on top of Justice Reyes's coffee table inside his chambers. He recalled that at about 12:30 p.m. or before 1:00 p.m. right after the En Banc session on July 15, 2008, Justice Reyes called the him and Atty. Calabazaron to his chambers.[67] In that meeting, Justice Reyes phoned Justice Chico-Nazario after noticing that Justice Chico-Nazario's signature bore the notation "in the result."[68] He, however, did not hear what they talked about since the less-than-five-minute phone conversation was inaudible, even though he was just approximately one meter away.[69] Justice Reyes thereafter instructed him to reprint the second signature page (page 36). He assumed from the context of the instruction that it was due to the change in Justice Chico-Nazario's concurrence, without asking Justice Reyes the reason therefor.[70] He then directed the stenographer to, as she did, reprint the second signature page, page 36, which was brought in to Justice Reyes in his chambers.[71]

He attended the oral arguments on a case scheduled at 1:30 p.m. on that day (July 15, 2008) and arrived at the session hall before that time.[72] As far as he could recall, he went down to the Office of Justice Reyes about 3:00 p.m. to retrieve a material needed for the oral arguments. He denied having testified that he went down purposely to check if the ponencia had been circulated and the second signature page signed anew and to make sure that the ponencia had already been transmitted to the OCJ.[73] When confronted with the transcript of stenographic notes, he maintained that it was part of his duties to see to it that every ponencia of Justice Reyes was promulgated.[74] He was sure that he went down to their office at around 3:30 p.m., although he could not recall his purpose for doing so. It was probably to get some materials related to the oral arguments, and that it

just so happened that Del Rosario saw him and informed him that the Gilbert copy had already been transmitted to the OCJ.[75]

When asked as to the whereabouts of the original signature page 36, he surmised that it must have been shredded since it was not made part of the official documents submitted to the OCJ.[76] While he searched for it in his cubicle, it could no longer be located.[77] He did not inquire from Justice Reyes or from Del Rosario who also had access to that page, because he assumed that it could not be located since what was submitted to the OCJ was the one where Justice Chico-Nazario's concurrence was no longer qualified by the phrase "in the result."[78] As he was attending the oral arguments, he had no opportunity to see the reprinted signature page 36 with the affixed signatures prior to the transmittal to the OCJ.[79]

He came to know that the Gilbert copy was retrieved on July 16, 2008.[80] It was Del Rosario who informed him on July 17, 2008 that the promulgation of the ponencia was on hold and was returned to their office.[81] Justice Reyes did not advise them earlier that the promulgation was on hold.[82] After learning about it, he inquired from Justice Reyes who confirmed that the promulgation was indeed on hold. He never asked for the reason even though that was their first "on hold" incident because he thought that the case would be called again at another session.[83] He read the newspaper reports about the unpromulgated ponencia but did not validate them with Justice Reyes.[84]

He assumed that Del Rosario, being the custodian, kept the Gilbert copy in their office.[85] Their office reprinted the second signature page 36 of the Gilbert copy.[86] When shown page 36 of the Gilbert copy by the committee, he assumed that it was the reprinted page since Justice Chico-Nazario's signature no longer contained any qualification.[87] He stated that it was the practice of their office to photocopy drafts signed by Justice Reyes and to furnish the other Justices with advance copies for their review before the session. Only such drafts were photocopied. Ponencias, which had already been signed by the other Justices and printedon Gilbert paper, were never photocopied. Del Rosario only logged them in his logbook and prepared soft copies for submission to the Division Chair or the Chief Justice.[88] He assured the committee that this practice was 100% complied with despite the fact that he was not one of those assigned to photocopy, but later yielded to given situations by Justice Carpio Morales.[89]

When directed to compare the front page of the photocopy Biraogo submitted as Annex "C" to his Compliance to the Show Cause Order with the original Gilbert copy submitted to the committee by Justice Reyes, Atty. Evangelista noticed the difference in the dates of the agenda. He noted that Biraogo's copy, which was the copy allegedly leaked to him, bore the agenda date "July 15, 2008," while the Gilbert copy submitted by Justice Reyes to the committee bore the agenda date "July 29, 2008." He also noted that the item numbers were also different because the Limkaichong case was listed as Item No. 52 in the photocopy submitted by Biraogo, whereas in the Gilbert copy, the case was listed as Item No. 66.[90] To him, it was probable that Biraogo got his copy from another source but it was not probable that Biraogo photocopied a copy in the office.

Only a few persons were authorized to operate the xerox machine in their office, namely, Conrado Bayanin, Jr., Armando Del Rosario, Chester Del Castillo, a certain Leonard and a certain Ramon.[91] He could not recall who among the five had been directed to photocopy the July 15, 2008 draft.[92] He ventured a guess that the top page of the Gilbert copy might have been reprinted but could not impute any motive to any person.[93] Even if he was the staff head, he was not privy to the preparation of the first page nor of the top cover bearing the date "July 29, 2008" copy.[94]

Finally, he manifested that from the time the Gilbert copy was signed by 14 Justices until December 15, 2008, he did not acquire exclusive control or possession of the Gilbert copy because Del Rosario was the custodian thereof.[95] He reiterated that he did not know where, exactly, Del Rosario kept the documents. He admitted that he was remiss in his duties as staff head for not knowing.[96] It was their practice not to lock drawers.[97] He was aware that Justice Reyes eventually prepared another draft of a ponencia changing his position in the Limkaichong case because he helped in the research in November 2008.[98] He never consulted the Gilbert

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copy because he had a softcopy thereof in his computer.[99] He did not ask why Justice Reyes was departing from his original position.[100] He denied that he knew Biraogo, Limkaichong, Jerome Paras, Olive Paras or any party to the case.[101]

He winded up his testimony by manifesting that the investigation was an experience that he hoped would not happen again and that he would not have to undergo again.[102]

4. ASSOCIATE JUSTICE MINITA V. CHICO-NAZARIO testified as follows:

She signed the Gilbert copy only once, in the En Banc conference room before going to the En Banc dining hall.[103] Justice Reyes was beside her, looking on, when she affixed her signature. Immediately after signing, she returned the Gilbert copy to Justice Reyes who circulated it for the signatures of the other Justices. She remembered that Justice Reyes was holding the document even when the Justices were already at the dining hall. She did not photocopy the ponencia nor was there any opportunity for her to do so as there was only one Gilbert copy and the only time she held it was when she affixed her signature. She added that her concurrence to the ponencia was without qualification but when it was noted during lunch that most of the Justices had simply concurred "in the result," she and Justice Teresita Leonardo-De Castro signified their intention to qualify their concurrence and concur likewise only "in the result."[104] However, she was no longer able to indicate the change on the document as she and the other Justices had decided to put on hold the promulgation of the decision until after holding oral arguments on the Limkaichong case. No reprinted signature page was ever sent to her office for her signature and she did not affix her signature on any other copy of the ponencia. She was not the last to sign the ponencia.[105]

5. ASSOCIATE JUSTICE TERESITA J. LEONARDO-DE CASTRO testified as follows:

She signed the Gilbert copy right after the En Banc session and Justice Reyes was right beside her when she signed the ponencia.[106] No reprinted signature page 36 was ever sent to her office for signature and she did not affix her signature on any other copy of the ponencia. She did not photocopy the ponencia and there could have been no opportunity to do so right after she signed it.[107]

6. ASSOCIATE JUSTICE ANTONIO EDUARDO B. NACHURA testified as follows:

He believed that he signed the ponencia in the En Banc conference room just before he went to the En Banc dining hall for lunch. He believed he was never sent a reprinted signature page. He either returned the ponencia to Justice Reyes right after signing it or passed it on to the other Justices for them to sign. He could not recall if he was the last to sign the ponencia. Asked whether he leaked the decision, Justice Nachura replied that he did not. Nor did he order any of his staff to photocopy it. In fact, there was no opportunity to photocopy the ponencia as he was not in custody thereof.[108] Although he knew the husband of one of the petitioners, Olivia Paras, neither she nor her husband ever asked for a copy of the ponencia.[109]

7. ASSISTANT COURT ADMINISTRATOR JOSE MIDAS P. MARQUEZ, Chief, Public Information Office (PIO), testified as follows:

The copy of Biraogo's undated letter with the attached copy of the unpromulgated ponencia of Justice Reyes, which he furnished the En Banc, came from a member of the media. Around 3:00 p.m. on December 9, 2008, a reporter called him on the phone, asking if he would like to give a statement because Biraogo was going to hold a press conference about the Limkaichong case later that day at Barrio Fiesta Restaurant, in front of the Court of Appeals. He requested the reporter to inform him of what was going to be taken up during the press conference. The reporter went to his office around 5:00 p.m. the same day, and furnished him a copy of Biraogo's undated letter. Attached to the letter was a copy of the unpromulgated ponencia. The reporter informed him that Biraogo distributed to the media during the press conference copies of the letter and the attachment.[110]

Sometime in October 2008, months before Biraogo held the press conference, Jarius Bondoc had published a

blind item column on the Limkaichong case. On November 8, 2008, another column, this time by columnist Fel Maragay, came out in the Manila Standard. The words used in both columns were the same so he thought that there was really an effort to report the story in the media. Knowing Jarius Bondoc to be a respectable journalist, he met with him to clarify matters as many of the statements in the news item were false or inaccurate. He provided Bondoc with the surrounding circumstances on the matter so that Bondoc would have the proper context in case he was again requested to publish the story. Bondoc offered to write about what he had said, but he told Bondoc that there was no need because there was no truth to the story given to the media anyway. He left it to Bondoc whether he would use the new information if he was again asked to publish the story.[111]

The leak could not have come from the PIO as they were never given a copy of the unpromulgated ponencia bearing the signatures of 14 Justices. He also did not bring drafts from the OCJ to the PIO. It is only after a case has been promulgated that the Clerk of Court gives the PIO copies. But in this case, the Clerk of Court did not even have a copy as the decision had not been signed by the Chief Justice.[112]

8. RAMON B. GATDULA, Executive Assistant III, Office of the Chief Justice, testified as follows:

On July 15, 2008, at 3:30 p.m., he received from Armando Del Rosario the Gilbert copy of the ponencia together with the rollos and two diskettes. He kept the Gilbert copy in his locked cabinet overnight and gave it to the Chief Justice's secretary the following day. In the afternoon of July 16, 2008, an employee from the Office of Justice Reyes retrieved the Gilbert copy. He did not inquire anymore about the reason why they were retrieving it as it was common practice for the offices of the ponentes to retrieve drafts whenever there were corrections. When asked whether he photocopied the ponencia, Gatdula said that he does not photocopy the decisions he receives. Their office also never photocopies decisions. They forward such decisions straight to the Clerk of Court for promulgation and they receive copies thereof only after the Clerk of Court has affixed her signature thereon and indicated the date of promulgation.[113]

