

RE: INCIDENT REPORT OF THE SECURITY DIVISION, OFFICE OF ADMINISTRATIVE SERVICES, ON THE ALLEGED ILLEGAL DISCHARGE OF A FIREARM AT THE MAINTENANCE DIVISION, OFFICE OF ADMINISTRAT...*A.M. No. 2019-04-SC. June 02, 2020*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-m-no-2019-04/>**PER CURIAM:**

Before this Court is a Memorandum-Letter dated August 5, 2019, by Deputy Clerk of Court and Chief Administrative Officer Atty. Maria Carina M. Cunanan (Atty. Cunanan) to Atty. Edgar O. Aricheta, Clerk of Court En Banc, relative to an illegal discharge of a firearm which occurred on December 25, 2019 within the premises of the Supreme Court.

Based on the Incident Report submitted by the Security Division, Office of Administrative Services (OAS) dated January 3, 2019, on December 27, 2018 at around 3:52 in the afternoon, Engr. Antonio Bayot, Jr. (Engr. Bayot), SC Supervising Judicial Staff Officer, Maintenance Division, OAS, called the Security Office to inform about an incident that happened in their office. Overall Shift-In-Charge Gil F. Pastorfide immediately responded and went to the place of incident where they saw a damaged computer desktop monitor with Property Number JDF-2010-1673-29A, on top of the working table of Mr. Dale Derick O. Josue. Upon inspection of the monitor, they discovered that it has multiple holes caused by fired bullets from a .22 caliber firearm based on the slugs recovered. They also noticed that the bullets came from the wooden partition wall dividing the office staff workstation and the locker area of the maintenance personnel. Upon further inspection of the area, it appeared that the gun was deliberately fired inside the maintenance office's locker based on the horizontal trajectory of the bullet. It also appeared that the illegal discharge of firearm occurred during the period when no other people were inside the office except the on-duty maintenance personnel.

Thus, Atty. Cunanan directed maintenance personnel to appear for investigation, and clarificatory questioning. Among those invited were Engr. Antonio Bayot, Jr., Nestor L. Cuaderes, Joseph D. Goloso, Teotimo E. Racho, Jr. (Racho), Nicomedes V. Natanauan, Jr. (Natanauan), Paulino M. Giducos, Jr. (Giducos) and respondent Gerardo H. Alumbro (Alumbro).

In the course of the investigation, they were asked who among the maintenance personnel own and possess firearm. It was confirmed vis-a-vis the information provided by their Chief of Division Engr. Bernardito R. Bundoc that Messrs. Giducos, Natanauan, and Racho personally own firearms. These three (3) employees, including Alumbro, even applied for a License to Own and Possess Firearms (LTOPF) during the caravan conducted by the Philippine National Police in the Supreme Court Compound.

Further investigation also revealed unconfirmed information pointing to Alumbro's alleged involvement in the incident. Engr. Bayot testified that he overheard from some maintenance staff the name of Alumbro as the person most likely responsible for the illegal discharge of firearm. He also confirmed that Alumbro was the on-duty electrician in the Court on December 25, 2018 between 6:00 a.m. to 2:00 p.m.

Giducos, on the other hand, testified that he was the on-duty personnel on December 24, 2018. However, he had another information pertaining to Alumbro's possible involvement in the incident. He said that Ms. Annabelle M. Desamero informed him that she saw Alumbro took his lunch inside the maintenance working area on December 26, 2018, and was seen within the Court compound even when it was not his schedule of duty.

For his part, Alumbro vehemently denied any involvement in the incident of illegal discharge of firearm. Though he confirmed that he was the on-duty electrician on December 25, 2018 from 6:00 a.m. to 2:00 p.m., he alleged that he went home after work. When asked if he owns any firearm, he said that he does not own one, but admitted that he applied for a LTOPF since he was planning to buy a gun for himself.

Alumbro also stated that he just stayed at home the whole day of December 26, 2018 as it was his birthday and denied going to the Supreme Court on the said date. He said that he took his birthday leave on December 27, 2018 and reported back to the office only on the following day, December 28, 2018. Following his statement, a request to the security officers was made to verify the truthfulness of his allegations. Alumbro, on the other hand, was warned of the possible consequence to him if he was found not telling the truth.

