

RE: CONVICTION OF IMELDA B. FORTUS, CLERK III, REGIONAL TRIAL COURT, BRANCH 40, CALAPAN CITY FOR THE CRIME OF VIOLATION OF B.P. 22

A.M. NO. P-04-1808. June 27, 2005

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d6b711244b5b/>

PER CURIAM:

This is an administrative complaint filed by Judge Tomas C. Leynes, the presiding judge of the Regional Trial Court of Calapan City, Branch 40, against Imelda B. Fortus, Clerk III, a member of his staff.[1] In the letter-complaint, Judge Leynes alleged that Imelda B. Fortus has been convicted for violation of Batas Pambansa Bilang 22 (B.P. 22) by the Municipal Trial Court of Calapan City. Judge Leynes contends that a violation of B.P. 22 is a crime which involves moral turpitude and is therefore punishable under Civil Service Rules, upon the first commission, by dismissal from the service. Furthermore, the judge contends that even if Fortus was granted probation she must still be dismissed since probation, unlike pardon, does not obliterate the crime.[2]

In the comment filed by Fortus, she admitted that she was indeed convicted on three charges for violation of B.P. 22. Fortus however raises as a defense the fact that she was granted probation and should therefore not be subject to dismissal, since one of the purposes of B.P. 22 is to provide an opportunity for the reformation of a penitent offender.[3]

Upon referral of the case, the Office of the Court Administrator made the following evaluation and recommendation:

The present case involves a conviction for Violation of B.P. 22 which is an offense involving moral turpitude (People vs. Tuanda, 181 SCRA 692). It imports deceit and certainly affects the good moral character of a person convicted of such offense (Villaber vs. Comelec, 369 SCRA 126).

Under the Civil Service Law, respondent's conviction of a crime involving moral turpitude is considered a grave offense punishable, upon first commission, by dismissal from the service (Omnibus Rules Implementing Book V of E.O. 292 and other pertinent Civil Service Laws, Rule XIV, Section 22 [e]).

It matters not that respondent was granted probation because conviction of a crime involving moral turpitude which falls squarely under the disqualification from holding any office or function of the convicted person, subsists and remain[s] totally unaffected notwithstanding the grant of probation (Heirs of the Late Francisco Abueg vs. CA, 219 SCRA 82).

We are therefore of the opinion that the reform and rehabilitation of respondent Fortus cannot warrant her retention in the service. Respondent however may still be allowed to reenter the government service, but only upon a showing that she is fit to serve once again (OCA vs. Librado, 260 SCRA 624).

BASED ON ALL THE FOREGOING, [] respectfully submitted for the consideration of the Honorable Court is our recommendation that:

- 1) This case be RE-DOCKETED as a regular administrative matter;

2) Respondent Imelda B. Fortus, Clerk III, RTC, Branch 40, Calapan City BE DISMISSED FROM THE SERVICE for having been convicted of a crime involving moral turpitude; and

3) Respondent be ALLOWED to reenter the government service if she can prove to the satisfaction of the Honorable Court that she is fit to serve once again.[4]

In compliance with the Court's Resolution of May 17, 2004, respondent manifested in a letter dated February 16, 2005 that she is willing to submit the case for decision based on the pleadings filed.

The Administrative Code of 1987 provides that conviction of a crime involving moral turpitude is a ground for disciplinary action.[5] The Omnibus Civil Service Rules and Regulations provides that conviction of a crime involving moral turpitude is a grave offense and upon the first offense, the penalty of dismissal must be meted out.[6] This Court has characterized the violation of B.P. 22 as a crime involving moral turpitude.[7]

Respondent claims that she should not be dismissed since she has been granted probation and one of the purposes of probation is to "provide an opportunity for the reformation of a penitent offender..."[8] This Court however has held that a conviction becomes final when the accused applies for probation.[9] In *Dela Torre v. COMELEC*, this Court further pronounced:

Anent the second issue where petitioner contends that his probation had the effect of suspending the applicability of Section 40 (a) of the Local Government Code, suffice it to say that the legal effect of probation is only to suspend the execution of the sentence. Petitioner's conviction of fencing which we have heretofore declared as a crime of moral turpitude and thus falling squarely under the disqualification found in Section 40 (a), subsists and remains totally unaffected notwithstanding the grant of probation. In fact, a judgment of conviction in a criminal case ipso facto attains finality when the accused applies for probation, although it is not executory pending resolution of the application for probation. [10]

It is clear, therefore, that the grant of probation does not remove respondent from the purview of the applicable provisions of the Administrative Code and the Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws.

WHEREFORE, having been convicted with finality of a crime involving moral turpitude, respondent Imelda B. Fortus is hereby DISMISSED. Respondent, however, may be allowed to reenter the government service if she can prove that she is fit to serve once again.

No costs.

SO ORDERED.

Davide, Jr. C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

[1] Letter dated October 10, 2003, by Judge Tomas C. Leynes to Judge Manuel C. Luna, Jr., Executive Judge, Regional Trial Court of Calapan City, Branch 39.

[2] Id.

[3] Letter by Imelda B. Fortus, dated January 9, 2004.

[4] Report of the Office of the Court Administrator dated March 9, 2004.

[5] Book V, Title I, Subtitle A, Chapter 6, Section 46 (10) of Executive Order No. 292.

[6] Rule XIV, Section 22 (e) of the Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws.

[7] Villaber v. COMELEC, G.R. No. 148326, November 15, 2001, 369 SCRA 126 and People v. Tuanda, A.C. No. 3360, January 30, 1990, 181 SCRA 692.

[8] Section 2, Presidential Decree No.968.

[9] Abueg v. CA, G.R. No. 96803, February 17, 1993, 219 SCRA 78.

[10] G.R. No. 121592, July 5, 1996, 258 SCRA 483, 491.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.