9. ATTY. MA. LUISA D. VILLARAMA, the En Banc Clerk of Court, testified on the procedure for promulgation of ponencias.

After the Chief Justice affixes his signature on a decision, the decision is brought together with the rollo to the En Banc Clerk of Court to be logged, recorded and checked. If the necessary requirements for promulgation are present, she signs the decision. It is at this time that the decision is considered as promulgated. The Office of the Clerk of Court distributes copies to the parties to the case. The date of promulgation is then encoded in the case monitoring system and a copy of the decision is given to the PIO.[114] Decisions reaching their office usually come with the rollos except where a particular decision is considered rush.[115]

She denied having seen the unpromulgated ponencia of Justice Reyes and stated that the same never reached their office during the period from July 16, 2008 to December 10, 2008.[116] She and her staff only learned of the draft decision after it was circulated by the media.[117] In her office, decisions for promulgation are always brought to Verna Albano for recording, then to her for signature.[118] If Verna is absent, it is Atty. Felipa Anama, the assistant clerk of court, who receives the ponencias and rollos.[119] She further stated that in her more than 10 years of work in the Court, she never heard any incident of a draft ponencia being leaked except this one.[120]

10. MAJOR EDUARDO V. ESCALA, Chief Judicial Staff Officer of the Security Division, Office of Administrative Services, testified as follows:

Security personnel inspect all offices everyday at 5:00 p.m.[121] Security personnel used to inspect even the offices of the Justices, but they stopped doing so since last year.[122] As far as photocopiers are concerned, security personnel only make sure that these are unplugged after office hours.[123] His office has nothing to do with the operation of the machines.[124] They always check if employees bring out papers from the Court. But they encounter problems especially from the offices of Justices because employees from these offices always

claim that they have been allowed or instructed by their Justice to bring papers home with them, and there is no way to check the veracity of those claims.[125] Since he assumed office on July 14, 2008, he is not aware of any record of a leak.[126] He suggested that the memory cards of the machines be checked.[127]

11. ATTY. FELIPA B. ANAMA, Assistant Clerk of Court, testified as follows:

She acts as Clerk of Court in the absence of Atty. Villarama.[128] Their office never releases unpromulgated ponencias[129] and they ascertain that every decision or resolution to be promulgated is complete.[130] She remembered that their office released the Show Cause Resolution dated December 10, 2008 and had it delivered personally to Biraogo as it was an urgent resolution.[131] Willie Desamero was the employee who personally served the resolution on Biraogo.[132]

She indicated that it was very difficult to serve something at Biraogo's residence for by the account of Desamero, he was stopped at the guard house and was made to wait in the clubhouse until Biraogo was notified of his presence; and that it took Desamero two hours to serve the December 10, 2008 resolution on Biraogo.[133]

She has been with the Supreme Court for 29 years and she never encountered a leak nor did she ever issue a resolution or decision without the signature of the Chief Justice.[134]

12. WILLIE DESAMERO, Records Officer III, Office of the Clerk of Court En Banc, testified as follows:

He served the December 10, 2008 Resolution on Biraogo on December 12, 2008.[135] It was difficult to serve the Resolution. It took him six rides to get to Biraogo's subdivision in Laguna and when he got there, he was stopped by the security guards at the entrance of the subdivision. They asked him to wait at the clubhouse and it took Biraogo two hours to arrive.[136] When Biraogo saw him, Biraogo commented, "Ang bilis naman"[137] and "bakit ka lang naka-tricycle? Meron naman kayong sasakyan"?[138] Birago read the Resolution before he signed to receive the document.[139] Biraogo arrived in a car and had a back-up car.[140] Biraogo was in his early 50s, was wearing short pants, and had a sarcastic smile at that time.[141]

An officemate of his had also been to Biraogo's house to serve some Resolutions.[142] While it was not his usual duty to serve court processes, Atty. Anama and Atty. Villarama requested him to serve the resolution on Biraogo since the regular process servers in their office were not then available and he is the only one in their office who resides in Laguna.[143] In his years of service with the Court, he knew of no case which involved leakage of court documents.[144]

13. GLORIVY NYSA TOLENTINO, Executive Assistant I, Office of Associate Justice Antonio Eduardo B. Nachura, testified as follows:

She is responsible for communications, drafts and door-to-door papers that come in at the Office of Justice Nachura.[145] She presented page 267 of her logbook, to which Justice Reyes had earlier invited the committee's attention. According to the logbook entry, the Gilbert copy was brought to their office on July 15, 2008 and that Justice Nachura signed the copy. However, since it is not office practice to record the time of receipt or release, she could not remember what time the Gilbert copy was brought to their office for signature.[146] Nonetheless, the Gilbert copy did not stay long in their office because it was a door-to-door paper and was accordingly given preferential treatment. Justice Nachura immediately signed the ponencia when she gave it to him.[147] However, she could not recall if Justice Nachura was the last to sign the Gilbert copy.[148] She added that their office did not have a copy of the unpromulgated ponencia bearing the signatures of 14 Justices. They only had the advance copies circulated for concurrence.[149]

14. ONOFRE C. CUENTO, Process Server, Office of the Clerk of Court En Banc, testified as follows:

He personally served two resolutions on Biraogo at his residence last August 6, 2008, together with driver Mateo Bihag.[150] On the day he served the resolutions, they were stopped at the guardhouse and were

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escorted by a barong-clad security officer to Biraogo's house.[151] They had a hard time getting to the residence of Biraogo whom he does not personally know.[152] Biraogo did not mention or send his regards to any member of the Court.[153]

15. CHESTER GEORGE P. DEL CASTILLO, Utility Worker, Office of Associate Justice Ruben T. Reyes, testified as follows:

He joined the staff of Justice Reyes in September 2007 upon the recommendation of Court of Appeals Justice Mariano Del Castillo and Retired Justice Cancio Garcia.[154]

He was the most proficient in the use of the photocopiers in the office of Justice Reyes so it was to him that the task of photocopying documents was usually given by Del Rosario and the lawyers.[155] He, however, never photocopied any paper bearing the signatures of the Justices.[156] He did not handle ponencias in Gilbert paper nor ever photocopy any ponencia in Gilbert paper.[157]

He usually left the office at 4:30 p.m. He sometimes saw members of the staff photocopying papers even beyond 4:30 p.m. It was Del Rosario who often gave orders to photocopy drafts and who was the most trusted member of the staff as demonstrated by the fact that he could go in and out of Justice Reyes's chambers.[158] Del Rosario never left the office before Justice Reyes and he (Del Rosario) often left late.[159]

He had never been to Barangay Malamig although he had been to Biñan, Laguna.[160] He does not know Biraogo or his wife.[161] Neither does he know Paras.[162] He did not know where Gilbert copies were kept.[163] When he was asked who would leave the office first, Justice Reyes or Del Rosario, he said he did not know. Del Rosario was tasked to lock the main door of the office.[164]

The office staff knew of the leaked decision on the Limkaichong case, but the staff remained apathetic and did not talk about it.[165] The apathy was probably because the staff thought that the matter had already been settled since Del Rosario and Atty. Evangelista had already been interviewed.[166] He was not sure if anyone from their office was involved in the leakage.[167] He was not part of the meeting called by Justice Reyes before the start of the investigation.[168] Only Atty. Evangelista, Del Rosario, and Manabat were called to the meeting.[169] He surmised that the meeting was about the leakage.[170]

16. CONRADO B. BAYANIN, JR., Messenger, Office of Associate Justice Ruben T. Reyes, who was called by the committee upon Justice Reyes's suggestion, testified as follows:

Part of his duties in the Office of Justice Reyes was to receive and release papers and rollos as he was seated near the door.[171] It was not his duty to handle or receive ponencias in Gilbert form. [172] He could not remember if he had ever received any paper in connection with the Limkaichong case.[173] While he knew how to operate the xerox machine, just like all the other utility workers in the office,[174] he had never photocopied anything signed by the Justices, especially those on Gilbert paper.[175] When asked who handled photocopies ordered by Justice Reyes, he replied that he did not know.[176] He did not know and had no opinion on how the ponencia was leaked.[177] He only knew that his officemates talked about the leak,[178] but he did not know specifically what his officemates talked about.[179] Before Justice Reyes's retirement ceremony, Justice Reyes called him to his chambers and very calmly asked him if he knew if anybody had photocopied the unpromulgated ponencia.[180]

17. FERMIN L. SEGOTIER, Judicial Staff Assistant II and receptionist at the Office of Associate Justice Antonio Eduardo B. Nachura, testified as follows:

His duty is to receive communications, but only Glorivy Nysa Tolentino keeps a logbook for the door-to-door papers that come to their office.[181] He does not remember any details pertaining to the July 15, 2008 signing of the Limkaichong Ponencia, aside from the fact that it was to Justice Reyes's staff to whom he gave it back.[182] He assumed that it was to Del Rosario to whom he returned the Gilbert copy because in the Office

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of Justice Reyes, Del Rosario was the one in charge of circulating ponencias in Gilbert form for signature.[183] He could not recall handing a Gilbert paper to Manabat.[184] The ponencia stayed only for a short time (about 5 minutes) in their office because it was a door-to-door paper. After it was signed by Justice Nachura, it was handed back to the staff of Justice Reyes, so there was no chance for them to photocopy the ponencia.[185] It was not their standard operating procedure to leave any Gilbert paper in their office if it could not be signed right away.[186]

18. RETIRED JUSTICE RUBEN T. REYES, for his part, submitted during the hearing on January 22, 2009, a written statement entitled "Notes/Observations" (Notes) consisting of 12 paragraphs. In his Notes, Justice Reyes stressed the following:

Biraogo did not point to him as the source of the leak of the unpromulgated ponencia;[187] in Biraogo's December 22, 2008 Compliance with the Court's Show Cause Order, Biraogo stated that his informant was allegedly a "SC concerned employee" who left a brown envelope with a letter and some documents in his Biñan, Laguna home; it could be seen from the attachments to Biraogo's Compliance that it was not only the unpromulgated ponencia or Gilbert copy that was leaked but also two other confidential documents: his Revised Draft ponencia for the June 17, 2008 agenda(attached as Annex "B" to the Compliance) and Justice Carpio's Reflections (attached as Annex "D"); and since these other documents were circulated to all Justices, the investigation should not only focus on the leak of the unpromulgated ponencia but also on the leak of the two other confidential and internal documents of the Court.[188]

Justice Reyes also pointed out in his Notes as follows: the committee should not only look into his office but also the offices of Justice Carpio and the other Justices. He, however, reiterated that he had said in his media interviews that he believed that none of the Justices themselves, much less the Chief Justice, leaked the ponencia or authorized its leakage.

Justice Reyes pointed out that Biraogo's informant mentioned a certain Atty. Rosel, who was allegedly a close friend and former partner of Justice Carpio. Justice Reyes said that Atty. Rosel allegedly asked a favor from Justice Carpio before the latter wrote his Reflections.[189] Thus, he said, the committee should also question Atty. Rosel and even Justice Carpio himself.

On why he did not lift a finger when Biraogo got hold of the decision, despite reports regarding the leak, Justice Reyes stated that he was on a sabbatical leave with the Mandatory Continuing Legal Education research in four States in the United States from October 10, 2008 to November 1, 2008.

He had nothing to do with the leak and he even prepared a second draft decision (deviating from his prior disposition) after oral arguments were held on the case.

