

AAA, COMPLAINANT, V. EDGARDO V. SALAZAR, CONSTRUCTION AND MAINTENANCE GENERAL FOREMAN HALL OF JUSTICE, xxxxxxxxxxxxxxxxxxxx, RESPONDENT.

A.M. No. HOJ-08-02. October 02, 2018

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PER CURIAM:

This administrative matter originated from a complaint filed by AAA, assisted by her mother, BBB, charging respondent Edgardo V. Salazar Construction and Maintenance General Foreman, Hall of Justice, xxxxxxxxxxxxxxxxxxxx with rape.[1] The Office of the Court Administrator found that Salazar had sexual intercourse with then 14-year-old AAA against her will in the Hall of Justice, xxxxxxxxxxxxxxxxxxxx

In a letter dated October 10, 2007,[2] Executive Judge Teodoro Fernandez (Executive Judge Fernandez) of the Regional Trial Court of xxxxxxxxxxxxxxxxxxxx informed the Office of the Court Administrator of a minor's criminal charge of rape before the National Bureau of Investigation against Salazar. Attached to Executive Judge Fernandez's letter was the Sinumpaang Salaysay of the minor-victim, AAA.[3]

In her Sinumpaang Salaysay, AAA charged Salazar of raping her inside his office, the Maintenance Room of the Hall of Justice in xxxxxxxxxxxxxxxxxxxx on September 1, 2007. She alleged that on August 28, 2007, her cousin, CCC, lent her his cellphone because a friend of his wanted to be "textmates" with her. Later that night, she received a message registered in CCC's phonebook as "Engineer," saying he liked her and wanted her to be his second wife. She texted back saying he should not say that as he did not know her. The following day, she returned CCC's phone.[4]

On September 1, 2007, Saturday, she was accompanied to the Hall of Justice by her two (2) cousins, CCC and DDD, to meet a person who would allegedly give them a cellphone.[5] Upon arrival, Salazar gave money to CCC and DDD to go out and buy snacks. CCC assured AAA that Salazar would not harm her.[6] When CCC and DDD left, Salazar brought AAA to his office, where he allegedly licked her vagina and inserted his finger and penis in her vagina against her will.[7]

In his Comment[8] dated December 20, 2007, Salazar countered that he did not rape AAA. He asserted that the complaint was "nothing but a fabricated charge contrived by a wayward teenager who had eloped with her boyfriend." [9] In his Counter-Affidavit[10] dated December 13, 2007, he claimed that there was an anti-termite chemical application in the Hall of Justice on September 1, 2007. He arrived in the office around 9:00 a.m. and instructed four (4) men from the pest control company. According to him, he left at 10:00 a.m. because he and his family were scheduled to leave the province. At noon, they were on board a rented van headed for Antipolo. Thus, he could not have raped AAA.[11]

Salazar also filed a Manifestation[12] before this Court, averring that the Provincial Prosecutor of xxxxxxxxxxxxxxxxxxxx dismissed AAA's criminal complaint for insufficiency of evidence,[13] although she had elevated the case to the Department of Justice for review.[14]

The Court Administrator's initial evaluation stated that the charge against Salazar would constitute either grave misconduct, disgraceful or immoral conduct, or conduct prejudicial to the best interest of the service. However, the conflicting accounts of AAA and Salazar required a full-blown investigation.[15]

This Court, upon the recommendation of the Office of the Court Administrator,[16] re-docketed the case as a regular administrative matter and referred it to Executive Judge Fernandez of Branch 38, Regional Trial Court, xxxxxxxxxxxxxxxxxxxxxxxx for investigation, report, and recommendation.[17]

Executive Judge Fernandez inhibited from the investigation of the administrative matter.[18] It was later assigned to Judge Emma P. Bauzon (Judge Bauzon) of Branch 37, Regional Trial Court, xxxxxxxxxxxxxxxxxxxxxxxx.[19]

In her Report[20] dated September 8, 2009, Judge Bauzon found that AAA failed to establish that she was sexually molested on September 1, 2007 in the Maintenance Room of the Hall of Justice in xxxxxxxxxxxxxxxxxxxxxxxx.[21] She found contradictions in AAA's testimony. AAA claimed that as Salazar was removing her blouse, bra, and pedal pants, he was holding a gun on his left hand. He allegedly mashed her private parts with his right hand. However, AAA also testified that Salazar used both hands while doing the sexual act, with his left hand holding her right hand. According to Judge Bauzon, "How can the respondent use his left hand to hold her hand when his hand was holding a gun at the [same] time, as she also claimed?"[22]

