

ANONYMOUS COMPLAINT AGAINST EMELIANO C. CAMAY, JR., UTILITY WORKER I, BRANCH 61, REGIONAL TRIAL COURT, BOGO CITY, CEBU.

A.M. No. P-17-3659. March 20, 2018

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PER CURIAM:

This administrative matter involves a utility worker of the Judiciary charged with various serious offenses, including immorality for living with a woman other than his legitimate spouse and siring a child with her; bail fixing; failing to truthfully disclose his assets in his sworn statement of assets and net worth (SALNs) filed in several years; trafficking in women; and living a lavish lifestyle.

Antecedents

By letter dated February 18, 2003, an anonymous complainant charged Emeliano C. Camay, Jr., the Utility Worker 1 of Branch 61 of the Regional Trial Court (RTC) in Bogo City, Cebu with the aforestated offenses.[1]

The complainant alleged that Camay, a married man, had been cohabiting with a woman who was not his wife, and they had a son by the name of Junmar; that he had been serving as the contact person of a surety company in the posting of surety bonds in the RTC; that for every 10 bonds processed, he would receive the proceeds for the 11th bond; that he had allowed a representative of the surety company to wait at his table, beside the desk of the clerk of court; that he was the owner of a big house, a motorcycle, and an iPhone; that he had demanded P20,000.00 for the entertainment of the Presiding Judge Antonio D. Marigomen; and that he had a collection of pictures of naked girls in his phone that he showed to anyone interested in engaging in sexual activity for money.[2]

In his comment dated December 10, 2013,[3] Camay denied the allegations against him. He attached a photocopy of the certificate issued by the National Statistics Office (NSO) to the effect that he had no son by the name of Junmar Camay;[4] a photocopy of the certificate issued by the Bogo City Assessor's Office attesting that he did not own or possess any real property located in Bogo City;[5] and his payslips showing his Supreme Court Savings and Loans Association (SCSLA) loan deductions (where the loan proceeds had been used to pay for his motorcycle).[6]

The complaint was referred to Executive Judge Teresita Abarquez-Galandia of the RTC in Mandaue City for discreet investigation.[7]

In her report,[8] Judge Galandia confirmed most of the allegations in the complaint based on the verbal statements given by two witnesses under the veil of anonymity.

The files of Camay in the Office of Administrative Services of the Office of the Court Administrator (OCA) showed that Camay was married to Mary Joy Y. Santiago; that his Personal Data Sheet (PDS), BIR form No. 2305 and SALN for 2003 carried the notation of "married/but separated in fact" regarding his civil status; that he had left blank the space for the name of his spouse in the forms for 2002; that he declared as a dependent child in

his undated BIR Form No. 2305 one "Jumar Guevarra Camay," who was born on July 25, 2001; and that his PDS and SALN for various periods from 2005 to 2011 revealed a Jumar Camay, bom on July 25, 2002, as one of his children below 18 years of age.[9]

It appeared in Camay's SALNs for 2001, 2003 and 2004 that he had a house worth between P40,000.00 and P60,000.00 in Taytayan Hills, Bogó City but without any indication on the date of his acquisition; that in 2009, he declared his acquisition in that year of a house and lot worth P350,000.00 in Taytayan; that in his 2011 SALN, he declared the same property to be worth at P500,000.00; that he did not declare any real property in his SALNs for 2002, 2007 and 2008; that he also declared in his SALN dated April 20, 2012 a motorcycle worth P45,000.00 acquired in 2002, and another one worth P68,900.00 acquired in 2012; that his SALNs showed that he did not have any other source of income like business interests or financial connections; and that his monthly salary was his only source of income.[10]

Based on a verification with the SCSLA, Camay took several loans in 2012 totalling P8 5,000.00. His pay slips also reflected GSIS loans, consolidated salary loan plus, enhanced salary loan, emergency loan, and policy loan, but the amounts were not substantial enough for use in the purchase of real property.[11]

On November 9, 2015, the Court referred the complaint to Judge Galanida for a more thorough investigation.[12]

In due course, Judge Galanida interviewed two private lawyers, three public prosecutors, and three female employees of another government agency. Of the eight informants, only Bogó City Prosecutor Ivy Tejano-Moralde executed an affidavit after the rest opted to remain incognito to avoid reprisal from Camay.[13]

In her report and recommendation,[14] Judge Galanida described Camay as a tattooed man with an imposing aura and built, with piercing eyes that could generate fear and intimidation in another. She recalled that during the investigation, he admitted having been separated in fact from his wife, and that he had been living with another woman named Maria Fe G. Guevarra, with whom he had a child named Jumar Guevarra Camay; and that he denied having an illegitimate child because the name of the child indicated in the complaint was wrong, as the name was Jumar, not Junmar.