Thus, in his Notes, he posed: "If he leaked it, why would he prepare a second different decision?" He willingly obliged to the holding of oral arguments. He had no commitment to anybody and had no reason to leak the unpromulgated ponencia.[190] He added, "[I]f he had a hand in the leak, why would it include Justice Carpio's Reflections which was contrary to the unpromulgated decision?"

Justice Reyes, still in his Notes, stated that no Justice in his right mind would leak the unpromulgated ponencia or other confidential documents, such as the Revised Draft and Justice Carpio's Reflections.

He went on to refer to Biraogo's Compliance that the informant was purportedly "an old hand in the Supreme Court who was accustomed to the practices of the Justices" and had a "circle" or group in the Supreme Court. Since all his office staff, except two stenographers, one utility worker and one messenger, were all new in the Court, then the "old hand" referred to could not have come from his office. But if it could be proven by evidence that one of his staff was the source of the leak, Justice Reyes argued that only that staff should be made liable, for he had publicly declared that he did not and would never allow nor tolerate such leakage.[191]

More on Justice Reyes's Notes: He suggested that Newsbreak writers Marites Vitug and Aries Rufo be cited for contempt of court, for obtaining, without lawful authority, confidential information and documents from the Court, officials or employees, and for writing false, malicious articles which tended to influence the investigation of the committee and to degrade, impede and obstruct the administration of justice. [192]

Aside from submitting his Notes, Justice Reyes also testified as follows:

While he was first heard on January 16, 2009, after he presented a 9-paragraph written statement, he noticed that it needed refinement and revision so he requested for time to edit it. Hence, he submitted his above-mentioned Notes on January 22, 2009.

Justice Reyes identified the Gilbert copy, which he submitted earlier to the committee for safekeeping, and his Notes."[193] He clarified that the Compliance he was referring to in his Notes was Biraogo's December 22, 2008 Compliance with the Court's Show Cause Order.[194]

His desire to include Justice Carpio in the investigation, per number 4 of his Notes, came about because it appeared from Biraogo's Compliance and from the alleged informant's letter that it was not only the unpromulgated ponencia signed by 14 Justices that was leaked but also the Revised Draft ponencia and Justice Carpio's Reflections.[195] He suggested that what should be investigated was the source of the three documents.[196] Justice Quisumbing replied that the matter seemed settled because Justice Reyes also mentioned in Paragraph No. 6 of his Notes that he believed that none of the Justices, much less the Chief Justice, caused or authorized the leak.[197] Justice Reyes stressed that he thought it was only fair that the Committee also call Justice Carpio to shed light on the matter in the same way that he was asked to shed light thereon.[198]

Justice Carpio Morales pointed out that Justice Reyes's ponencia as signed by 14 Justices did not come into the possession of the other Justices but only of Justice Reyes.[199] She added that if logic were followed, then all of the Justices should be investigated because copies of Justice Carpio's Reflections were circulated to all. She declared that she was willing to be investigated and that she was volunteering to be investigated.[200] However, she pointed out that the logic of Justice Reyes was misplaced, considering that the documents attached to Biraogo's Compliance were allegedly received at the same time. If Biraogo received the documents at the same time and one Justice never took hold of the ponencia as signed, said Justice could not have made the leak to Biraogo.[201]

Justice Reyes went on to testify as follows: The Gilbert copy which he submitted to the committee was given to him by Del Rosario.[202] He did not photocopy the Gilbert copy nor provide Biraogo a copy thereof or instruct any of his staff to photocopy the same.[203]

The xerox copy of the Gilbert copy attached to the Compliance of Biraogo appeared to be the same as the committee's copy because he (Justice Reyes) looked at the initials on each page and found them to be similar.[204 Justice Quisumbing thereupon invited Justice Reyes's attention to the cover page of the Gilbert copy which had been submitted to and in custody of the committee (committee's copy).[205] Upon perusal thereof, Justice Reyes stated that the cover page of the committee's copy did not appear to be the same as the cover page of Biraogo's copy. He observed that the cover page of the committee's copy showed the agenda date "July 29, 2008," and that the Limkaichong case was listed as Item No. 66, whereas the cover page of Biraogo's copy showed the agenda date "July 15, 2008," and that the same case was listed as Item No. 52.[206] Justice Reyes then qualified his earlier statement and said that he was only referring to those pages of the decision itself which bore his initials, when he spoke of similarity, and said that the cover page did not bear his initials.[207]

Justice Corona pointed out, and Justice Reyes confirmed, that page 1 of the committee's copy also differed from page 1 of Biraogo's copy. Justice Corona pointed that in the committee's copy, there were asterisks after the names of Justice Azcuna and Justice Tinga and footnotes that the two were on official leave, whereas no

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such asterisks and footnotes appeared on page 1 of Biraogo's copy.[208] Justice Corona also pointed out and Justice Reyes once again confirmed that there was a slight variance between the initials on page 34 of the committee's copy and the initials on page 34 of Biraogo's copy.[209]

Justice Quisumbing then posed the question whether Justice Reyes would admit that there were at least two sources. [210] At this juncture, Justice Reyes brought out another photocopy (new copy or Justice Reyes's new copy) of the Gilbert copy to which new copy the left top corner of the top cover was stapled a 1"x1" piece of thick paper bearing the initials "RTR" and on the right top corner of the same cover appeared a handwritten notation reading "Gilbert copy." Justice Reyes repeatedly stated that his new copy was a facsimile of the committee's copy. He pointed out that the initials on page 34 of the new copy and that of the committee's copy matched. He concluded, however, that page 34 of Biraogo's copy was not a faithful reproduction of the committee's copy.[211] Justice Reyes avoided the question of whether he or his staff kept more than one xerox copy of the Gilbert copy that had been signed by majority or 14 members of the Court, saying that he could not say so because he did not personally attend to photocopying of decisions.[212] He stressed that his initials on page 34 of the new copy differed from the initials appearing on page 34 of Biraogo's copy.[213] He also pointed out that in Biraogo's copy, particularly on page 3, there was a handwritten correction superimposed over the misspelled name of Jerome Paras while no such handwritten correction appeared on page 3 of both the committee's copy and the new copy.[214] He added that he did not know who made the handwritten correction in Biraogo's copy and that the new copy he was presenting to the committee was furnished to him by the committee. Said copy was allegedly the xerox copy of the Gilbert copy.[215]

Justice Reyes professed that he had nothing to do with the leak as he would not leak, authorize, allow, or tolerate any leak of his decision or revised draft. He dispelled any pecuniary profit from such leakage, especially since he was about to retire when the leak happened. He could not, however, say the same of his office staff since he did not want to speculate, so he was giving the committee the broadest latitude in calling any of his staff.[216]

Upon Justice Carpio Morales's interrogation, Justice Reyes stated that he found the new copy in his files just the week before the January 22, 2009 hearing.[217] Justice Carpio Morales then invited his attention to the fact that page 1 of the new copy, like page 1 of Biraogo's copy, did not contain the footnotes and asterisks appearing in the committee's copy. She also noted that the copy of Biraogo and the new copy presented by Justice Reyes matched to a T.[218] Justice Reyes only replied that he did not pay particular attention nor personally attend to the photocopying.[218]

Justice Reyes stated that there should only be one copy of the Gilbert copy,[220] but it appeared that he supplied the committee with two apparently different copies (the Gilbert copy and the new copy).[221] Justice Reyes noted that the new copy and Biraogo's copy did not match exactly as regards pages 3 and 34. He stressed that there appeared on page 3 of Biraogo's copy a handwritten correction over the misspelled name of Jerome Paras while no such correction was made on the new copy. Additionally, on page 34 of Biraogo's copy, his initial appeared to have a smudge while on page 34 of the new copy, there was no smudge.[222]

When asked to explain why the new copy, which he claimed to have been photocopied from the committee's copy, did not match the committee's copy on page 1 but matched page 1 of Biraogo's copy, Justice Reyes offered no explanation.[223] Justice Reyes also refused to submit the new copy to the committee ("Why should I?") and questioned the committee's request that he initial the controversial pages of the new copy.[224] Thus, the committee members decided to affix their signatures on the first five pages of the new copy and then drew a rectangle around their signatures and the date--January 22, 2009. [225] The committee then had the new copy photocopied. [226] Justice Corona soon noticed that Justice Reyes was trying to hide the new copy between his files. At that point, Justice Corona pulled out the new copy from Justice Reyes's files. Justice Reyes then repeatedly said that he was not submitting it to the committee.[227] The committee proceeded to discuss the other matters contained in Justice Reyes's Notes.

Justice Reyes at that point then stated that he had not withdrawn his standing motion for inhibition against Justice Carpio Morales, to which Justice Carpio Morales replied that she would remain impartial. Justice Carpio Morales likewise stressed that the committee would decide according to the evidence.[228]

Upon being asked by the committee, Justice Reyes said that he could not recall if he was holding the Gilbert copy after the En Banc session and while having lunch.[229] He stated that per standard arrangement, his staff would usually get his folders and bring them to his office.[230] As far as he could recall, before the Court adjourned, the members already knew that many concurred only in the result.[231] He could not recall, however, if the Chief Justice learned about it only at the dining room.[232]

Justice Reyes denied having given Atty. Evangelista the instruction to reprint signature page 36 of the Gilbert copy and stated that it must have been Atty. Evangelista's sole decision. What Justice Reyes remembered telling Atty. Evangelista after the En Banc session was that many concurred only "in the result" and that Justice Chico-Nazario wanted to change her concurrence.[233] Justice Carpio Morales confronted him with certain portions of the December 15, 2008 TSN where he clearly volunteered the information that he was the one who instructed Atty. Evangelista to reprint page 36 which is the second signature page.[234] Justice Reyes replied that maybe Atty. Evangelista was under the mistaken impression that the change of the said page pushed through because, as it turned out, there was no qualification in the concurrence of Justice Chico-Nazario. He also insisted that he did not volunteer the information that he was the one who ordered the reprinting of page 36. He contended that he was in fact questioning Atty. Evangelista when the latter said that the instruction came from him.[235]

With regard to the "re-signing" by Justice Nachura,[236] Justice Reyes declared that it was difficult to speculate and rely on inaccurate recollection, especially since several months had passed. Justice Corona replied that the testimonies could not be inaccurate since there were entries in the logbook, showing that Justice Nachura indeed signed in his chambers.[237] Justice Reyes stated that the changing of the original signature page 36 was not carried out[238] and that Atty. Evangelista's recollection of the event was inaccurate. Justice Reyes also stated he could not recall calling Justice Chico-Nazario on the phone after the En Banc session on July 15, 2008.[239]

Justice Reyes stated that Del Rosario was assigned to keep and take care of the circulated drafts and ponencias printed on Gilbert paper, and from time to time Atty. Evangelista would have access to them since the latter was the judicial staff head.[240] Justice Reyes's staff members in October were the same until he retired on December 18, 2008.[241] Justice Reyes's impression of Biraogo's letter was that somebody who had an axe to grind against the Chief Justice or who wanted to discredit him could have done it.[242]

Justice Reyes said that he never had any personal interest in the case and argued that the best proof of this was that he did not stick to his original decision after the case was heard on oral arguments on August 26, 2008, just to prove that he was not beholden to any party.[243]

Justice Reyes could not offer a straight answer to the question of what his undue interest was in still trying to have the signature of all the Justices after he had taken his lunch and to forward the Gilbert copy and the rollo etc. to the OCJ even after the decision to put the promulgation of the ponencia on hold was arrived at, at lunchtime of July 15, 2008. He simply dismissed the recollections of his staff and preferred to believe Del Rosario's over those of Evangelista's or Manabat's. He insisted that he never had the chance to talk to Del Rosario or to Atty. Evangelista right after the En Banc session, and claimed that he never gave the instruction to bring the Gilbert copyto the Office of Justice Nachura. He likewise insisted that the testimony of Atty. Evangelista was incorrect and that he would rather believe Del Rosario's testimony.[244]

THE INVESTIGATING COMMITTEE'S FINDINGS OF FACT

From the testimonies of the witnesses, the committee finds the following facts established.