Judge Bauzon noted that AAA submitted herself to medical examination more than a month after she was allegedly raped. Moreover, as testified by the examining physician, it was possible that the healed lacerations found in her vagina were not caused by an erect penis.[23] Further, AAA was unable to present the testimonies of her two (2) cousins who would be able to corroborate her presence in the Hall of Justice on September 1, 2007. Meanwhile, Salazar's alibi was corroborated by the testimonies of his witnesses. Judge Bauzon concluded that looking at the totality of the circumstances, the claim was not credible and she recommended the dismissal of the administrative complaint.[24]

The Office of the Court Administrator recommended the conduct of further investigation considering that CCC and DDD did not testify.[25] Judge Bauzon reported that she scheduled hearings on June 23, 2010; July 7, 2010; July 15, 2010; and July 23, 2010.[26] However, CCC and DDD failed to attend despite the subpoena.[27]

In its Memorandum[28] dated November 15, 2011, the Office of the Court Administrator recommended that Salazar be found guilty of gross misconduct, be dismissed from service with forfeiture of all retirement benefits, except accrued leave credits, and be perpetually disqualified from being reinstated or appointed to any public office including government- owned or -controlled corporations.[29]

As to the alleged inconsistency in AAA's testimony on Salazar's use of his hands, the Court Administrator stated that:

[R]ape is a harrowing experience, the exact details of which are not usually remembered. Inconsistencies, even if they do exist, tend to bolster, rather than weaken the credibility of the witness, for they show that the testimony was not contrived or rehearsed. Testimonial discrepancies could also be caused by the natural fickleness of memory which tends to strengthen rather than weaken credibility, as they erase any suspicion of rehearsed testimony.[30] (Citations omitted)

On the alleged anti-termite chemical application and foul smell in the room, Generoso Fernandez, the security guard on duty, testified that no chemical application was done in Salazar's office.[31] Salazar never controverted this testimony. Thus, it is possible that he could have raped AAA in his office despite the anti-termite chemical spraying that morning.[32]

Moreover, the Court Administrator found that Salazar never denied that he had sent AAA a text message saying

that he wanted her to be his second wife.[33]

On CCC's and DDD's failure to testify before the investigating judge, the Court Administrator opined that the Office of the Provincial Prosecutor's January 3, 2008 Resolution revealed that they accompanied AAA to the Hall of Justice on September 1, 2007, which corroborated AAA's allegation.[34]

The Court Administrator found that AAA's testimony was clear, straightforward, and detailed. Meanwhile, Salazar offered only the defense of alibi.[35]

For this Court's resolution is the sole issue of whether or not respondent Edgardo V. Salazar is guilty of gross misconduct and/or conduct prejudicial to the best interest of the service warranting the penalty of dismissal from service, the forfeiture of all retirement benefits, and perpetual disqualification from any public office.

This Court adopts the findings of the Office of the Court Administrator and agrees with its recommendations.

As found by the Court Administrator, complainant sufficiently showed through her spontaneous testimony that respondent raped her in the premises of the Hall of Justice. The results of the medical examination showed that her healed lacerations may have been caused by an erect penis or a finger, consistent with her testimony that respondent inserted his finger and his penis into her vagina.

Moreover, respondent never denied that he had sent the minor complainant a text message asking her to be his mistress. This act exhibits respondent's moral depravity.

While there are inconsistencies in complainant's narration of the sexual assault in her Sinumpaang Salaysay[36] and during the hearing,[37] they only tend to strengthen rather than weaken the credibility of the complainant since they were only with respect to minor details.[38] Complainant's testimony is convincing and straightforward.

In *People of the Philippines v. Lusa*,[39] this Court held that the contradictions between the Sinumpaang Salaysay and the answers in open court should not defeat the cause of a complainant.[40] The inconsistencies may be explained since "an affidavit [cannot] possibly disclose the facts in their entirety, and may inaccurately describe, without deponent detecting it, some of the occurrences narrated."[41]

In several cases, this Court ruled that testimonies of child-victims must be given full weight and credit.[42] When a woman, especially if she is a minor, declares that she has been a victim of rape, "she says in effect all that is necessary to show that rape was committed."[43] Youth and immaturity have generally been accepted as badges of truth and sincerity.[44] Moreover, alibi and denial, weighed against the positive identification of a complainant, are weak defenses.[45]