Judge Galanida further stated that on the matter of bail fixing, three of the informants stated that they had personally heard from Camay about the 10+1 scheme; that an unnamed agent of Plaridel Surety and Insurance Company, who refused to be identified, confirmed that Camay was their contact person in the RTC; that City Prosecutor Moralde declared that in cases of illegal possession of drugs where the recommended bail was the amount of P200,000.00, Camay usually assisted the accused in obtaining the reduction of the amounts to half in exchange for 30% of the premiums for the surety bail bond; that none of the informants actually witnessed the solicitation of money in behalf of Judge Marigomen; that anent the allegations against Camay's lavish lifestyle, she observed his house in Taytayan to be made of concrete with a steel perimeter fence; that a certain Climaco had donated the land to Camay's father; that there was a warehouse-like structure thereon; and that he had only spent for the construction and renovation of the structure thereon using funds sourced from his loans and from the remittances of his son who was working as a seafarer; and that the tax declarations relating to the property were issued in the name of Camay and his live-in partner.[15]

Judge Galanida opined that sufficient substantial evidence established Camay's lavish lifestyle given his rank; that his basic salary and allowances amounted to only P11,000.00 a month, but he could host lavish parties for himself and for the birthdays of his live-in partner and their illegitimate child; and that he owned a car and motorcycle but not the iPhone, although he later on admitted during the investigation that he had an iPhone with the clarification that his legitimate son had bought the iPhone for him.[16]

Judge Galanida indicated that there was insufficient evidence to sufficiently prove the offense of child abuse/trafficking against Camay; that the informants confirmed that Camay had shown them pictures of nude girls stored in his phone; and that Prosecutor Moralde testified that Camay claimed that the girls would sell themselves out anyway, and that he was just helping them fetch a higher price.[17]

Accordingly, Judge Galanida recommended that Camay be found and held guilty of immorality, disgraceful conduct, and bail bond fixing.[18]

In its memorandum dated January 18, 2017,[19] the OCA, agreeing with the report and recommendation of Judge Galanida, recommended that Camay be found and declared guilty of disgraceful and immoral conduct punishable under Section 46, Rule 10 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS) for cohabiting with a woman who was not his wife, and having a child with her; that he be also held to have violated Section 8, in relation to Section 11, of Republic Act No. 6713 for failing to properly disclose his real property in several of his SALNs; and that on the matter of bail bond fixing, he be found to have facilitated or secured bail bonds in violation of Administrative Circular No. 5, series of 1988.

Ruling of the Court

On the issue of immorality, Camay admitted to cohabiting with a woman who was not his wife and to having a child with her despite his marriage to his wife not having been legally severed. As such, the finding of the OCA that Camay was guilty of disgraceful and immoral conduct is upheld. In *Anonymous v. Radam*,[20] the Court declared that "if the father of the child born out of wedlock is himself married to a woman other than the mother, there is a cause for administrative sanction against either the father or the mother. In such a case, the 'disgraceful and immoral conduct' consists of having extramarital relations with a married person."

Disgraceful and immoral conduct is an offense classified under the RRACCS as a grave offense punishable by suspension of six months and one day to one year for the first offense.

We also uphold the recommendation of the OCA on Camay's surety bail fixing activities. Prosecutor Moralde attested that it was public knowledge in the RTC that Camay was the man to approach if any party wanted to post surety bail because he could facilitate the reduction of the recommended amounts of the bail; and that Camay transacted in behalf of the Plaridel Surety and Insurance Company, the only surety company authorized to transact in Branch 61 of the RTC. Notwithstanding the lack of direct evidence proving his having acquired financial gain from the bond transactions, the fact that he had assisted and facilitated the processing of the bail requirements for parties with cases in the RTC constituted substantial evidence of such financial gain on his part. Substantial evidence is that amount of relevant evidence that a reasonable man may accept as adequate to justify a conclusion.[21] The penalty for him is a fine of P5,000.00, which was the penalty imposed in *Concerned Citizen v. Bautista*,[22] where the respondent was held guilty of violating Administrative Circular No. 5, series of 1988 (Re: Prohibition to Work as Insurance Agent).

The charge of child abuse or trafficking is dismissed for lack of substantial evidence to support it. Although Prosecutor Moralde attested that Camay had collected pictures of naked girls in his phone, and that he had claimed to others to have been pimping the girls depicted therein to help them financially, the records do not show any actual or overt acts on his part that could serve as basis for holding him administratively liable for such charge.

