

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
RETIRED JUDGE PABLO R. CHAVEZ, FORMER PRESIDING JUDGE,
REGIONAL TRIAL COURT, BRANCH 87, ROSARIO, BATANGAS, ATTY.
TEOFILO A. D...**

A.M. No. RTJ-10-2219. August 01, 2017

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PER CURIAM:

For resolution is the motion for reconsideration[1] filed by respondent retired Judge Pablo R. Chavez (Judge Chavez) of our Decision[2] dated March 7, 2017.

We adjudged Judge Chavez guilty of gross neglect of duty and undue delay in rendering decisions and imposed on him the penalty of forfeiture of all his retirement benefits, except accrued leave credits, in lieu of dismissal from service which can no longer be imposed due to Judge Chavez's retirement.

In his motion, Judge Chavez explains that the acts of omission attributed to him, far from being committed willfully and intentionally, betray his good faith and that his failure to meet the exacting standards of performance required of a Presiding Judge in the supervision of his personnel and management of his case load was borne merely of his misplaced trust on his Clerk of Court, Atty. Teofilo Dimaculangan (Atty. Dimaculangan), and other court staff. He laments that he himself was a victim of Atty. Dimaculangan's betrayal and regrets his inability to pursue disciplinary actions on his court staff for their failure and refusal to observe and follow his instructions.

In any event, Judge Chavez begs the magnanimity and compassion of this Court and implores that we extend him leniency by mitigating the penalty imposed and reducing it to a fine. Judge Chavez requests that the following mitigating circumstances be considered in his favor: (1) his almost 31 years of continuous government service; (2) unblemished record as he is a first time offender; and (3) his good faith and extreme remorse for his infraction.

Also, Judge Chavez appeals that he is already 77 years old and experiencing various illnesses. He pleads that his retirement benefits would be used to support his daily needs and medication.

I

We hold that Judge Chavez's claims of acting in good faith and being a victim of the betrayal of Atty. Dimaculangan and his court staff do not excuse him from liability.

In *Office of the Court Administrator v. Sumilang*,[3] respondent judge was administratively charged in relation to an anomalous transaction involving misappropriation of funds committed by his court staff. In rejecting respondent judge's defense of lack of knowledge of the irregularities committed by his own staff and finding him guilty of gross negligence, we held:

A judge must always remember that as the administrator of his court, he is responsible for the conduct and management thereof. He has the duty to supervise his court personnel to ensure prompt and efficient dispatch of business in his court. The ignorance of respondent Judge as to the irregularities occurring in his own

backyard constitutes serious breach of judicial ethics.

Judge Sumilang's excuse, that upon learning of the irregularities being committed by his court personnel, he immediately acted with haste and instructed Malla to turn over the money, is specious and unconvincing. His admission that he had no knowledge regarding the anomalies going on in his court underscores his inefficiency and incompetence. It clearly demonstrates a lack of control expected of a judge exercising proper office management.[4] (Citations omitted.)

We emphasize that judges must not only be fully cognizant of the state of their dockets, likewise, they must keep a watchful eye on the level of performance and conduct of the court personnel under their immediate supervision who are primarily employed to aid in the administration of justice. The leniency of a judge in the administrative supervision of his employees is an undesirable trait.[5]

Here, Judge Chavez's failure to meet the exacting standards of his position, as evidenced by the number and different irregularities discovered to have been occurring in his court, as well as his failure to eliminate these irregularities, establish that he was grossly negligent in the performance of his duties.

II

Be that as it may, the presence of mitigating circumstances which should be appreciated in favor of Judge Chavez warrants the reduction of the penalty to be imposed on him.

Section 48, Rule X of the Revised Rules on Administrative Cases in the Civil Service (RRACCS) provides that in the determination of the penalties to be imposed, mitigating and/or aggravating circumstances attendant to the commission of the offense shall be considered. The following are to be considered:

- Physical illness;
- Good faith;
- Malice;
- Time and place of offense;
- Taking undue advantage of official position;
- Taking advantage of subordinate;
- Undue disclosure of confidential information;
- Use of government property in the commission of the offense;
- Habituality;
- Offense is committed during office hours and within the premises of the office or building;
- Employment of fraudulent means to commit or conceal the offense;
- First offense;
- Education;
- Length of service; or
- Other analogous circumstances.