Misconduct has been defined as a "transgression of some established and definite rule of action."[46] It includes the unlawful behavior or gross negligence of a public officer.[47] The penalty of dismissal is warranted when the misconduct is of a "grave, serious, important, weighty, momentous" character and must imply a wrongful intent, not just a mere error of judgment.[48] Gross misconduct is characterized by a "clear intent to violate the law" or a blatant disregard of some established rule.[49]

Courts are regarded by people with high respect and any form of misbehavior within their vicinity tends to diminish their sanctity and dignity.[50] The conduct and behavior of every person connected with the dispensation of justice, from a presiding judge to staff, must always be characterized with propriety and decorum.[51] In the case at bar, respondent's reprehensible acts failed to meet this standard. His acts constitute gross misconduct.

Under the Revised Rules on Administrative Cases in the Civil Service, gross misconduct is a grave offense[52] punishable by dismissal from service[53] on the first offense. The penalty of dismissal includes other accessory

penalties: the forfeiture of retirement benefits[54] and the perpetual disqualification from holding any other public office.[55]

In several cases, this Court has laid down the exacting standards of morality and decency required of those serving the judiciary.[56]

In *Merilo-Bedural v. Edroso*,[57] this Court dismissed a Utility Worker for pinning the complainant Branch Clerk of Court with his body and kissing her against her will. This Court described respondent Utility Worker's behavior as "unbecoming of a court personnel" and dismissed him for gross misconduct and immorality prejudicial to the best interests of the service.[58]

In *Talens-Dabon v. Arceo*,[59] respondent Judge was likewise dismissed from service for gross misconduct and immorality prejudicial to the best interests of service for a "violent kissing incident"[60] and documented proof of his "lustful and lascivious desires"[61] toward the Branch Clerk of Court.

In *Dontogan v. Pagkanlungan, Jr.*,[62] this Court dismissed a Process Server for kissing a Court Stenographer "so hard and evidently prompted by lust it even left a red mark on her upper lip"[63] while reeking of alcohol. This Court deemed his acts as gross misconduct and violative of Supreme Court Circular No. 09-99.

In the case at bar, respondent's act of having sexual intercourse with complainant against her will constitutes gross misconduct, aggravated by two (2) circumstances: the victim was a minor and it was committed in the Hall of Justice. Thus, the harshest penalty must be imposed upon respondent.

WHEREFORE, respondent Edgardo V. Salazar is hereby DISMISSED from service for gross misconduct with forfeiture of all retirement benefits and disqualification from being reinstated or appointed in any public office, including government-owned or -controlled corporations.

SO ORDERED.

Leonardo-De Castro, C.J., Carpio, Peralta, Del Castillo, Perlas-Bernabe, Leonen, Jardeleza, Tijam, A. Reyes, Jr., and J. Reyes, Jr., JJ., concur.

Bersamin and Gesmundo, JJ., on official business.

Caguioa, J., on leave.

[1] Rollo, pp. 2-7.

[2] Id. at 1.

[3] Id. at 2-9.

[4] Id. at 3-5.

[5] Id. at 4.

[6] Id. at 5.

[7] Id. at 3.

[8] Id. at 11-13.

[9] Id. at 11.

[10] Id. at 14-15.

- [11] Id. at 14.
- [12] Id. at 28-29.
- [13] Id. at 37.
- [14] Id. at 28.
- [15] Id. at 39-40.
- [16] Id. at 40.
- [17] Id. at 41.
- [18] Id. at 61-62.
- [19] Id. at 67.
- [20] Id. at 312-334.
- [21] Id. at 331.
- [22] Id. at 328.
- [23] Id. at 324.
- [24] Id. at 332-334.
- [25] Id. at 428.
- [26] Id. at 436.
- [27] Id. at 439.
- [28] Id. at 494-520.
- [29] Id. at 519.
- [30] Id. at 518.
- [31] Id.
- [32] Id.
- [33] Id. at 519.
- [34] Id.
- [35] Id. at 24.
- [36] Id. at 3.

In her Sinumpaang Salaysay filed with the National Bureau of Investigation, complainant narrated the incident as:

12. T: Isalaysay mo nga kung papaano kang ginahasa ni EDGARDO SALAZAR na gaya ng iyong ipinararatang sa kanya?

S: Nang nasa loob kami ng kanyang opisina ay sinabi niya sa akin na matagal na daw niya akong kursunada. Kasabay nito ay niyakap niya ako at hinalikan sa mga labi. Nagulat ako sa ginawa niya kaya bigla ko siyang itinulak, pero patuloy pa din niya akong niyakap ng mahigpit at pilit na hinahalikan. Nanlaban ako at sumigaw.