Finally, the finding that Camay did not consistently declare his true assets and actual net worth in his SALNs is upheld. He declared the house and lot located in Taytayan Hills in his SALNs for 2001, 2003, and 2004 but did not indicate the date of acquisition of such property. He again intermittently declared the property in 2009 and

2011. He did not declare the property in 2002, 2007, 2008 and 2010. His omissions violated the letter and spirit of Section 8 of Republic Act No. 6713, which requires all public officials and employees to accomplish and submit a declaration of assets, liabilities, net worth and financial and business interests, including information on real property, its improvements, acquisition costs, assessed value and current fair market value. Section 11 of the same law provides that a violation of the requirement is penalized by fine not exceeding the equivalent of the public official or employee's salary for six months.

Under Section 50, Rule 10 of the RRACCS, if the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge, and the other charges shall be considered as aggravating circumstances. Although the charge of disgraceful and immoral conduct, classified as a grave offense, is the most serious charge herein, and should be the base for determining the penalty for Camay, his dismissal from the service with forfeiture of all his retirement benefits should be meted on him. His combined offenses have firmly demonstrated his total unfitness to continue in the service of the Judiciary. His being guilty of such offenses has been like a cancerous tumor that slowly consumed the healthy tissues of the Judiciary, and even destroyed its good name and reputation in the area where he served. For sure, his remaining in the service would erode the Judiciary's institutional prestige in the eyes and estimation of the community. It is time to dismiss him in order to fully excise the tumor before more damage could be inflicted.

A final word needs to be uttered. The Court will never tire to insist that everyone of its officials and employees comes under the strict and immediate obligation to maintain the highest standard of conduct and decorum while serving in the Judiciary. Indeed, every person who serves in the Judiciary should heed the following reminder issued in *Office of the Court Administrator v. Juan*:^[23]

xxx [C]ourt employees, from the presiding judge to the lowliest clerk, being public servants in an office dispensing justice, should always act with a high degree of professionalism and responsibility. Their conduct must not only be characterized by propriety and decorum, but must also be in accordance with the law and court regulations. No position demands greater moral righteousness and uprightness from its holder than an office in the judiciary. Court employees should be models of uprightness, fairness and honesty to maintain the people's respect and faith in the judiciary. They should avoid any act or conduct that would diminish public trust and confidence in the courts. Indeed, those connected with dispensing justice bear a heavy burden of responsibility. (Bold underscoring supplied for emphasis)

WHEREFORE, the Court FINDS and DECLARES respondent EMELIANO C. CAMAY, JR., Utility Worker 1 of Branch 61, Regional Trial Court in Bogo City, Cebu GUILTY of DISGRACEFUL AND IMMORAL CONDUCT, VIOLATION OF ADMINISTRATIVE CIRCULAR NO. 5, SERIES OF 1988, and VIOLATION OF SECTION 8 OF REPUBLIC ACT NO. 6713; and, ACCORDINGLY, DISMISSES him from the service with forfeiture of all retirement benefits (excluding earned leave credits), with prejudice to his re-employment in the Government, including in government-owned or government-controlled corporations.

The Court DIRECTS the Employees Leave Division, Office of Administrative Services, Office of the Court Administrator, to determine the balance of his earned leave credits; and to report thereon to the Finance Division, Fiscal Management Office, Office of the Court Administrator for purposes of computing the monetary value of his earned leave credits for release to him.

SO ORDERED.

Carpio,[*] Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Perlas-Bernabe, Jardeleza, Caguioa, Martires, Tijam, Reyes, Jr., and Gesmundo, JJ., concur.
Serenio, C.J., on indefinite leave.

Leonen, J., on official leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on March 20, 2018 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled administrative matter, the original of which was received by this Office on May 22, 2018 at 10:30 a.m.

Very truly yours,

(SGD.) EDGAR O. ARICHETA
Clerk of Court

[*] Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.

[1] Rollo, p. 48.

[2] Id.

[3] Id. at 62-64.

[4] Id. at 64-b.

[5] Id. at 66.

[6] Id. at 65.

[7] Id. at 53.

[8] Id. at 55-57.

[9] Id. at 157-158.

[10] Id. at 158.

[11] Id. at 159.

[12] Id. at 67.

[13] Id. at 74-81.

[14] Id. at 71-78.

[15] Id. at 75-77.

[16] Id. at 76-77.

[17] Id. at 77.

[18] Id. at 78.

[19] Id. at 156-165.

[20] A.M. No. P-07-2333, December 19, 2007, 541 SCRA 12, 19.

[21] Section 5, Rule 133 of the Rules of Court.

[22] A.M. No. P-04-1876, August 31, 2004, 437 SCRA 234.

[23] A.M. No. P-03-1726, July 22, 2004, 434 SCRA 654, 659.

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