On February 14, 2019, Alumbro was directed to appear again for the continuation of the investigation to answer some clarificatory questions. On this occasion, Alumbro changed his earlier statement and testimony by voluntarily confessing and admitting his responsibility relative to the unlawful bringing and illegal discharge of firearm at the Maintenance Division 's Office. When asked why he previously had to lie and gave false information, Alumbro humbly asked for forgiveness and said that he does not want innocent employees to get involved in the incident.

The pertinent portion of Alumbro's statement are as follows:

Q: xxx Ito ay pagpapatuloy lamang dahil meron kaming napag- alaman na mayroon kang testimonyang gustong ibigay o pag-amin na gagawin?

A: Opo.

Q: Maaari mo nang sabihin sa amin ngayon kung ano ito, Mr. Alumbro?

A. Inaamin ko po na ako ang may gawa ng pangyayari.

Q. Inaamin mo na ikaw ang may gawa ng pagpapaputok ng baril?

A. Opo.

Q. Ang testimonya na ibinigay mo sa amin noong January 17, 2019 ay binabago mo?

A. Opo.

Q. Na ang mga nakapaloob sa testimonyang iyon ay pawang mga kasinungalingan at ito ay binabago at itinatama mo ngayon?

A. Opo.

Q. Inuulit ko, ikaw ba ang nagpapaputok ng baril doon sa Maintenance Division's office?

A. Opo, Sir.

Q. Kailan mo ginawa ang pagpapaputok ng baril?

A. December 25 po.

Q. December 25, 2018 kung saan ay ikaw ang naka-duty noon? Ikaw ang duty electrician?

A. Opo.

Q. Anong klaseng baril ang ginamit mo?

A. .22 caliber po. Sir.

Q. Saan mo ito pinaputok?

A. Doon sa dingding.

Q. Ang ibig mo bang sabihin 'yung dingding na yun ay inireport ng Security Division na tinamaan ng bala at tumagos doon sa kabila, sa computer ni Mr. Josue?

A. Yes, sir.

Q. Handa ka bang harapin ang mga consequences sa ginawa mong ito?

A. Opo, Sir.

Q. xxx Bakit mo naman nagawang magpaputok ng baril sa loob ng Maintenance Office at bakit mo nagawang magdala ng baril dito sa loob ng Supreme Court?

A. Pinabenta kasi sa akin 'yun, sir, gusto ko lang kumita ng konting halaga. (Emphasis supplied)

xxx

Q. Kailan mo dinala dito ang baril?

A. Umaga.

Q. Umaga ng December 25?

A. Opo.

Q. Bakit mo naman ito pinaputok doon?

A. Kasi ang sabi ay baka palyado po kaya naisip kong paputukin.

Q. Anong oras mo ito pinaputok?

A. Umaga. Bago mag-tanghali.

xxx

Q. May gusto ka pa bang sabihin sa amin?

A. Humihingi po aka ng tawad sa inyo, Sir, dahil hindi ko kaagad inamin.

Q. Ano ang nagudyok sa'yo para umamin?

A. Ayaw kong madamay 'yung...

Q. May pumilit ba sa'yo?

A. Wala. Sarili ko lang.

Q. May nanakot ba sa'yo?

A. Wala, Sir.

Q. Ito bang pag-amin mo ay voluntary?

A. Opo, Sir.

Q. Walang pananakot?

A. Wala po.

Q. Ano ang realization na nangyari sa'yo ngayon? Bakit nung una ay nagsisinungaling ka pa?

A. Ayaw ko pong madamay ang mga walang kinalaman sa mga kasamahan ko. (Emphasis ours)

In her Memorandum dated August 5, 2019, Atty. Cunanan averred that Alumbro's confession of admitting his act of bringing in and carrying a firearm inside the Court's premises, and intentionally firing it four (4) times which, as a result, damaged Court 's properties, unequivocally show his guilt.

Thus, Atty. Cunanan, found Alumbro guilty of grave misconduct for illegally bringing a firearm and intentionally

firing it inside the Court premises, and recommended that: he be dismissed from service, with forfeiture of all his retirement benefits, except accrued leave benefits, if any, and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned and controlled corporations. Further, Atty. Cunanan recommended that the security personnel be directed to strictly implement the Security Guidelines issued by the Court to prevent repetition of the same or similar incident in the future.