Sa puntong iyon ay bigla niya akong itinulak at napaupo sa isang upuan. Doon ay pinagbantaan niya ako. Sinabi niyang kung hindi ako titigil ay papatayin niya ako. Kapag manlalaban pa daw ako ay babarilin niya ako. Sa takot ko na patayin niya ako ay naiyak na lamang ako. Pagkatapos noon ay hinubad niya ang aking suot na pedal at ang aking panty. Inililis niya pataas ang aking blouse at ang aking bra. Doon ay sinimulan na niya ang pangaabuso sa akin na labag sa aking kalooban.

13. T: Papaano ka niyang inabuso?

S: Dinilaan niya ang ari ko. Ipinasok din niya ang kanyang daliri sa aking ari. Hinalikan niya ang aking dibdib. Matapos niyon ay pilit niyang ipinasok ang kanyang ari sa aking ari. Pagkatapos ay naglabas-masok ang kanyang ari sa loob ng aking ari. Ilang sandali pa ay hinugot niya ang kanyang ari at nakita ko na may pumusitsit na putting likido sa kanyang ari na itinapat niya sa aking hita.

[37] Id. at 82-90.

During the hearing, complainant said that respondent forcefully pushed her inside the room in the Office of the Building Administrator. Respondent kissed her on the lips but she resisted by pushing him. He cursed her and then took his gun from a steel cabinet, and while pointing the gun at her, he kissed her again. He lifted her blouse and removed her bra and then sucked her breasts. After that, he removed her pedal shorts and her panty, licked her vagina, and then had intercourse with her.

[38] See *People of the Philippines v. Nicolas*, 311 Phil. 79 (1995) [Per J. Bellosillo, First Division].

[39] 351 Phil. 537 (1998) [Per J. Romero, Third Division].

[40] Id. at 544.

[41] Id.

[42] See *People of the Philippines v. Lusa*, 351 Phil. 537 (1998) [Per J. Romero, Third Division]; *People of the Philippines v. Gabayron*, 343 Phil. 593 (1997) [Per J. Hermosisima, Jr., First Division]; *People of the Philippines v. Digno, Jr.*, 320 Phil. 285 (1995) [Per J. Bellosillo, First Division].

[43] *People of the Philippines v. Lusa*, 351 Phil. 537, 545 (1998) [Per J. Romero, Third Division]; *People of the Philippines v. Gabayron*, 343 Phil. 593, 611 (1997) [Per J. Hermosisima, Jr., First Division].

[44] *People of the Philippines v. Lusa*, 351 Phil. 537 (1998) [Per J. Romero, Third Division]; *People of the Philippines v. Escobar*, 346 Phil. 513 (1997) [Per J. Bellosillo, First Division]; *People of the Philippines v. Casil*, 311 Phil. 300 (1995) [Per J. Regalado, Second Division].

[45] *People of the Philippines v. Peñaranda*, 194 Phil. 616, 623 (1981) [Per J. Concepcion, Jr., Second Division].

[46] *Office of the Court Administrator v. Viesca*, 758 Phil. 16, 26 (2015) [Per Curiam, En Banc].

[47] Id. at 27.

[48] Id.

[49] Id.

[50] *Merilo-Bedural v. Edroso*, 396 Phil. 756 (2000) [Per Curiam, En Banc].

[51] *Ferrer v. Gapasin, Sr.*, 298 Phil. 572 (1993) [Per Curiam, En Banc].

[52] REVISED RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE (2011), Rule 10, sec. 46(A)(3).

[53] REVISED RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE, Rule 10, sec. 46(A)(3).

[54] REVISED RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE, Rule 10, sec. 52.

[55] REVISED RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE, Rule 10, sec. 52.

[56] See *Merilo-Bedural v. Edroso*, 396 Phil. 756 (2000) [Per Curiam, En Banc].

[57] 396 Phil. 756 (2000) [Per Curiam, En Banc].

[58] *Id.* at 763.

[59] 328 Phil. 692 (1996) [Per Curiam, En Banc].

[60] *Id.* at 704.

[61] *Id.* at 708.

[62] 618 Phil. 95 (2009) [Per Curiam, En Banc].

[63] *Id.* at 96.

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