MELENCIO P. MANANSALA III, COMPLAINANT, VS. JUDGE FATIMA G. ASDALA, REGIONAL TRIAL COURT (RTC), BR. 87, QUEZON CITY, RESPONDENT.

A.M. NO. RTJ-05-1916 (FORMERLY OCA I.P.I NO. 03-1707-RTJ). May 10, 2005

Ponente: CARPIO-MORALES, J.

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CARPIO-MORALES, J.:

The following incidents spawned the filing of the present administrative case.

Before noon of February 1, 2003, Winfried Herbst, a German national, was detained at Police Station 10 in Kamuning, Quezon City for breaking a glass wall in the office of Melencio P. Manansala III (complainant) at PM Building at 24 Matalino St., Diliman, Quezon City. By complainant's account, in late afternoon of even date, Judge Fatima G. Asdala (respondent) of the Regional Trial Court of Quezon City, Branch 87, called up by telephone the Station Commander of Station 10 Police Superintendent Atty. Joel Napoleon Coronel, requesting for the release of Herbst to her custody. Atty. Coronel, however, did not accede to respondent's request, he informing her that complainant was adamant in filing criminal charges against Herbst and they were just waiting for the arrival of the inquest fiscal.

Complainant further relates that on February 3, 2003, Mark Cabigao, the sheriff assigned at respondent's sala, together with two policemen, went to PM Building and requested that the Mercedes Benz car of Herbst which he parked within the vicinity be turned over to their custody.

On February 4, 2003, complainant, together with retired Quezon City Regional Trial Court Judge Marcelino Bautista appeared at the "Direct Connect," a television show of Atty. Batas Mauricio, wherein complainant aired respondent's alleged meddling in the case against Herbst. In the same show, respondent's side was, through telephone, likewise aired.

The following day or on February 5, 2003, respondent filed before the Quezon City Prosecutor's Office a complaint for libel against complainant and Judge Bautista for allegedly defaming her in the television show of Atty. Mauricio.

Subsequently, on February 13, 2003, complainant filed a complaint-affidavit, with a supplemental complaint-affidavit, against respondent before the Office of the Ombudsman charging her with violation of Section 3(a) of Republic Act 3019 (Anti-Graft and Corrupt Practices Act) for allegedly

> Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter or allowing himself to be persuaded, induced, or influenced to commit such violation or offense.

By Memorandum[1] of February 17, 2003, the Ombudsman considered the case against respondent closed and terminated without prejudice and referred it to the Office of the Court Administrator (OCA) for appropriate action.

Upon receipt by the OCA of complainant's complaint-affidavit and supplemental complaint-affidavit on March 13, 2003, it directed respondent, by Indorsement[2] dated April 9, 2003, to submit her comment thereon.

In her comment[3] dated May 16, 2003, respondent claimed that the complaint at bar was intended to harass her – for the purpose of getting back at her, she having charged complainant and his lawyer Marcelino Bautista, Jr. with libel. Respondent's version of what transpired on February 1 and 3, 2003 is quoted verbatim:

> On February 1, 2003, a Saturday, at about 6:30 in the evening, as I was on my way out to treat my children to a weekend dinner, I received an overseas call from Ed Berzosa, a first cousin working [in] Hilton Macau asking for advi[c]e in regard [to] his benefactor, who before noon of that day, was allegedly taken to the Kamuning Police Station for some offense. Since Ed could not accurately provide me the information I desired to know to be able to give the proper legal advice, I instructed Ed instead to get in touch with his benefactor Winfried Herbst and advise the latter to call me. At about 7 o'clock, my phone rang. It was Herbst on the line, saying that he was arrested upon the complaint of Manansala after he broke some glass in the latter's office on provocation; that he did so because he was fed up with Manansala's refusal and delay in paying what he (Manansala) owes him, that he was detained at the Kamuning Police Station at about 11:00 in the morning and that his complainant, who seems to be very popular with the police officers thereat, would call every now and then, oftentimes, leaving threatening words, through his cohorts at the station, for Herbst.
>
> I could sense Herbst's agitation mainly due to the fact that he claims he has not been unable to reach his lawyer since he was detained, neither was his side of the incident taken down by the police.
>
> When Herbst asked if he could already be released, that was the time I decided to give the needed advice and information, such as: that if there has been a formal complaint, for sure, he will be brought to inquest, and that since it is Saturday, an inquest prosecutor is on duty and so, I then asked Herbst to find out from the investigator when inquest will take place. As Herbst had a sideline conversation with someone, I heard someone in the background ask Herbst who he was in conversation with. Before I knew it, someone other tha[n] Herbst was on the line and he introduced himself as some police officer whose name I cannot recall and asked what is it I wanted to know and who I am. I introduced myself as Mrs. Asdala, a friend of Herbst and inquired if there has been a complaint filed against Herbst, for what crime and when the case will be inquested. I gathered then that Herbst was charged with malicious mischief for a damaged glass wall costing more or less P30,000.00, that inquest will take place at about 9 o'clock in the evening.
>
> Having been so informed, I asked to speak with Herbst again whence I advised Herbst that in an inquest investigation, whatever he will say will be immaterial, as the inquest fiscal will focus only on what the complaint says; he has to wait for the resolution of the fiscal whose recommendation will be for further investigation, if he finds the complaint and evidence insufficient, in which case he will have the opportunity to submit his counter-affidavit or the fiscal may recommend filing of the case. Either way, the recommendation will wait for the approval of the Chief City Prosecutor or his assistant before he can be released without necessity of bail if for further investigation; with bail, if filed. Often the inquest fiscal's recommendation stays for minor offenses like malicious mischief, UNLESS, some interested souls INTERVENE for a reversal. I also advised Herbst of what demeanor to take during the inquest to avoid getting the ire of the inquest investigator, then hanged up but advising to keep me posted by text of the development, but suggested to offer [to] pay the damage caused at once, to soothe his complainant.
>
> At about 10 o'clock in the evening, Herbst sent [a] message that the inquest prosecutor's recommendation is for further investigation. I texted back saying that it is good news as he then will have the opportunity to present his side before a final resolution is made.
>
> x x x
>
> On February 3, 200[3], at about 4:30 in the afternoon, I had an incidental conversation with Atty. Bautista on the cell phone and asked why he would not want Herbst's Mercedes Benz removed from where it was parked

