

RE: 2003 BAR EXAMINATIONS

B.M. No. 1222. April 24, 2009

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This treats the Petition for Judicial Clemency and Compassion dated November 10, 2008 filed by petitioner Danilo de Guzman. He prays that this Honorable Court "in the exercise of equity and compassion, grant petitioner's plea for judicial clemency, and thereupon, order his reinstatement as a member in good standing of the Philippine Bar."^[1]

To recall, on February 4, 2004, the Court promulgated a Resolution, in B.M. No. 1222, the dispositive portion of which reads in part:

WHEREFORE, the Court, acting on the recommendations of the Investigating Committee, hereby resolves to

(1) DISBAR Atty. DANILO DE GUZMAN from the practice of law effective upon his receipt of this RESOLUTION;

x x x x

The subject of the Resolution is the leakage of questions in Mercantile Law during the 2003 Bar Examinations. Petitioner at that time was employed as an assistant lawyer in the law firm of Balgos & Perez, one of whose partners, Marcial Balgos, was the examiner for Mercantile Law during the said bar examinations. The Court had adopted the findings of the Investigating Committee, which identified petitioner as the person who had downloaded the test questions from the computer of Balgos and faxed them to other persons.

The Office of the Bar Confidant (OBC) has favorably recommended the reinstatement of petitioner in the Philippine Bar. In a Report dated January 6, 2009, the OBC rendered its assessment of the petition, the relevant portions of which we quote hereunder:

Petitioner narrated that he had labored to become a lawyer to fulfill his father's childhood dream to become one. This task was not particularly easy for him and his family but he willed to endure the same in order to pay tribute to his parents.

Petitioner added that even at a very young age, he already imposed upon himself the duty of rendering service to his fellowmen. At 19 years, he started his exposure to public service when he was elected Chairman of the Sangguniang Kabataan (SK) of Barangay Tuktukan, Taguig City. During this time, he initiated several projects benefiting the youth in their barangay.

Thereafter, petitioner focused on his studies, taking up Bachelor of Arts in Political Science and eventually pursuing Bachelor of Laws. In his second year in law school, he was elected as the President of the Student Council of the Institute of Law of the Far Eastern University (FEU). Here, he spearheaded various activities including the conduct of seminars for law students as well as the holding of bar operations for bar examinees.

Despite his many extra-curricular activities as a youth and student leader, petitioner still managed to excel in his studies. Thus, he was conferred an Academic Excellence Award upon his graduation in Bachelor of Laws.

Upon admission to the bar in April 1999, petitioner immediately entered government service as a Legal Officer assigned at the Sangguniang Bayan of Taguig. Simultaneously, he also rendered free legal services to less fortunate residents of Taguig City who were then in need of legal assistance.

In March 2000, petitioner was hired as one of the Associate Lawyers at the Balgos and Perez Law Offices. It was during his stay with this firm when his craft as a lawyer was polished and developed. Despite having entered private practice, he continued to render free legal services to his fellow Taguigēños.

Then in February 2004, by a sudden twist of fate, petitioner's flourishing career was cut short as he was stripped of his license to practice law for his alleged involvement in the leakage in the 2003 Bar Examinations.

Devastated, petitioner then practically locked himself inside his house to avoid the rather unavoidable consequences of his disbarment.

On March 2004, however, petitioner was given a new lease in life when he was taken as a consultant by the City Government of Taguig. Later, he was designated as a member of the Secretariat of the People's Law Enforcement Board (PLEB). For the next five (5) years, petitioner concentrated mainly on rendering public service.

Petitioner humbly acknowledged the damaging impact of his act which unfortunately, compromised the integrity of the bar examinations. As could be borne from the records of the investigation, he cooperated fully in the investigation conducted and took personal responsibility for his actions. Also, he has offered his sincerest apologies to Atty. Balgos, to the Court as well as to all the 2003 bar examinees for the unforeseen and unintended effects of his actions.

Petitioner averred that he has since learned from his mistakes and has taken the said humbling experience to make him a better person.