RULING

Time and again, this Court has pronounced that court personnel charged with the dispensation of justice, from the presiding judge to the lowliest clerk, bear a heavy responsibility in insuring that their conduct are always beyond reproach. The preservation of the integrity of the judicial process is of paramount importance. All those occupying offices in the judiciary should, at all times, be aware that they are accountable to the people.[1]

In the instant case, records show that Alumbro failed to live up to these exacting standards. He committed misconduct by: first, bringing a firearm inside the Court premises; and second, in indiscriminately firing said firearm, thus, damaging Court properties. His actions show his culpability, and lack of prudence and responsibility, and without regard to human lives, in general. Alumbro's reprehensible acts, not only constitute irresponsible and improper conduct, but a grave misconduct as it shows total lack of respect for the Court as his acts compromised the image, integrity and uprightness of the courts of law.

Alumbro's behavior is contrary to the ethical conduct demanded by Republic Act No. 6713, otherwise known as Code of Conduct and Ethical Standards for Public Officials and Employees.[2]

Section 4(c) of RA 6713 (Code of Conduct Standards for Public Officials and Employees) fittingly provides:

(c) Justness and sincerity. – Public officials and employees shall remain true to the people at all times. They must act with justness and sincerity and shall not discriminate against anyone, especially the poor and the underprivileged. They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest. (Emphasis supplied)

Even if the incident occurred outside of the regular work hours, Alumbro's behavior still had no excuse. Alumbro admitted that he was the on-duty electrician on December 25, 2018 when the firing incident transpired. It must be reminded that our laws on ethical behavior and proper decorum must still be observed even outside office hours. Moreso, as Alumbro's misconduct was committed while in the performance of his official functions. Clearly, Alumbro's misconduct was committed with clear intent to violate the law, or flagrant disregard of an established rule.

Misconduct is intentional wrongdoing or deliberate violation of a rule of law or standard of behavior. To constitute an administrative offense, misconduct should relate to or be connected with the performance of the official functions and duties of a public officer. In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule must be manifest.[3]

Anent the proper imposable penalty, the Court notes that Grave Misconduct is classified as a grave offense punishable by dismissal from service for the first offense. The penalty of dismissal from service carries with it the following administrative disabilities: (a) cancellation of civil service eligibility; (b) forfeiture of retirement and other benefits, except accrued leave credits, if any; and (c) perpetual disqualification from re-employment in any government agency or instrumentality, including any government-owned and controlled corporation or government financial institution.[4]

As a final note, it must be emphasized that those in the Judiciary serve as sentinels of justice, and any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it. The Institution demands the best possible individuals in the service and it had never, and will never, tolerate nor condone any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the justice system. As such, the Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards an effective and efficient administration of justice, thus tainting its image in the eyes of the public.[5]

WHEREFORE, as recommended, the Court finds GERARDO H. ALUMBRO, Electrician II, Maintenance Division, Office of the Administrative Services, Supreme Court of the Philippines, GUILTY of GRAVE MISCONDUCT, and is hereby DISMISSED from the service, with forfeiture of retirement benefits, except earned leave credits, if any, and with prejudice to reinstatement or re-employment in any agency of the government, including government-owned or controlled corporations.

The Court further DIRECTS all Security personnel to STRICTLY IMPLEMENT the Security Guidelines issued by the Court to prevent the repetition of the same or similar incident in the future.

SO ORDERED.

Peralta, C. J., Perlas-Bernabe, Leonen, Caguioa, Gesmundo, J. Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Lopez, and Gaerlan, JJ., concur.
Delos Santos, J., on leave but voted.

[1] Mercado, et al. v. Judge Salcedo (Ret.), 619 Phil. 3, 21 (2009).

[2] See Ganzon v. Arlos, 720 Phil. 104, 116 (2013).

[3] Zedmond D. Duque v. Cesar C. Calpo, A.M. No. P-16-3505 [Formerly OCA I.P.I. No. 13-4134-P], January 22, 2019.

[4] Perez v. Roxas, A.M. No. P-16-3595 (Formerly OCA I.P.I. No. 15-4446-P), June 26, 2018.

[5] Judaya, et al. v. Balbona, 810 Phil. 375, 383 (2017).

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