In previous cases, we have also imposed lesser penalties in the presence of these mitigating circumstances. This is

consistent with precedent where we refrained from imposing the actual administrative penalties prescribed by law or regulation in the presence of mitigating factors.[6] Indeed, while we are duty-bound to sternly wield a corrective hand to discipline our errant employees and to weed out those who are undesirable, we also have the discretion to temper the harshness of its judgment with mercy.[7]

In *Committee on Security and Safety, Court of Appeals v. Dianco*,[8] we identified the instances where we imposed lesser penalties in the presence of mitigating factors:

In *Judge Isidra A. Arganosa-Maniego v. Rogelio T. Salinas*, we suspended the respondent who was guilty of grave misconduct and dishonesty for a period of one (1) year without pay, taking into account the mitigating circumstances of: first offense, ten (10) years in government service, acknowledgment of infractions and feeling of remorse, and restitution of the amount involved.

In *Alibsar Adoma v. Romeo Gatcheco and Eugenio Taguba*, we suspended one of the respondents for one (1) year without pay, after finding him guilty of grave misconduct, dishonesty, and conduct prejudicial to the best interests of the service. The respondent was a first-time offender.

And, in *Horacio B. Apuyan, Jr. and Alexander O. Eugenio v. Alfredo G. Sta. Isabel*, we imposed the same penalty of one (1) year suspension without pay to the respondent who was a first-time offender of the offenses of grave misconduct, dishonesty, and conduct grossly prejudicial to the best interests of the service.[9] (Italics in the original, citations omitted.)

As regards judges, in *Office of the Court Administrator v. Aguilar*,[10] we imposed the penalty of six months suspension instead of dismissal from service after taking into consideration the mitigating circumstances of dismissal of related criminal cases for lack of probable cause, good faith, respondent judge's strong credentials for appointment as judge, length of government service, first time offense, and remorse and promise to be more accurate and circumspect in future submissions before us.

In *In Re: Petition for the Dismissal from Service and/or Disbarment of Judge Baltazar R. Dizon*,[11] we reconsidered our earlier Decision dismissing from service the respondent judge and lowered the penalty to suspension from February 23, 1988 until the date of promulgation of the Resolution on May 31, 1989 after considering the mitigating circumstances of length of government service, lack of corrupt motives, environmental difficulties such as overloaded docket, unceasing strain caused by hearings on complex cases and lack of libraries, decent courtrooms, office equipment, supplies and other facilities, and humble repentance.

In *Rubin v. Corpus-Cabochan*,[12] we considered the mitigating circumstances of first offense in respondent judge's almost 23 years of government service, frail health, case load and candid admission of infraction in determining that the appropriate penalty to be imposed on respondent judge who was found guilty of gross inefficiency was admonition.

In *Fernandez v. Vasquez*,[13] we appreciated the mitigating circumstances of unblemished judicial service and first offense in imposing the penalty of fine of P50,000 against respondent judge who was held guilty of dishonesty, an offense punishable with dismissal even on the first commission. The fine was imposed in lieu of suspension from office which can no longer be imposed due to respondent judge's retirement.

In *Perez v. Abiera*,[14] we imposed the penalty of fine equivalent to three-month salary of respondent judge, deductible from his retirement benefits, after appreciating the mitigating circumstances of length of service and poor health.

Thus, we exercise the discretion granted by the RRACCS and prevailing jurisprudence in the imposition of penalty and reconsider the dismissal and forfeiture of Judge Chavez's retirement benefits in view of mitigating

circumstances that were overlooked and not properly appreciated.

We apply to Judge Chavez the mitigating circumstances of: (1) remorse in committing the infractions; (2) length of government service; (3) first offense; and (4) health and age. These humanitarian considerations will mitigate Judge Chavez's penalty and remove him from the severe consequences of the penalty of dismissal and forfeiture of his retirement benefits. Taking into account these mitigating circumstances, together with the aggravating circumstance of being guilty of the lesser offense of undue delay in rendering decisions, we impose the penalty of fine equivalent to three months of Judge Chavez's last salary.