On July 15, 2008, even after the Justices had agreed at lunchtime to withhold the promulgation of the Gilbert copy in the Limkaichong case, Justice Reyes, under his misimpression that Justice Nazario had "concurred in the result" and that she would finally remove such qualification, instructed his Judicial Staff Head, Atty. Evangelista, and Del Rosario to have the signature page 36 (where the names of Justices Nazario, Nachura and three others appeared) reprinted and to bring the Gilbert copy to the Office of Justice Nachura for signature as Justice Nachura, who was not participating in the oral arguments on the case scheduled at 1:30 that afternoon, might be going out. Jean Yabut was tasked by Atty. Evangelista to reprint the second signature page (page 36) on Gilbert paper.

The reprinted signature page 36, together with the rest of the pages of the Gilbert copy, was then given by Atty. Evangelista to Del Rosario. Del Rosario, in turn, gave the Gilbert copy, together with the reprinted signature page 36, to Manabat whom he instructed to go to the Office of Justice Nachura for him to affix his signature thereon.

Manabat immediately went to the Office of Justice Nachura and handed the Gilbert copy to Fermin Segotier, the receptionist at Justice Nachura's office. As the Gilbert copy was a door-to-door document, Segotier immediately gave it to Glorivy Nysa Tolentino who recorded it in her logbook. She then brought the Gilbert copy to Justice Nachura. When the reprinted page 36 of the Gilbert copy was brought out from Justice Nachura's chambers and returned to Tolentino, she recorded it in her logbook that it was already signed. The whole process took not more than five minutes. The Gilbert copy was returned to Manabat, who had waited outside the office of Justice Nachura.

Manabat then repaired to the chambers of Justice Reyes who inquired from him if Justice Nachura had signed the reprinted page 36 to which he answered in the affirmative. Manabat thereafter handed the Gilbert copy to Del Rosario.

When Atty. Evangelista, who was attending the oral arguments on a case scheduled that afternoon, went down the Office of Justice Reyes at about 3:30 p.m., he and/or Del Rosario must have eventually noticed that Justice Nazario did not, after all, qualify her concurrence on the original signature page 36 of the Gilbert copy with the words "in the result." Since neither Atty. Evangelista nor Del Rosario was advised by Justice Reyes that the promulgation of the Gilbert copy was on hold, Del Rosario brought the Gilbert copy, together with the rollo, records and diskettes to the OCJ to be promulgated and gave it at 3:30 p.m. to Ramon Gatdula of the OCJ. Gatdula later transmitted the Gilbert copy to the secretary of the Chief Justice.

The following day, July 16, 2008, at around 4:00 p.m., Justice Reyes called Del Rosario to his chambers and instructed him to retrieve the Gilbert copy, etc. from the OCJ, informing him for the first time that the promulgation of the ponencia had been put on hold. Around that same time, the OCJ phoned the Office of Justice Reyes and told them to retrieve the ponencia for the same reason.

Thus, Del Rosario went to the OCJ and asked for the return of the Gilbert copy. As Gatdula had already forwarded the same to the Chief Justice's secretary for the Chief Justice's signature, Gatdula retrieved it from the secretary. Del Rosario retrieved all that he submitted the previous day, except the rollo which had, in the meantime, been borrowed by Justice Carpio.

Del Rosario then brought the Gilbert copy to Justice Reyes who told him to keep it. Del Rosario informed Atty. Evangelista the following day, July 17, 2008, that the promulgation of the Gilbert copy was on hold. After Atty. Evangelista verified the matter from Justice Reyes, he (Atty. Evangelista) told Del Rosario that the case would be

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called again on July 29, 2008. Del Rosario made a note in his logbook to that effect.

On July 25, 2008, the Office of Justice Reyes received the En Banc agenda for July 29, 2008 where the Limkaichong case was listed as Item No. 66. A new cover page reflecting the case as Item No. 66 was thus prepared and attached to the Gilbert copy bearing only 14 signatures.

After the Gilbert copy was retrieved from the OCJ on July 16, 2008, it remained in the sole custody of Del Rosario until December 15, 2008, the initial hearing conducted by the investigating committee. The Gilbert copy remained inside his unlocked drawer, in a brown envelope, which he had sealed with the blue and white seal used by all Justices. He opened it only on December 10, 2008, after Justice Reyes informed his staff that there was a leak of the ponencia.

When news of Biraogo's conduct of a press conference on December 9, 2008 bearing on the leakage came out, Justice Reyes immediately called his legal staff and Del Rosario to a meeting and asked them if they knew anything about the leakage. He called for a second meeting among Atty. Evangelista, Manabat and Del Rosario on December 15, 2008, before the hearing by the investigating committee took place in the afternoon of that day. Justice Reyes likewise had a one-on-one talk with Del Rosario and asked him if a copy of Justice Carpio's Reflections was attached to the Gilbert copy and related documents when they were sent to the OCJ, to which he (Del Rosario) answered in the negative.

EVALUATION

The committee finds that the photocopying of the Gilbert copy occurred between July 15, 2008, before it was brought to the OCJ or after it was retrieved on July 16, 2008 from the OCJ, and July 25, 2008, when the Office of Justice Reyes caused the preparation of the new cover page of the Gilbert copy to reflect that it was agendaed as Item No. 66 in the July 29, 2008 En Banc session, because the cover page of the photocopy in the possession of Biraogo, as well as the cover page of Justice Reyes's new copy, still bore the agenda date "July 15, 2008" and Item No. 52.

The committee likewise finds that the leakage was intentionally done. It was not the result of a copy being misplaced and inadvertently picked up by Biraogo or someone in his behalf. The committee notes that none of the offices to which the Gilbert copy was brought (OCJ and the Office of Justice Nachura) and which acquired control over it photocopied ponencias in Gilbert form and released photocopies thereof to party litigants. In any event, as earlier reflected, page 1 of the Gilbert copy that was sent to the OCJ and Justice Nachura's Office and page 1 of Biraogo's photocopy differ.

To reiterate, the Gilbert copy bearing the signatures of 14 Justices was photocopied and that a copy thereof was intentionally leaked directly or indirectly to Biraogo. As will be discussed below, the committee FINDS that the leak came from the Office of Justice Reyes.

It bears reiterating that the leak did not come from the OCJ even if the Gilbert copy stayed therein from 3:30 p.m. on July 15, 2008 up to 4:00 p.m. on July 16, 2008. This is clear from the fact that page 1 of the copy in Biraogo's possession differs from page 1 of the Gilbert copy which was forwarded to the OCJ. Thus, on page 1 of the Gilbert copy which contains the names of the Justices of the Court, there appear asterisks after the names of Justice Adolfo S. Azcuna and Justice Dante O. Tinga. These asterisks have corresponding footnotes stating that Justice Azcuna was on official leave per Special Order No. 510 dated July 15, 2008 and Justice Tinga was likewise on official leave per Special Order No. 512 dated July 16, 2008. In contrast, page 1 of Biraogo's copy and Justice Reyes's new copy, glaringly contain no such asterisks and footnotes, which indicates that page 1 of Biraogo's copy was photocopied from page 1 of the draft prepared by Justice Reyes before it was finalized on

Gilbert paper.

The leak also could not have come from the offices of the other associate justices, contrary to Justice Reyes's insinuation. Justice Reyes insinuated that because all the Justices were furnished with advance copies of the draft ponencia before the session of July 15, 2008, anyone from those offices could have leaked the decision. An examination of the copy in Biraogo's possession readily shows that every page thereof - pages 1 to 36 - contained Justice Reyes's authenticating initials while none of the advance copies furnished to the Justices was similarly authenticated.

Advance copies of a draft given to the justices as a working basis for deliberations are not initialed by the justice who prepares it. And they do not contain the signature of any of the Justices, except the one who prepared the draft,precisely because the Justices have yet to go over it and deliberate on it. As standard procedure, it is only after a draft decision has been adopted by the Court that it is finalized-printed on Gilbert paper and every page thereof is authenticated by the ponente, and circulated for signature by the other Justices.

It need not be underlined that there was no opportunity for anyone from the offices of the Associate Justices to photocopy the ponencia as none of said offices acquired possession of the document, except the Office of Justice Reyes and the Office of Justice Nachura. But based on testimony, the unpromulgated ponencia stayed in the Office of Justice Nachura only for less than five minutes, which did not suffice for itto be signed by Justice Nachura and to be photocopied. Again, and in any event, page 1 of the photocopy in Biraogo's possession does not match the same page of the Gilbert copy.

Furthermore, except for Justice Reyes, the Associate Justices took hold of the Gilbert copy only briefly when they signed it at the En Banc conference room. At no other time did any of them hold the document long enough to photocopy it. Pursuant to standard procedure, only the ponente, Justice Reyes in this case, and his staff, took custody of the ponencia bearing the signatures of 14 Justices before it was sent to the OCJ.

But who from the Office of Justice Reyes leaked the unpromulgated ponencia? While the evidence shows that the chain of custody could not rule out the possibility that the Gilbert copywas photocopied by Del Rosario who had control and possession of it, and while there is no direct evidence as to the identity of the perpetrator of the leakage, the committee FINDS that based on the circumstantial evidence reflected above, particularly the evident undue interest of Justice Reyes to circulate a draft ponencia of the case soonest even before the memoranda of all the parties fell due, and to withhold the information to Atty. Evangelista and Del Rosario that the promulgation of the ponencia was put on hold and, instead, allow the immediate promulgation after lunch despite his admission that the decision to hold the promulgation was arrived at at lunchtime, it was Justice Reyes himself who leaked a photocopy thereof.

Recall that the Court gave due course to the petition on April 8, 2008 and the first memorandum was filed by the Office of the Solicitor General only on June 16, 2008. The other parties, namely, Olivia Paras, Speaker Nograles, et al., and Biraogo subsequently filed their respective memoranda only on July 1, 2, and 24, 2008. Even before the En Banc session of June 10, 2008, however, Justice Reyes had already circulated a draft decision.

Further, still later or on June 12, 2008, Justice Reyes circulated, via transmittal letter of even date printed on his memo pad and signed by him, a Revised Draft, copy of which transmittal letter, as well as the Revised Draft, also came into the possession of Biraogo (Annex "B" to Biraogo's Compliance).