Meanwhile, as part of his Petition, petitioner submitted the following testimonials and endorsements of various individuals and entities all attesting to his good moral character:

1)

Resolution No. 101, Series of 2007, "Resolution Expressing Full Support to Danilo G. De Guzman in his Application for Judicial Clemency, Endorsing his Competence and Fitness to be Reinstated as a Member of the Philippine Bar and for Other Purposes" dated 4 June 2007 of the Sangguniang Panlungsod, City of Taguig;

2)

"Isang Bukas na Liham na Naglalayong Iparating sa Kataas-Taasang Hukuman ang Buong Suporta ng Pamunuan at mga Kasapi ng Southeast People's Village Homeowners Association, Inc. (SEPHVOA) kay Danilo G. De Guzman sa Kanyang Petisyong Magawaran ng Kapatawaran at ang Boluntaryong Pag-susulong sa Kanyang Kakayahan Upang Maibalik sa Kanya ang mga Pribilehiyo ng Isang Abogado" dated 1 June 2007 of the Southeast People's Village Homeowners Association, Inc. (SEPHVOA), Ibayo-Tipas, City of Taguig;

3)

"Isang Bukas na Liham na Naglalayong Iparating sa Kataas-Taasang Hukuman ang Buong Suporta ng Pamunuan at mga Kasapi ng Samahang Residente ng Mauling Creek, Inc. (SAREMAC) kay G. Danilo G. De Guzman sa Kanyang Petisyong Magawaran ng Kapatawaran at ang Boluntaryong Pag-susulong sa Kanyang Kakayahan Upang Maibalik sa Kanya ang mga Pribilehiyo ng Isang Abogado" dated 1 June 2007 of the Samahang Residente ng Mauling Creek, Inc. (SAREMAC), Lower Bicutan, City of Taguig;

4)

"Isang Bukas na Liham na Naglalayong Iparating sa Kataas-Taasang Hukuman ang Buong Suporta ng Pamunuan at mga Kasapi ng Samahan ng mga Maralita (PULONG KENDI) Neighborhood Association, Inc. (SAMANA) kay G. Danilo G. De Guzman sa Kanyang Petisyong Magawaran ng Kapatawaran at ang Boluntaryong Pag-susulong sa Kanyang Kakayahan Upang Maibalik sa Kanya ang mga Pribilehiyo ng Isang Abogado" dated 1 June 2007 of the Samahan ng mga Maralita (PULONG KENDI) Neighborhood Association, Inc. (SAMANA), Sta. Ana, City of Taguig;

5)

"An Open Letter Attesting Personally to the Competence and Fitness of Danilo G. De Guzman as to Warrant the Grant of Judicial Clemency and his Reinstatement as Member of the Philippine Bar" dated 8 June 2007 of Miguelito Nazareno V. Llantino, Laogan, Trespeses and Llantino Law Offices;

6)

"Testimonial to the Moral and Spiritual Competence of Danilo G. De Guzman to be Truly Deserving of Judicial Clemency and Compassion" dated 5 July 2007 of Rev. Fr. Paul G. Balagtas, Parish Priest, Archdiocesan Shrine of St. Anne;

7)

"Testimonial Letter" dated 18 February 2008 of Atty. Loreto C. Ata, President, Far Eastern University Law Alumni Association (FEULAA), Far Eastern University (FEU);

8)

"Isang Bukas na Liham na Naglalayong Iparating sa Kataas-Taasang Hukuman ang Buong Suporta ng Pamunuan at mga Kasapi ng Samahang Bisig Kamay sa Kaunlaran, Inc. (SABISKA) kay G. Danilo G. De Guzman sa Kanyang Petisyong Magawaran ng Kapatawaran at ang Boluntaryong Pag-susulong sa Kanyang Kakayahan Upang Maibalik sa Kanya ang mga Pribilehiyo ng Isang Abogado" dated 8 July 2008 of the Samahang Bisig Kamay sa Kaunlaran, Inc. (SABISKA);

9)

Board Resolution No. 02, Series of 2008, "A Resolution Recognizing the Contributions of Danilo G. De Guzman to the People's Law Enforcement Board (PLEB) - Taguig City, Attesting to his Utmost Dedication and Commitment to the Call of Civic and Social Duty and for Other Purposes" dated 11 July 2008 of the People's Law Enforcement Board (PLEB);

10)

"A Personal Appeal for the Grant of Judicial Forgiveness and Compassion in Favor of Danilo G. De Guzman" dated 14 July 2008 of Atty. Edwin R. Sandoval, Professor, College of Law, San Sebastian College - Recoletos;

11)

"An Open Letter Personally Attesting to the Moral competence and Fitness of Danilo G. De Guzman" dated 5 September 2008 of Mr. Nixon F. Faderog, Deputy Grand [Kn]ight, Knights of Columbus and President, General Parent-Teacher Association, Taguig National High School, Lower Bicutan, Taguig City;

12)

"Testimonial Letter" dated 5 September 2008 of Atty. Primitivo C. Cruz, President, Taguig Lawyers League, Inc., Tuktukan, Taguig City;

13)

"Testimonial Letter" dated 21 October 2008 of Judge Hilario L. Laqui, Presiding Judge, Regional Trial Court (RTC), Branch 218, Quezon City; and

14)

"Testimonial Letter" dated 28 October 2008 of Justice Oscar M. Herrera, former Justice, Court of Appeals and former Dean, Institute of Law, Far Eastern University (FEU).