WHEREFORE, we PARTIALLY GRANT the motion for reconsideration filed by respondent retired Judge Pablo R. Chavez. The Decision dated March 7, 2017 is MODIFIED. Respondent retired Judge Pablo R. Chavez is ordered to pay a FINE equivalent to THREE MONTHS of his last salary, deductible from his retirement benefits.

SO ORDERED.

Sereno, C. J., Carpio, Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Mendoza, Perlas-Bernabe, Jardeleza, Martires, Tijam, and Reyes, Jr., JJ., concur.

Velasco, Jr., J., Please see separate concurring opinion.

Leonen, J., I join Justice Velasco's separate opinion.

Caguioa, J., on leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on August 1, 2017 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 August 18, 2017 at 4:05 p.m.

Very truly yours,

(SGD)

FELIPA G. BORLONGAN-ANAMA

Clerk of Court

[1] Rollo (A.M. No. 12-7-130-RTC), pp. 43-50.

[2] Id. at 22-42.

[3] A.M. No. MTJ-94-989, April 18, 1997, 271 SCRA 316.

[4] Id. at 321.

[5] *Dysico v. Dacumos*, A.M. No. MTJ-94-999, September 23, 1996, 262 SCRA 275, 282.

[6] *Cabigao v. Nery*, A.M. No. P-13-3153, October 14, 2013, 707 SCRA 424, 434.

[7] Baculi v. Ugale, A.M. No. P-08-2569, October 30, 2009, 604 SCRA 685.

[8] A.M. No. CA-15-31-P, January 12, 2016, 779 SCRA 158.

[9] Id. at 168.

[10] A.M. No. RTJ-07-2087, June 7, 2011, 651 SCRA 13.

[11] A.C. No. 3086, May 31, 1989, 173 SCRA 719.

[12] OCA I.P.I. No. 11-3589-RTJ, July 29, 2013, 702 SCRA 330.

[13] A.M. No. RTJ-11-2261, July 26, 2011, 654 SCRA 349.

[14] A.C. No. 223-J, June 11, 1975, 64 SCRA 302.

SEPARATE OPINION

VELASCO, JR., J.:

I join the majority in partially granting the motion for reconsideration of Judge Pablo R. Chavez (Judge Chavez) and in tempering the penalty imposed upon the said judge, from forfeiture of benefits and disqualification from holding public office to a fine equivalent to three months of his last salary. The appreciation of several mitigating circumstances in favor of Judge Chavez, which was the basis of the new ruling, is only in tune with standing precedents on how administrative penalties ought to be imposed amidst the presence of extenuating circumstances.[1]

Be that as it may, I am compelled to submit this opinion in order to express my disagreement with the majority's pronouncement that Judge Chavez had been guilty of the offense of Gross Neglect of Duty under Section 46(A)(2), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS).[2] This pronouncement, which was originally made in our Decision dated March 7, 2017,[3] was effectively affirmed in the present resolution of the en bane.

I believe that the majority's application of an offense under the RRACCS against Judge Chavez is erroneous. It is my position that the administrative offense or offenses with which a member of the judiciary, such as Judge Chavez, may be charged with and held liable under is governed by the provisions of Rule 140 of the Court and not by the RRACCS of the Civil Service Commission (CSC). I proffer the following reasons in support:

- The RRACCS is intended to govern administrative proceedings in the entire civil service, in general[4] Rule 140 of the Rules of the Court, on the other hand, is specifically meant to govern the disciplinary proceedings against members of the judiciary. Since the RRACCS could not possibly have repealed Rule 140, the latter rule ought to be considered as an exception to the former rule. In other words, the RRACCS must yield to Rule 140 with respect to matters specifically treated in the latter.

Among those specifically treated under Rule 140 of the Rules of Court are the different administrative offenses that a member of the judiciary may be charged with and held liable under.[5] Viewed thusly, the administrative offenses under RRACCS can have no application to members of the judiciary.