Furthermore, even after the Justices had, at lunchtime of July 15, 2008, unanimously decided that the promulgation of the Gilbert copywould be put on hold--and this was, it bears repeating, admitted by Justice Reyes--, Justice Reyes, after partaking lunch at the dining room and before 1:00 p.m., instead of advising his

Chief of Staff Atty. Evangelista and Del Rosario that the promulgation was put on hold, still instructed them to reprint the second signature page (page 36) and to have the reprinted page immediately brought to the Office of Justice Nachura for signature; and before Justice Reyes left for the session hall for the oral arguments of that case scheduled at 1:30 p.m. that day, Justice Reyes still followed up the case by asking Manabat if Justice Nachura had already signed the Gilbert copy.[245]

When confronted with the incontrovertible evidence of his undue interest in the case and haste in having the Gilbert copy promulgated, Justice Reyes was notably evasive. On January 16, 2009, Justice Carpio Morales asked Justice Reyes if he would admit that he prepared a draft of the decision even before the first memorandum was submitted on June 16, 2008. Justice Reyes stated that he could not admit that fact.[246] Such fact is documented, however, and it would not have escaped him as the records of the Limkaichong case were with him and yet he already prepared and caused the circulation of a draft of the decision on June 12, 2008.

Justice Reyes also gave conflicting accounts on when he gave the Gilbert copy to Del Rosario after the En Banc session of July 15, 2008 was adjourned. During the proceedings of the committee on December 15, 2008, Justice Reyes categorically stated that pursuant to standard operating procedures, he gave the signed Gilbert copy to Del Rosario after the Chief Justice noted that seven Justices had concurred "in the result."[247] It bears recalling that the Chief Justice confirmed noting such fact during lunchtime. However, the following day, during the December 16, 2008 proceedings, Justice Reyes implied that pursuant to standard operating procedures, his staff got his folders including the Gilbert copy right after the En Banc session. Hence, so he reasoned, as the agreement to put on hold the promulgation of the Gilbert copy and to hold oral arguments on the case was arrived at only after lunch which followed the adjournment of the En Banc session, his staff did not know about such agreement.[248] But even Del Rosario, whose testimony he credits more than any of the other members of his staff, categorically stated that Justice Reyes gave him the Gilbert copy after he (Justice Reyes) had taken his lunch and while he (Del Rosario), Justice Reyes and Atty. Evangelista were, before 1:00 p.m., on their way to Justice Reyes's office, and that, at that instant, Justice Reyes instructed Atty. Evangelista to have the signature page 36 reprinted and have Justice Nachura (who was not participating in the oral arguments scheduled that afternoon) sign.

During the January 22, 2009 hearing, when asked to explain why the top cover of the new copy which he brought with him and which he claimed to have been photocopied from the committee's copy, did not match the top cover of the committee's copy (or the original Gilbert copy) but matched the top cover of Biraogo's copy, Justice Reyes offered no explanation. Neither did he account for the other dissimilarities between page 1 of his new copy and the same page 1 of Biraogo on one hand, and page 1 of the Gilbert copy , viz: page 1 of the new copy, like page 1 of Biraogo's copy, does not have asterisks after the names of Justices Tinga and Azcuna and the corresponding footnotes, which the Gilbert copy has.

Justice Reyes, despite his professed desire to bring out the truth, refused to submit his new copy to the committee and questioned the committee's request that he place his initials on the questioned pages of his new copy. Later, while the committee was discussing other points in his Notes, Justice Reyes tried to hide his new copy. Justice Corona had to pry it out of Justice Reyes's files. As Justice Reyes repeatedly said that he was not submitting his new copy to the committee ("Why should I"), the committee members were prompted to photocopy his new copy, but only after they affixed their signatures and date (January 22, 2009) on the first 5 pages thereof.

To the members of the committee, the foregoing proven facts and circumstances constitute more than substantial evidence which reasonably points to Justice Reyes, despite his protestations of innocence,[249] as THE source of the leak. He must, therefore, be held liable for GRAVE MISCONDUCT.

Effect of Justice Reyes's Retirement

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The subsequent retirement of a judge or any judicial officer from the service does not preclude the finding of any administrative liability to which he is answerable.[250]

A case becomes moot and academic only when there is no more actual controversy between the parties or no useful purpose can be served in passing upon the merits of the case. The instant case is not moot and academic, despite Justice Reyes's retirement.

Even if the most severe of administrative sanctions may no longer be imposed, there are other penalties which may be imposed if one is later found guilty of the administrative offenses charged, including the disqualification to hold any government office and the forfeiture of benefits.[251]

The Court retains jurisdiction either to pronounce a respondent official innocent of the charges or declare him/her guilty thereof. A contrary rule would be fraught with injustice and pregnant with dreadful and dangerous implications. For, what remedy would the people have against a civil servant who resorts to wrongful and illegal conduct during his/her last days in office? What would prevent a corrupt and unscrupulous government employee from committing abuses and other condemnable acts knowing fully well that he/she would soon be beyond the pale of the law and immune from all administrative penalties?

If only for reasons of public policy, this Court must assert and maintain its jurisdiction over members of the judiciary and other officials under its supervision and control for acts performed in office which are inimical to the service and prejudicial to the interests of litigants and the general public. If innocent, a respondent official merits vindication of his/her name and integrity as he leaves the government which he/she served well and faithfully; if guilty, he/she deserves to receive the corresponding censure and a penalty proper and imposable under the situation.[252]

The Court cannot over-emphasize the importance of the task of preserving the confidentiality and integrity of court records. A number of rules and internal procedures are in place to ensure the observance of this task by court personnel.

The New Code of Judicial Conduct[253] provides that confidential information acquired by justices and judges in their judicial capacity shall not be used or disclosed for any other purpose not related to their judicial duties. [254] The Code of Conduct for Court Personnel likewise devotes one whole canon on confidentiality, to wit:

> SECTION 1. Court personnel shall not disclose to any unauthorized person any confidential information acquired by them while employed in the judiciary, whether such information came from authorized or unauthorized sources.
>
> Confidential information means information not yet made a matter of public record relating to pending cases, as well as information not yet made public concerning the work of any justice or judge relating to pending cases, including notes, drafts, research papers, internal discussions, internal memoranda, records of internal deliberations and similar papers.
>
> The notes, drafts, research papers, internal discussions, internal memoranda, records of internal deliberations and similar papers that a justice or judge uses in preparing a decision, resolution or order shall remain confidential even after the decision, resolution or order is made public.
>
> SEC. 2. Confidential information available to specific individuals by reason of statute, court rule or administrative policy shall be disclosed only by persons authorized to do so.
>
> SEC. 3. Unless expressly authorized by the designated authority, court personnel shall not disclose confidential information given by litigants, witnesses or attorneys to justices, judges or any other person.
>
> SEC. 4. Former court personnel shall not disclose confidential information acquired by them during their

> employment in the Judiciary when disclosed by current court personnel of the same information would constitute a breach of confidentiality. Any disclosure in violation of this provisions shall constitute indirect contempt of court. [255] (Emphasis and underscoring supplied.)

Ineluctably, any release of a copy to the public, or to the parties, of an unpromulgated ponencia infringes on the confidential internal deliberations of the Court. It is settled that the internal deliberations of the Court are confidential. [256] A frank exchange of exploratory ideas and assessments, free from the glare of publicity and pressure by interested parties, is essential to protect the independence of decision-making of those tasked to exercise judicial power. [257]

In Mirasol v. De La Torre, Jr., [258] the Court stated that "[c]ourt documents are confidential documents. They must not be taken out of the court without proper authority and without the necessary safeguards to ensure their confidentiality and integrity." Thus, the Court found the clerk of court guilty of gross misconduct. Moreover, the case enunciates that acts of gross misconduct destroy the good image of the judiciary so the Court cannot countenance them nor allow the perpetrators to remain in office. This same pronouncement was reiterated in Betguen v. Masangcay. [259] Though both cases involve indiscretions of clerks of court, it is but logical that a higher standard of care be imposed upon magistrates of the Court.

PAGCOR v. Rilloza, [260] in fact, commands persons who routinely handle confidential matters to be confidential employees. They are thus expected to be more careful than an ordinary employee in their day to day business. They are reposed such trust and confidence that a breach of their duty would mean breach of trust. As applied to the case of Justice Reyes, the breach of duty amounts to breach of public trust as the committee believes that the leak was motivated by self-interest.

The fact that Justice Reyes was not formally charged is of no moment. It is settled that under the doctrine of res ipsa loquitur, the Court may impose its authority upon erring judges whose actuations, on their face, would show gross incompetence, ignorance of the law or misconduct.[261]

In People v. Valenzuela,[262] which deals with the administrative aspect of a case brought on certiorari, the Court dispensed with the conduct of further hearings under the principle of res ipsa loquitur and proceeded to consider critical factors in deducing malice and bad faith on the part of the judge, after it did not accept at face value the judge's mere denial. In that case, the judge ordered the return of the peso equivalent of the foreign currency to the accused despite its forfeiture as dutiable goods and even after the finding that the accused had nothing to do with the mailing thereof.

In Cathay Pacific Airways, Ltd. v. Romillo, Jr.,[263] where the Court took into account glaring circumstances in the proceedings of the case in concluding that the judge acted with bad faith, the judge was similarly found guilty of grave and serious misconduct when he unjustly declared the defendant in default and awarded outrageously exorbitant damages. l

Prudential Bank v. Castro[264] was an administrative case spawned by a party's complaint, wherein the Court, in light of the surrounding circumstances, found that the judge committed serious and grave misfeasance because the issuance of the orders and ill-conceived summary judgment showed the judge's partiality to, or confabulation with the plaintiff and its lawyers.

In Consolidated Bank and Trust Corporation v. Capistrano,[265] the Court proceeded in adjudging the attendant circumstances as tainted with bad faith and questionable integrity to call for the exercise of the Court's disciplinary powers over members of the judiciary. In that case, the Court found the submissions of the judge unacceptable and clearly inadequate to overcome the cumulative effect of the highly questionable actuations-taking cognizance of a claim for damages arising from an attachment, instead of having it litigated in the same

action where the writ was issued - as evincing gross ignorance of the law and active bias or partiality.

The Court, in Cruz v. Yaneza,[266] perceived the judge's persistent pattern of approving bail bonds and issuing release orders beyond its territorial jurisdiction as evincing a modus operandi that flagrantly flaunts fundamental rules.

In De Los Santos v. Magsino,[267] the Court again applied the doctrine of res ipsa loquitur when a judge irregularly approved a bail bond and issued a release order of an accused whose case was pending in another province, in palpable disregard and gross ignorance of the procedural law on bail.

The principle was also applied to discipline court personnel and suspend members of the Bar from the practice of law.

The Court, in Office of the Court Administrator v. Pardo,[268] found the clerk of court guilty of gross discourtesy in the course of official duties when he failed to accord respect for the person and rights of a judge as can be gleaned from a mere reading of his letter to the Executive Judge.