Citing the case of *In Re: Carlos S. Basa*, petitioner pleaded that he be afforded the same kindness and compassion in order that, like Atty. Basa, his promising future may not be perpetually foreclosed. In the said case, the Court had the occasion to say:

Carlos S. Basa is a young man about 29 years of age, admitted to the bars of California and the Philippine Islands. Recently, he was charged in the Court of First Instance of the City of Manila with the crime of abduction with consent, was found guilty in a decision rendered by the Honorable M.V. De Rosario, Judge of First Instance, and was sentenced to be imprisoned for a period of two years, eleven months and eleven days of prison correccional. On appeal, this decision was affirmed in a judgment handed down by the second division of the Supreme Court.

x x x x

When come next, as we must, to determine the exact action which should be taken by the court, we do so regretfully and reluctantly. On the one hand, the violation of the criminal law by the respondent attorney cannot be lightly passed over. On the other hand, we are willing to strain the limits of our compassion to the uttermost in order that so promising a career may not be utterly ruined.

Petitioner promised to commit himself to be more circumspect in his actions and solemnly pledged to exert all efforts to atone for his misdeeds.

There may be a reasonable ground to consider the herein Petition.

In the case of *Re: Petition of Al Argosino to Take the Lawyer's Oath* (Bar Matter 712), which may be applied in the instant case, the Court said:

After a very careful evaluation of this case, we resolve to allow petitioner Al Caparros Argosino to take the lawyer's oath, sign the Roll of Attorneys and practice the legal profession with the following admonition:

In allowing Mr. Argosino to take the lawyer's oath, the Court recognizes that Mr. Argosino is not inherently of bad moral fiber. On the contrary, the various certifications show that he is a devout Catholic with a genuine concern for civic duties and public service.

The Court is persuaded that Mr. Argosino has exerted all efforts, to atone for the death of Raul Camaligan. We are prepared to give him the benefit of the doubt, taking judicial notice of the general tendency of youth to be rash, temerarious and uncalculating.

x x x x

Meanwhile, in the case of *Rodolfo M. Bernardo vs. Atty. Ismael F. Mejia* (Administrative Case No. 2984), the Court [in] deciding whether or not to reinstate Atty. Mejia to the practice of law stated:

The Court will take into consideration the applicant's character and standing prior to the disbarment, the nature and character of the charge/s for which he was disbarred, his conduct subsequent to the disbarment and the time that has elapsed in between the disbarment and the application for reinstatement.

Petitioner was barely thirty (30) years old and had only been in the practice of law for five (5) years when he was disbarred from the practice of law. It is of no doubt that petitioner had a promising future ahead of him where it not for the decision of the Court stripping off his license.

Petitioner is also of good moral repute, not only before but likewise, after his disbarment, as attested to overwhelmingly by his constituents, colleagues as well as people of known probity in the community and society.

Way before the petitioner was even admitted to the bar, he had already manifested his intense desire to render public service as evidenced by his active involvement and participation in several social and civic projects and activities. Likewise, even during and after his disbarment, which could be perceived by some as a debilitating circumstance, petitioner still managed to continue extending his assistance to others in whatever means possible. This only proves petitioner's strength of character and positive moral fiber.

However, still, it is of no question that petitioner's act in copying the examination questions from Atty. Balgos' computer without the latter's knowledge and consent, and which questions later turned out to be the bar examinations questions in Mercantile Law in the 2003 Bar Examinations, is not at all commendable. While we do believe that petitioner sincerely did not intend to cause the damage that his action ensued, still, he must be sanctioned for unduly compromising the integrity of the bar examinations as well as of this Court.

We are convinced, however, that petitioner has since reformed and has sincerely reflected on his transgressions. Thus, in view of the circumstances and likewise for humanitarian considerations, the penalty of disbarment may now be commuted to suspension. Considering the fact, however, that petitioner had already been disbarred for more than five (5) years, the same may be considered as proper service of said commuted penalty and thus, may now be allowed to resume practice of law.