- The above conclusion is supported by the 1982 case of Macariola v. Asuncion.[6]

In Macariola, a judge, who associated himself with a private corporation as an officer and a stockholder during his incumbency, was administratively charged of, among others, violating a provision of the Civil Service Rules

which was promulgated by the CSC pursuant to Republic Act (RA) No. 2260 or the Civil Service Act of 1959.[7] The issue then was whether the judge may be held administratively liable under such a charge.[8]

Macariola answered the issue in the negative and dismissed the said charge. It ruled that administrative charges under the Civil Service Act of 1959 and the rules that were promulgated thereunder do not apply to judges, they being members of the judiciary and thus covered by the Judiciary Act of 1948 as to matters pertaining to grounds for their discipline.[9]

- While the rules and laws referred to in Macariola had since been superseded by more recent issuances and enactments, the doctrine established therein, i.e., the non-application of administrative offenses under the ordinary civil service rules with respect to judges by reason of them being covered by another set of rules or law that specially deals with the grounds for their discipline, remains valid. Like it was during the time of Macariola, the grounds for the discipline of members of the judiciary are still provided for under a special set of rules distinct from the ordinary civil service rules promulgated by the CSC.

Rule 140 of the Rules of Court are the set of rules especially promulgated by the Court to govern disciplinary proceedings against members of the judiciary. Sections 8, 9 and 10 of the said rule, in turn, provide the specific administrative charges that can be applied against a member of the judiciary. These provisions are completely separate from the administrative offenses under Section 46 of the RRACCS.

- There is also practical value in maintaining the Macariola doctrine. A contrary rule, i.e., allowing the administrative offenses under the RRACCS to be concurrently applied with those under Rule 140, will only lead to confusion and even compromise the court's ability, in administrative proceedings against members of the judiciary, to impose uniform sanctions in cases that bear similar sets of facts. A couple of examples quickly comes to mind:

- A judge who fails to render a decision within the reglementary period under the Constitution is liable for the less serious charge of Undue Delay in Rendering Decision under Rule 140 of the Rules of Court.[10] However, if the offenses under the RRACCS are rendered applicable, then another judge who commits the same fault may instead find himself charged with the grave offense of Gross Neglect of Duty under the said rule.[11]

- A judge who is an alcoholic and a habitual drunk is liable for a serious charge under Rule 140 of the Rules of Court.[12] However, should the RRACCS be made applicable, a second judge who is every bit as alcoholic and drunk as the first may instead be held accountable only for a less grave offense under the said rule.[13]

The above examples, needless to state, are merely the proverbial tip of the iceberg of confusion that may follow should we allow the administrative offenses under the RRACCS to be applied against members of the judiciary.

Instead of Gross Neglect of Duty under the RRACCS, I thus find it more appropriate to find Judge Chavez—for his failure to diligently discharge his administrative responsibilities and inability to establish and maintain an organized system of record-keeping and docket management for his court branch—guilty of Simple Misconduct under Section 9(7) of Rule 140 of the Rules of Court. After all, the said shortcomings of Judge Chavez may be considered as indicative of the judge's possible breach of Supreme Court rules, directives and circulars.

Subject to the foregoing considerations, I concur with the resolution.

[1] See *Office of the Court Administrator v. Aguilar*, A.M. No. RTJ-07-2087, June 7, 2011, 651 SCRA 13; *Office of the Court Administrator v. Flores*, A.M. No. P-07-2366, 16 April 2009, 585 SCRA 82; *Concerned Employees of the Municipal Trial Court of Meycauayan, Bulacan v. Paguio-Bacani*, A.M. No. P-06-2217, 30 July 2009, 594

SCRA 242; Re: Administrative Case for Dishonesty Against Elizabeth Ting, Court Secretary I & Angelita C. Esmerio, Clerk III, Office of the Division Clerk of Court, Third Division, 502 Phil. 264 (2005); Reyes-Domingo v. Morales, 396 Phil. 150 (2000); Floria v. Sunga, 420 Phil. 637 (2001).

[2] Office of the Court Administrator v. Chavez, A.M. Nos. RTJ-10-2219 & 12-7-130-RTC, March 7, 2017.

[3] Id.

[4] See Section 2, Rule 1 of RRACCS.

[5] See RULES OF COURT, Rule 140, Sections 8, 9 and 10.

[6] A. M. No. 133-J, May 31, 1982, 114 SCRA 77.

[7] Id.

[8] Id.

[9] Id.

[10] RULES OF COURT, Rule 140, Section 9(1).

[11] Section 46(A)(2), Rule 10 of the RRACCS.

[12] RULES OF COURT, Rule 140, Section 8(11).

[13] Section 46(D)(6), Rule 10 of the RRACCS.

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