In Sy v. Moncupa,[269] the Court found the evidence against the clerk for malversation of public funds eloquently speaks of her criminal misdeed to justify the application of the doctrine of res ipsa loquitur. The clerk admitted the shortage in the court funds in her custody and pleaded for time to pay the amount she had failed to account for.

In maintaining an earlier Resolution,[270] the Court, in In re Wenceslao Laureta,[271] also declared that nothing more was needed to be said or proven and the necessity to conduct any further evidentiary hearing was obviated. In that case, the Court found that the letters and charges leveled against the Justices were, of themselves and by themselves, malicious and contemptuous, and undermined the independence of the judiciary.

Meanwhile, in Emiliano Court Townhouses Homeowners Association v. Dioneda,[272] it was held that it was reasonable to conclude that under the doctrine of res ipsa loquitur, the respondent committed an infringement of ethical standards by his act of receiving money as acceptance fee for legal services in a case and subsequently failing to render such service. The Court found the respondent liable for disloyalty to his client and inexcusable negligence in legal matters entrusted to him.

The Court, in Dizon, clarified the doctrine of res ipsa loquitur, viz:

> In these res ipsa loquitur resolutions, there was on the face of the assailed decisions, an inexplicable grave error bereft of any redeeming feature, a patent railroading of a case to bring about an unjust decision, or a manifestly deliberate intent to wreak an injustice against a hapless party. The facts themselves, previously proven or admitted, were of such a character as to give rise to a strong inference that evil intent was present. Such intent, in short, was clearly deducible from what was already of record. The res ipsa loquitur doctrine does not except or dispense with the necessity of proving the facts on which the inference of evil intent is based. It merely expresses the clearly sound and reasonable conclusion that when such facts are admitted or are already shown by the record, and no credible explanation that would negative the strong inference of evil intent is forthcoming, no further hearing to establish them to support a judgment as to the culpability of a respondent is necessary.[273] (Underscoring and emphasis supplied.)

The apparent toning down of the application of the res ipsa loquitur rule was further amplified in at least two cases. In Louis Vuitton S.A. v. Villanueva,[274] the Court ruled that the doctrine of res ipsa loquitur does not apply to cases of knowingly rendering a manifestly unjust judgment, and even if the doctrine is appreciable, complainant still has to present proof of malice or bad faith.

Then came Fernandez v. Verzola,[275] where it was held that failure to substantiate a claim of corruption and

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bribery and mere reliance on conjectures and suppositions cannot sustain an administrative complaint. In dismissing the complaint, the Court rejected as untenable the reasoning that the decision itself is evidence of corruption per doctrine of res ipsa loquitur. It upheld the rule that rendering an erroneous or baseless judgment, in itself, is not sufficient to justify the judge's dismissal from the service.

The supposed tempering of the principle of res ipsa loquitur in Dizon only bolstered and solidified the application of the doctrine in cases not only of gross negligence but of serious misconduct as well, since it speaks of "inference of evil intent."

As explained in Louis Vuitton, the familiar rule in administrative cases is that the acts of a judge in his judicial capacity are not subject to disciplinary action, and that he cannot be subjected to civil, criminal or administrative liability for any of his official acts, no matter how erroneous, as long as he acts in good faith. The rule adds that the proper remedy is via judicial recourse and not through an administrative action.

It must be pointed out that Louis Vuitton involves gross ignorance of the law and/or knowingly rendering an unjust judgment. In cases of leakage or breach of confidentiality, however, the familiar rule obviously does not apply. While the injured party is the Court itself, there is no judicial remedy available to undo the disclosure. Moreover, the premature disclosure does not spring from the four corners of the assailed decision or resolution nor can it gleaned on the face of the issuance itself. Indeed, one need not dwell on the substance of the decision since that in itself is inherently insufficient. In unearthing the misdeed, it becomes not only desirable but also necessary to trace the attendant circumstances, apparent pattern and critical factors surrounding the entire scenario.

In Macalintal v. Teh,[276] the Court pronounced:

> When the inefficiency springs from a failure to consider so basic and elemental a rule, a law or a principle in the discharge of his duties, a judge is either too incompetent and undeserving of the position and title he holds or he is too vicious that the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority. In both instances, the judge's dismissal is in order. After all, faith in the administration of justice exists only if every party-litigant is assured that occupants of the bench cannot justly be accused of deficiency in their grasp of legal principles.[277] (Underscoring supplied.)

The same norm equally applies in the breach of the basic and essential rule of confidentiality that, as described in one case, "[a]ll conclusions and judgments of the Court, be they en banc or by Division, are arrived at only after deliberation [and c]ourt personnel are not in a position to know the voting in any case because all deliberations are held behind closed doors without any one of them being present.[278]

As Dizon declared, the doctrine of res ipsa loquitur does not dispense with the necessity of proving the facts on which the inference of evil intent is based. It merely expresses that absent a credible explanation, it is clearly sound and reasonable to conclude a strong inference of evil intent on the basis of facts duly admitted or shown by the record. In fine, jurisprudence allows the reception of circumstantial evidence to prove not only gross negligence but also serious misconduct.

Justice Reyes is Likewise Liable for Violating his Lawyer's Oath and the Code of Professional Responsibility

For leaking a confidential internal document of the En Banc, the committee likewise finds Justice Reyes administratively liable for GROSS MISCONDUCT for violating his lawyer's oath and the Code of Professional Responsibility, for which he may be disbarred or suspended per Section 27, [279] Rule 138 of the Rules of Court. Canon 1 of the Code of Professional Responsibility requires a lawyer to uphold the Constitution, obey the laws of the land and promote respect for law and legal processes. It is likewise provided in Rule 1.01 and 1.02 of the said

canon that a lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct and that a lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system. Here, the act of Justice Reyes not only violated the New Code of Judicial Conduct for the Philippine Judiciary, the Code of Judicial Conduct and the Canons of Judicial Ethics, it also infringed on the internal deliberations of the Court and impeded and degraded the administration of justice. The act is rendered all the more pernicious considering that it was committed by no less than a justice of the Supreme Court who was supposed to serve as example to the bench and bar.

That Justice Reyes was an impeachable officer when the investigation started is of no moment. The rule prohibiting the institution of disbarment proceedings against an impeachable officer who is required by the Constitution to be a member of the bar as a qualification in office applies only during his or her tenure and does not create immunity from liability for possibly criminal acts or for alleged violations of the Code of Judicial Conduct or other supposed violations. [280] Once the said impeachable officer is no longer in office because of his removal, resignation, retirement or permanent disability, the Court may proceed against him or her and impose the corresponding sanctions for misconduct committed during his tenure, pursuant to the Court's power of administrative supervision over members of the bar. Provided that the requirements of due process are met, the Court may penalize retired members of the Judiciary for misconduct committed during their incumbency. Thus, in Cañada v. Suerte, [281] this Court ordered the disbarment of a retired judge for misconduct committed during his incumbency as a judge.

However, pernicious as Justice Reyes's infractions may have been, the committee finds the imposition of the supreme penalty of disbarment unwarranted. In the determination of the imposable disciplinary sanction against an erring lawyer, the Court takes into account the primary purpose of disciplinary proceedings, which is to protect the administration of justice by requiring that those who exercise this important function shall be competent, honorable, and reliable men in whom courts and clients may repose confidence. While the assessment of what sanction may be imposed is primarily addressed to the Court's sound discretion, the sanction should neither be arbitrary or despotic, nor motivated by personal animosity or prejudice. Rather, it should ever be controlled by the imperative need to scrupulously guard the purity and independence of the bar. Thus, the supreme penalty of disbarment is meted out only in clear cases of misconduct that seriously affect the standing and character of the lawyer as an officer of the court and member of the bar. Under the circumstances of this case, the committee finds the penalty of indefinite suspension from the practice of law sufficient and proper.

Liability of Atty. Rosendo B. Evangelista

The Committee finds that Atty. Evangelista, Justice Reyes' Judicial Staff Head, was remiss in his duties, which includes the supervision of the operations of the office, particularly with respect to the promulgation of decisions. While it is incumbent upon him to devise ways and means to secure the integrity of confidential documents, his actuations reflected above evinced "a disregard of a duty resulting from carelessness or indifference." [282]

Atty. Evangelista was admittedly unmindful of the responsible safekeeping of draft ponencias in an unlocked drawer of a member of the staff. He failed to make sure that the unused portion of confidential documents like the second signatory page of the ponencia in Gilbert form had been properly disposed of or shredded. He was not on top of things that concerned the promulgation of ponencias, for he failed to ascertain the status and procedural implication of an "on hold" order after having been apprised thereof by his subordinate, Del Rosario, on July 17, 2008. Despite his awareness that the Limkaichong case would eventually be called again, he admitted that he was not privy to the preparation of the copy of the ponencia for the subsequent session on July 29, 2008.

With these findings, the Court finds him liable for SIMPLE NEGLECT OF DUTY.

Liability of Armando Del Rosario

The committee likewise finds Del Rosario administratively liable for failing to exercise the required degree of care in the custody of the Gilbert copy. Del Rosario admittedly kept the Gilbert copy in an unlocked drawer from July 16, 2008 to December 10, 2008 when he should have known that, by the nature of the document in his custody, he should have kept it more securely. His carelessness renders him administratively liable for SIMPLE NEGLECT OF DUTY, defined as the failure to give proper attention to a task expected of an employee resulting from either carelessness or indifference.[283]

Time and again, the Court has emphasized the heavy burden and responsibility which court officials and employees are mandated to carry. They are constantly reminded that any impression of impropriety, misdeed or negligence in the performance of official functions must be avoided. The Court will never countenance any conduct, act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and diminish the people's faith in the judiciary.

Under Section 23, Rule XIV of the Omnibus Civil Service Rules and Regulations, (simple) neglect of duty is punishable by suspension of one month and one day to six months for the first offense. Under Sec. 19, Rule XIV of the same Rules, the penalty of fine (instead of suspension) may also be imposed in the alternative.[284] Following the Court's ruling in several cases involving (simple) neglect of duty,[285] we find the penalty of fine on Atty. Evangelista and Del Rosario in the amount of P10,000 and P5,000, respectively, just and reasonable.

RECOMMENDATIONS

IN VIEW OF THE FOREGOING, the Investigating Committee respectfully recommends that

(1) Justice Ruben T. Reyes (Ret.) be found liable for GROSS MISCONDUCT for violating his oath as a member of the Bar and the Code of Professional Responsibility and be meted the penalty of INDEFINITE SUSPENSION as a member of the Bar;

(2) Justice Ruben T. Reyes (Ret.) also be found liable for GRAVE MISCONDUCT for leaking a confidential internal document of the Court and be FINED in the amount of P500,000, to be charged against his retirement benefits; and

(3) Atty. Rosendo B. Evangelista and Armando Del Rosario be held liable for SIMPLE NEGLECT OF DUTY and be FINED in the amount of P10,000 and P5,000, respectively.

RESPECTFULLY SUBMITTED.

(Sgd.)

LEONARDO A. QUISUMBING

Chairman

(Sgd.)

(Sgd.)