WHEREFORE, PREMISES CONSIDERED, it is respectfully recommended that the instant Petition for Judicial Clemency and Compassion dated 10 November 2008 of petitioner DANILO G. DE GUZMAN be GRANTED. Petitioner's disbarment is now commuted to suspension, which suspension is considered as served in view of the petitioner's five (5) year disbarment. Hence, petitioner may now be allowed to resume practice of law.

The recommendation of the Office of the Bar Confidant is well-taken in part. We deem petitioner worthy of clemency to the extent of commuting his penalty to seven (7) years suspension from the practice of law, inclusive of the five (5) years he has already served his disbarment.

Penalties, such as disbarment, are imposed not to punish but to correct offenders.[2] While the Court is ever mindful of its duty to discipline its erring officers, it also knows how to show compassion when the penalty imposed has already served its purpose.[3]

In cases where we have deigned to lift or commute the supreme penalty of disbarment imposed on the lawyer, we have taken into account the remorse of the disbarred lawyer[4] and the conduct of his public life during his years outside of the bar.[5] For example, in *Valencia v. Antiniw*, we held:

However, the record shows that the long period of respondent's disbarment gave him the chance to purge himself of his misconduct, to show his remorse and repentance, and to demonstrate his willingness and capacity to live up once again to the exacting standards of conduct demanded of every member of the bar and officer of the court. During respondent's disbarment for more than fifteen (15) years to date for his professional infraction, he has been persistent in reiterating his apologies and pleas for reinstatement to the practice of law and unrelenting in his efforts to show that he has regained his worthiness to practice law, by his civic and humanitarian activities and unblemished record as an elected public servant, as attested to by numerous civic and professional organizations, government institutions, public officials and members of the judiciary.[6]

And in *Bernardo v. Atty. Mejia*,^[7] we noted:

Although the Court does not lightly take the bases for Mejia's disbarment, it also cannot close its eyes to the fact that Mejia is already of advanced years. While the age of the petitioner and the length of time during which he has endured the ignominy of disbarment are not the sole measure in allowing a petition for reinstatement, the Court takes cognizance of the rehabilitation of Mejia. Since his disbarment in 1992, no other transgression has been attributed to him, and he has shown remorse. Obviously, he has learned his lesson from this experience, and his punishment has lasted long enough. x x x

Petitioner has sufficiently demonstrated the remorse expected of him considering the gravity of his transgressions. Even more to his favor, petitioner has redirected focus since his disbarment towards public service, particularly with the People's Law Enforcement Board. The attestations submitted by his peers in the community and other esteemed members of the legal profession, such as retired Court of Appeals Associate Justice Oscar Herrera, Judge Hilario Laqui, Professor Edwin Sandoval and Atty. Lorenzo Ata, and the ecclesiastical community such as Rev. Fr. Paul Balagtas testify to his positive impact on society at large since the unfortunate events of 2003.

Petitioner's subsequent track record in public service affords the Court some hope that if he were to reacquire membership in the Philippine bar, his achievements as a lawyer would redound to the general good and more than mitigate the stain on his record. Compassion to the petitioner is warranted. Nonetheless, we wish to impart to him the following stern warning:

"Of all classes and professions, the lawyer is most sacredly bound to uphold the laws. He is their sworn servant; and for him, of all men in the world, to repudiate and override the laws, to trample them underfoot and to ignore the very bands of society, argues recreancy to his position and office and sets a pernicious example to the insubordinate and dangerous elements of the body politic."^[8]

WHEREFORE, in view of the foregoing, the Petition for Judicial Clemency and Compassion is hereby GRANTED IN PART. The disbarment of **DANILO G. DE GUZMAN** from the practice of law is hereby COMMUTED to SEVEN (7) YEARS SUSPENSION FROM THE PRACTICE OF LAW, reckoned from February 4, 2004.

SO ORDERED.

Puno, C.J., Carpio, Austria-Martinez, Corona, Carpio-Morales, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, and Bersamin, JJ., concur.

Quisumbing, J., on official leave.

Tinga, J., No part. Family friend of a party.

[1] Petition for Judicial Clemency and Compassion (hereinafter, Petition), p. 26.

[2] *Bernardo v. Mejia*, A.C. No. 2984, August 31, 2007, 531 SCRA 639.

[3] *Id.*

[4] See *Adez Realty, Incorporated v. Court of Appeals*, G.R. No. 100643, December 12, 1995, 251 SCRA 201.

[5] A.C. No. 1302, 1391, 1543, June 30, 2008, 556 SCRA 503.

[6] *Id.* at 515.

[7] *Supra* note 2 at 643.

[8] Barrios v. Martinez, A.C. No. 4585, November 12, 2004, 442 SCRA 324, 341.

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