RENATO C. CORONA

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Member

Member

The Court finds the above-quoted report well taken. Pursuant to Section 13, Article VIII of the Constitution, this per curiam decision was reached after deliberation of the Court En Banc by a unanimous decision of all the members of the Court except for two (2) Justices who are on official leave.

WHEREFORE, in view of the foregoing, the Court ADOPTS the findings and APPROVES WITH MODIFICATION the Recommendations of the Investigating Committee as follows:

(1) Justice Ruben T. Reyes (Ret.) is held liable for GRAVE MISCONDUCT for leaking a confidential internal document of the Court and he is FINED P500,000.00, to be charged against his retirement benefits, and disqualified to hold any office or employment in any branch or instrumentality of the government including government-owned or controlled corporations; furthermore, Justice Ruben T. Reyes is directed to SHOW CAUSE within ten (10) days from receipt of a copy of this Decision why he should not be disciplined as a member of the Bar in light of the aforementioned findings.

(2) Atty. Rosendo B. Evangelista and Armando Del Rosario are held liable for SIMPLE NEGLECT OF DUTY and are ordered to pay the FINE in the amount of P10,000.00 and P5,000.00, respectively.

This Decision shall take effect immediately.

SO ORDERED.

Puno, C.J., Quisumbing, Carpio, Austria-Martinez, Corona, Carpio Morales, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, and Peralta, JJ., concur.
Ynares-Santiago, and Tinga, JJ., on official leave.

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[1] TSN, December 15, 2008, pp. 62-64, 66-68.

[2] TSN, December 15, 2008, pp. 28-33, 35-40, 97.

[3] TSN, December 15, 2008, p. 40.

[4] TSN, December 15, 2008, p. 40-42, 93.

[5] TSN, December 15, 2008, pp. 37-38, 45, 47-48, 60.

[6] TSN, December 15, 2008, pp. 53-55.

[7] TSN, January 20, 2009, pp. 6-7.

[8] TSN, January 20, 2009, pp. 10-11.

[9] TSN, January 20, 2009, pp. 11-12.

[10] TSN, January 20, 2009, pp. 15-16.

[11] TSN, January 20, 2009, pp. 8, 13-15, 19.

[12] TSN, January 20, 2009, pp. 8-9, 14.

[13] TSN, January 20, 2009, p. 15.

[14] TSN, January 20, 2009, pp. 17-19.

[15] TSN, January 20, 2009, p. 18.

[16] TSN, January 20, 2009, pp. 19-20, 64-65.

[17] TSN, January 20, 2009, pp. 20-22.

[18] TSN, January 20, 2009, pp. 21-28.

[19] TSN, January 20, 2009, p. 22.

[20] TSN, January 20, 2009, pp. 28-30.

[21] TSN, January 20, 2009, pp. 30-32, 68.

[22] TSN, January 20, 2009, pp. 31-32. .

[23] TSN, January 20, 2009, pp. 36, 38, 47-48, 74.

[24] TSN, January 20, 2009, pp. 36, 38, 46-49.

[25] TSN, January 20, 2009, pp. 73-77.

[26] TSN, January 20, 2009, p. 33.

[27] TSN, January 20, 2009, pp. 41-44.

[28] TSN, January 20, 2009, pp. 42-44.

[29] TSN, January 20, 2009, pp. 44-48.

[30] TSN, January 20, 2009, p. 47.

[31] TSN, January 20, 2009, pp. 48-49.

[32] TSN, January 20, 2009, pp. 68-69.

[33] TSN, January 20, 2009, p. 51.

[34] TSN, January 20, 2009, pp. 52-54, 61-62.

[35] TSN, January 20, 2009, pp. 54-58.

[36] TSN, January 20, 2009, pp. 58-59.

[37] TSN, January 20, 2009, pp. 59-60.

[38] TSN, January 20, 2009, pp. 71-73.

[39] TSN, January 20, 2009, pp. 73-75.

[40] TSN, January 20, 2009, pp. 75-76.

[41] TSN, January 20, 2009, pp. 76-77.

[42] TSN, January 20, 2009, pp. 77-79.

[43] TSN, January 20, 2009, pp. 80-82.

[44] TSN, January 20, 2009, pp. 83-84.

[45] TSN, January 20, 2009, pp. 84-85.

[46] TSN, January 20, 2009, pp. 85-86.

[47] TSN, January 20, 2009, pp. 86-88.

[48] TSN, January 20, 2009, p. 89.

[49] TSN, January 20, 2009, pp. 91-93.

[50] TSN, January 20, 2009, pp. 92-93.

[51] TSN, January 20, 2009, pp. 94-95.

[52] TSN, January 20, 2009, pp. 90-91.

[53] TSN, December 15, 2008, pp. 73-76.

[54] TSN, December 15, 2008, pp. 78-79

[55] TSN, December 15, 2008, pp. 80-81.

[56] TSN, December 15, 2008, pp. 79-80.

[57] TSN, December 15, 2008, pp. 83-85.

[58] TSN, December 15, 2008, pp. 86-87.

[59] TSN, December 15, 2008, pp. 104-113, 139.

[60] TSN, December 15, 2008, p. 115.

[61] TSN, December 15, 2008, pp. 122-132.

[62] TSN, December 15, 2008, pp. 156-157, 161-163.

[63] TSN, December 15, 2008, pp. 144-145, 148.

[64] TSN, January 22, 2009, pp. 3-4.

[65] TSN, January 22, 2009, pp. 7-9.

[66] TSN, January 22, 2009, pp. 9-11.

[67] TSN, January 22, 2009, pp. 12-15, 23-24, 42.

[68] TSN, January 22, 2009, pp. 16-19, 37-38.

[69] TSN, January 22, 2009, pp. 19-21, 38-41.

[70] TSN, January 22, 2009, pp. 18, 21-22, 24.

[71] TSN, January 22, 2009, pp. 24-26, 53-54.

[72] TSN, January 22, 2009, pp. 28, 34-35.

[73] TSN, January 22, 2009, pp. 28-29.

[74] TSN, January 22, 2009, pp. 30-32.

[75] TSN, January 22, 2009, pp. 32-33, 36-37.

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[76] TSN, January 22, 2009, p. 42.

[77] TSN, January 22, 2009, pp. 55-56, 61.

[78] TSN, January 22, 2009, pp. 57-58, 62.

[79] TSN, January 22, 2009, pp. 58-59.

[80] TSN, January 22, 2009, p. 43.

[81] TSN, January 22, 2009, p. 44.

[82] TSN, January 22, 2009, p. 45.

[83] TSN, January 22, 2009, pp. 45-50.

[84] TSN, January 22, 2009, pp. 51-53.

[85] TSN, January 22, 2009, p. 63.

[86] TSN, January 22, 2009, p. 64.

[87] TSN, January 22, 2009, pp. 65-66.

[88] TSN, January 22, 2009, pp. 66-68, 79.

[89] See TSN, January 22, 2009, pp. 69-70. Justice Carpio Morales pointed out that given the set up and the procedures in the Office of Justice Reyes, it was possible for a member of the staff to photocopy a signed ponencia in Gilbert form without the other members of the staff noticing what particular document was being photocopied.

[90] TSN, January 22, 2009, pp. 71-72, 75.

[91] TSN, January 22, 2009, pp. 73-75, 77-78.

[92] TSN, January 22, 2009, pp. 78-80.

[93] TSN, January 22, 2009, pp. 83-85.

[94] TSN, January 22, 2009, pp. 87-88.

[95] TSN, January 22, 2009, pp. 94-95.

[96] TSN, January 22, 2009, pp. 97-98.

[97] TSN, January 22, 2009, pp. 88-90, 97.

[98] TSN, January 22, 2009, pp. 100-101.

[99] TSN, January 22, 2009, pp. 101-104.

[100] TSN, January 22, 2009, pp. 104-105.

[101] TSN, January 22, 2009, pp. 98-99.

[102] TSN, January 22, 2009, pp. 107-108.

[103] TSN, December 16, 2008, pp. 3-4.

[104] TSN, December 16, 2008, pp. 4-5, 12-16.

[105] TSN, December 16, 2008, pp. 3-4, 12-14, 17.

[106] TSN, December 16, 2008, pp. 20-21.

[107] TSN, December 16, 2008, p. 24.

[108] TSN, December 16, 2008, pp. 29-33, 38-40.

[109] TSN, December 16, 2008, pp. 44-45.

[110] TSN, December 16, 2008, pp. 48-50.

[111] TSN, December 16, 2008, pp. 51-57.

[112] TSN, December 16, 2008, pp. 58, 63, 65.

[113] TSN, December 16, 2008, pp. 82-91, 95, 100-103, 107-108, 115.

[114] TSN, January 14, 2009, pp. 5-8.

[115] TSN, January 14, 2009, pp. 9-11.

[116] TSN, January 14, 2009, pp. 12-14, 25-26.

[117] TSN, January 14, 2009. pp. 15-17, 20-21.

[118] TSN, January 14, 2009, pp. 22-23.

[119] TSN, January 14, 2009, pp. 23-25.

[120] TSN, January 14, 2009, pp. 28-29.

[121] TSN, January 16, 2009 PM Session, p. 3.

[122] TSN, January 16, 2009 PM Session, pp. 5-8.

[123] TSN, January 16, 2009 PM Session, p. 9.

[124] TSN, January 16, 2009 PM Session, pp. 10-11.

[125] TSN, January 16, 2009 PM Session, p. 14.

[126] TSN, January 16, 2009 PM Session, pp. 14-15.

[127] TSN, January 16, 2009 PM Session, p. 18.

[128] TSN, January 16, 2009 PM Session, p. 21.

[129] TSN, January 16, 2009 PM Session, p. 23.

[130] TSN, January 16, 2009 PM Session, pp. 23-24.

[131] TSN, January 16, 2009 PM Session, pp. 26-29.

[132] TSN, January 16, 2009 PM Session, p. 26.

[133] TSN, January 16, 2009 PM Session, pp. 29-33, 37, 39.

[134] TSN, January 16, 2009 PM Session, pp. 33-35.

[135] TSN, January 16, 2009 PM Session, pp. 44-46.

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[136] TSN, January 16, 2009 PM Session, pp. 46-52.

[137] TSN, January 16, 2009 PM Session, p. 54.

[138] TSN, January 16, 2009 PM Session, p. 52.

[139] TSN, January 16, 2009 PM Session, p. 56.

[140] TSN, January 16, 2009 PM Session, pp. 56-57.

[141] TSN, January 16, 2009 PM Session, pp. 61-62, 66-67.

[142] TSN, January 16, 2009 PM Session, pp. 65, 69-70.

[143] TSN, January 16, 2009 PM Session, pp. 70-71.

[144] TSN, January 16, 2009 PM Session, pp. 80-82.

[145] TSN, January 16, 2009 PM Session, pp. 86-87.

[146] TSN, January 16, 2009 PM Session, pp. 93-94.

[147] TSN, January 16, 2009 PM Session, pp. 101-102.

[148] TSN, January 16, 2009 PM Session, pp. 105-107.

[149] TSN, January 16, 2009 PM Session, p. 119.

[150] TSN, January 19, 2009, pp. 10-12, 14, 16, 18, 40, 68.

[151] TSN, January 19, 2009, pp. 16-18.

[152] TSN, January 19, 2009, pp. 48-49, 54-55, 65-66.

[153] TSN, January 19, 2009, pp. 59-60.

[154] TSN, January 19, 2009, pp. 75-76.

[155] TSN, January 19, 2009, pp. 80-82.

[156] TSN, January 19, 2009, pp. 83-84, 90-91.

[157] TSN, January 19, 2009, p. 92.

[158] TSN, January 19, 2009, pp. 95-101, 116.

[159] TSN, January 19, 2009, pp 119-121.

[160] TSN, January 19, 2009, pp. 112.

[161] TSN, January 19, 2009, pp. 113.

[162] TSN, January 19, 2009, p. 115.

[163] TSN, January 19, 2009, p. 117.

[164] TSN, January 19, 2009, pp. 120-121.

[165] TSN, January 19, 2009, pp. 128-129.

[166] TSN, January 19, 2009, p. 129.

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[167] TSN, January 19, 2009, pp. 138-139.

[168] TSN, January 19, 2009, p. 139.

[169] TSN, January 19, 2009, pp. 140.

[170] TSN, January 19, 2009, pp. 140-141.

[171] TSN, January 19, 2009, pp. 158-160.

[172] TSN, January 19, 2009, p. 165.

[173] TSN, January 19, 2009, p. 161.

[174] TSN, January 19, 2009, pp. 166-168.

[175] TSN, January 19, 2009, pp. 175-181.

[176] TSN, January 19, 2009, p. 171.

[177] TSN, January 19, 2009, pp. 213-214.

[178] TSN, January 19, 2009, pp. 214-217.

[179] TSN, January 19, 2009, pp. 214-215.

[180] TSN, January 19, 2009, pp. 223-225.

[181] TSN, January 19, 2009, pp. 231-235.

[182] TSN, January 19, 2009, pp. 235-243.

[183] TSN, January 19, 2009, pp. 245-248.

[184] TSN, January 19, 2009, p. 249.

[185] TSN, January 19, 2009, pp. 250-255.

[186] TSN, January 19, 2009, pp. 253-254.

[187] See Paragraph 1 (Notes/Observations).

[188] See Paragraphs 2 and 5 (Notes/Observations).

[189] See Paragraph 4 (Notes/Observations).

[190] See Paragraph 7 (Notes/Observations).

[191] See Paragraphs 3 and 9 (Notes/Observations).

[192] See Paragraph 11 (Notes/Observations).

[193] TSN, January 22, 2009, pp. 117-118.

[194] TSN, January 22, 2009, pp. 118-119.

[195] TSN, January 22, 2009, pp. 119-120.

[196] TSN, January 22, 2009, pp. 120-121.

[197] TSN, January 22, 2009, p. 122.

[198] TSN, January 22, 2009, p. 123.

[199] TSN, January 22, 2009, pp. 121, 125.

[200] TSN, January 22, 2009, p. 124.

[201] TSN, January 22, 2009, pp. 125-126.

[202] TSN, January 22, 2009, pp. 127-129.

[203] TSN, January 22, 2009, pp. 130-131.

[204] TSN, January 22, 2009, pp. 129-132.

[205] TSN, January 22, 2009, p. 132.

[206] TSN, January 22, 2009, pp. 133-136.

[207] TSN, January 22, 2009, pp. 136-137.

[208] TSN, January 22, 2009, pp. 138-140.

[209] TSN, January 22, 2009, pp. 140-141.

[210] TSN, January 22, 2009, p. 143.

[211] TSN, January 22, 2009, pp. 144-145.

[212] TSN, January 22, 2009, pp. 145-146.

[213] TSN, January 22, 2009, p. 147.

[214] TSN, January 22, 2009, pp. 148-149.

[215] TSN, January 22, 2009, pp. 149-150.

[216] TSN, January 22, 2009, pp. 150-151, 210-211.

[217] TSN, January 22, 2009, pp. 154-155.

[218] TSN, January 22, 2009, pp. 156-157, 161, 163-166.

[218] TSN, January 22, 2009, p. 158.

[220] TSN, January 22, 2009, pp. 159-160.

[221] TSN, January 22, 2009, pp. 162-164.

[222] TSN, January 22, 2009, pp. 167, 171, 177-180.

[223] TSN, January 22, 2009, p. 167.

[224] TSN, January 22, 2009, pp. 168-169, 172.

[225] TSN, January 22, 2009, pp. 173-176.

[226] TSN, January 22, 2009, p. 187.

[227] TSN, January 22, 2009, pp. 185-186.

[228] TSN, January 22, 2009, pp. 188-190.

[229] TSN, January 22, 2009, pp. 192-193.

[230] TSN, January 22, 2009, pp. 193-194.

[231] TSN, January 22, 2009, p. 194.

[232] TSN, January 22, 2009, pp. 194-195.

[233] TSN, January 22, 2009, pp. 195-197.

[234] TSN, January 22, 2009, pp. 197-201.

[235] TSN, January 22, 2009, pp. 202, 204-205.

[236] In his testimony summarized above, Justice Nachura believed that he signed the Gilbert copy at the En Banc Conference Room.

[237] TSN, January 22, 2009, pp. 202-204.

[238] TSN, January 22, 2009, pp. 203-204.

[239] TSN, January 22, 2009, pp. 207-209.

[240] TSN, January 22, 2009, pp. 211-212.

[241] TSN, January 22, 2009, p. 220.

[242] TSN, January 22, 2009, p. 223.

[243] TSN, January 22, 2009, p. 224.

[244] TSN, January 22, 2009, pp. 225-232.

[245] TSN, January 21, 2009, pp. 43-45, 47.

[246] TSN, January 16, 2009 AM Session, pp. 95-97.

[247] TSN, December 15, 2008, pp. 14, 16.-17.

[248] TSN, December 16, 2008, pp. 8-9.

[249] TSN, January 22, 2009, p. 151.

[250] Re: Report on the Judicial Audit Conducted in the Regional Trial Court, Branch 4, Dolores, Eastern Samar, A.M. No. 06-6-340-RTC, October 17, 2007, 536 SCRA 313, 339 citing Concerned Trial Lawyers of Manila v. Veneracion, A.M. No. RTJ-05-1920, April 26, 2006, 488 SCRA 285, 298-299.

[251] Pagano v. Nazarro, Jr., G.R. No. 149072, September 21, 2007, 533 SCRA 622, 628, see the discussion where the Court debunked the cases relied upon by petitioner to support her defense that government employees who have been separated can no longer be administratively charged.

[252] Largo v. Court of Appeals, G.R. No. 177244, November 20, 2007, 537 SCRA 721, 729 citing Perez v. Abiera, Adm. Case No. 223-J, June 11, 1975, 64 SCRA 302, 307; vide Gallo v. Judge Cordero, 315 Phil. 210, 220 (1995).

[253] A.M. No. 03-05-01-SC entitled Adopting the New Code of Judicial Conduct for the Philippine Judiciary (April 27, 2004).

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[254] Supra note 18 at Canon 4 (Propriety), Sec. 9 as amended by Resolution of June 6, 2006.

[255] A.M. No. 03-06-13-SC (April 13, 2004), Canon II. The Code shall apply to all personnel in the judiciary who are not justices or judges, including former court personnel who acquired, while still so employed, confidential information, who are thereby made subject to Section 4 of Canon II.

[256] Chavez v. Presidential Commission on Good Government, G.R. No. 130716, December 9, 1998, 299 SCRA 744.

[257] Chavez v. Public Estates Authority, G.R. No. 133250, July 9, 2002, 384 SCRA 152.

[258] Adm. Matter No. P-88-238, April 8, 1991, 195 SCRA 667.

[259] A.C. No. P-93-822, December 1, 1994, 238 SCRA 475.

[260] G.R. No. 141141, June 25, 2001, 359 SCRA 525.

[261] De los Santos v. Mangino, A.M. No. MTJ-03-1496, July 10, 2003, 405 SCRA 521, 528; Cruz v. Yaneza, A.M. No. MTJ-99-1175, March 9, 1999, 304 SCRA 285, 305, both citing Macalintal v. Teh, A.M. No. RTJ-97-1375, October 16, 1997, 280 SCRA 623, 625.

[262] Nos. L-63950-60, April 19, 1985, 135 SCRA 712.

[263] No. L-64276, June 10, 1986, 142 SCRA 262.

[264] A.C. No. 2756, June 5, 1986, 142 SCRA 223.

[265] A.M. No. R-66-RTJ, March 18, 1988, 159 SCRA 47.

[266] Supra note 274, at 285.

[267] Supra note 274, at 521.

[268] A.M. No. RTJ-08-2109, April 30, 2008.

[269] A.M. No. P-94-1110, February 6, 1997, 267 SCRA 517.

[270] No. L-68635, March 12, 1987, 148 SCRA 382.

[271] No. L-68635, May 14, 1987, 149 SCRA 570. Eva Maravilla-Ilustre was held in contempt of court and was ordered to pay a fine of P1,000 within ten days from notice, or suffer imprisonment for ten days upon failure to pay said fine within the given period. Atty. Wenceslao Laureta was found guilty of grave professional misconduct and was suspended from the practice of law until further orders.

[272] A.C. No. 5162, March 20, 2003, 399 SCRA 296.

[273] In Re: Petition for the Dismissal from Service and/or Disbarment of Judge Baltazar R. Dizon, A.C. No. 3086, May 31, 1989, 173 SCRA 719, 725 which granted the motion for reconsideration of the Resolution in Padilla v. Dizon, A.C. No. 3086, February 23, 1988, 158 SCRA 127.

[274] A.C. No. MTJ-92-643, November 27, 1992, 216 SCRA 121.

[275] A.M. No. CA-04-40, August 13, 2004, 436 SCRA 369.

[276] Supra note 274, at 623. The Court observed that the respondent's gross deviation from the acceptable norm for judges is clearly manifest, when he actively participated in the certiorari proceedings in which he was merely a nominal party and when he acted both as a party litigant and as a judge before his own court.

[277] Id. at 631.

[278] In re: Wenceslao Laureta, supra note 284, at 579.

[279] Sec. 27. Disbarment or suspension of attorneys by Supreme Court; grounds therefor. -- A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before the admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority to do so. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

[280] In Re: Raul M. Gonzalez, A.M. No. 88-4-5433, April 15, 1988, 160 SCRA 771, 774.

[281] A.M. No. RTJ-04-1884, February 22, 2008.

[282] De Leon-Dela Cruz v. Recacho, A.M. No. P-06-2122, July 17, 2007, 527 SCRA 622, 631.

[283] Rivera v. Buena, A.M. No. P-07-2394, February 19, 2008.

[284] Patawaran v. Nepomuceno,A.M. No. P-02-1655, February 6, 2007, 514 SCRA 265. 278.

[285] Judge Balanag, Jr. v. Osita, 437 Phil. 452 (2002); Casano v. Magat, 425 Phil. 356(2002); Tiongco v. Molina, 416 Phil. 676(2001); Beso v. Judge Daguman, 380 Phil. 544(2000).

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