> along Malakas Street. As related to me by Herbst, he left his Mercedes Benz unattended on the road fronting PM apartments where Manansala's office is located when he was forcibly hauled by the police summoned by Manansala in the morning of February 1, 2003. Herbst called to inform that a friend reported seeing the tires of his car all flat and that the security guards of Manansala's office were responsible for that. Fearing more vandalism, he asked for help to move out his car.
>
> Working hours over, I asked my sheriff to check if he can do anything. My sheriff was all too willing to help that he immediately proceeded to where the car could be found only to be met by an irate Manansala and his bosom lawyer Marcelino Bautista, who berated him in front of several people and called him "pakialamero" at the same time telling him that no one can get Herbst car but Herbst personally . . . which was precisely what Herbst was avoiding because Manansala's men almost roughed him up before the police came on February 1, 2003, when the incident leading to the filing of the case, occurred. It appears that upon seeing my sheriff in office uniform, Atty. Bautista asked what court he is assigned. My sheriff then called up to inform what transpired and that was when I asked to speak with Mr. Bautista ONLY for the purpose of asking him as to why he would not allow the car to be pulled out, after all, it has nothing to do with the case filed against Herbst by Manansala. As earlier said, my only purpose in talking with Atty. Bautista on the phone was to ask for his reason in not allowing Herbst car moved out, knowing that the car was not even entrusted to him or to Manansala, thus, they do not have any right to withhold it from anyone in Herbst behalf. It was never to ask for the release of the car, precisely for the reasons already stated, and which I emphasized in my conversation with Atty. Bautista that afternoon of February 3, 2003 when, Manansala arrogantly asked why the effort on my part. I told him Herbst is a family friend, my cousin's benefactor and he asked for help with his car. However, when Bautista, construed the effort as meddling, I thought any further conversation with him on the phone would not help especially when he made it clear that they will not allow anyone to get the car from where it was, so I told myself just to forget about it. When Herbst texted that he has been released from detention after posting bail, I instead, advised him to get his car personally but reminding him to avoid any untoward confrontation with Manansala or his men or Bautista.
>
> x x x[4] (Emphasis and underscoring supplied)

By Resolution[5] dated February 16, 2004, this Court referred the complaint to Court of Appeals Justice Renato C. Dacudao for investigation, report and recommendation.

In the investigation conducted by Justice Dacudao, complainant presented three witnesses, namely, Atty. Coronel, Sheriff Mark Cabigao, and Judge Bautista, the gists of whose testimonies follow after their names.

ATTY. CORONEL testified as follows:

On February 1, 2003, the duty desk officer, Police Chief Inspector Danilo Maceren, received a telephone call informing him that one who introduced herself as Judge Asdala wanted to talk to him (Atty. Coronel) by phone. He thus talked to the caller who requested him to, if possible, release Herbst from detention and turn him to her custody, and asked about the possibility of the case being settled between complainant and Herbst.[6]

Wanting to accommodate respondent's request, he summoned complainant to his office and echoed to him respondent's request.[7]

Sheriff MARCELINO CABIGAO testified as follows:

On February 3, 2003, after office hours, "napagutusan lang po ako na pumunta sa Station 10 and ask for police assistance and go to PM Apartments to remove a vehicle because it might be damaged or lost."[8]

Upon arrival at the site where the vehicle was parked, he found out that all its 4 tires were already deflated. And when he asked complainant and Judge Bautista for permission to get the vehicle, they refused, prompting him to call respondent and inform her that "they don't want to give it and even if they did, I cannot take it because it has

already 4 flat tires." Respondent then asked him who prevented him from retrieving the vehicle, upon which he named Judge Bautista and complainant. Respondent further asked him to give his phone to Judge Bautista which he did, and after respondent talked to Judge Bautista, she told him (Cabigao) to leave the place if they do not want to release the vehicle.[9]

JUDGE BAUTISTA declared that during his phone conversation with respondent in the afternoon of February 3, 2003, he told her to get an authorization from Herbst in order to retrieve the car as well as make an inventory of the contents of the vehicle to avoid any misunderstanding later.[10]

Upon the other hand, RESPONDENT, at the witness stand, repeated her claim that the administrative complaint was filed on account of her filing of the libel charges against complainant and Judge Bautista.[11] And she reiterated the contents of her comment to the complaint, she reasserting that there was no interference on her part with regard to the investigation of Herbst took place.[12]

INVESTIGATING JUSTICE DACUDAO, by his Report and Recommendation,[13] found respondent answerable for palpable abuse of authority or plain misconduct. The pertinent portion of his report reads:

> x x x [T]his Investigator believes that respondent judge could be held liable under Section 3(a) of Anti-Graft and Corrupt Practices Act, to wit:
>
> x x x
>
> Respondent judge can be faulted for having called up that early evening of February 1, 2003, Atty. Joel Napoleon Coronel, station commander of the Kamuning Police Station No. 10, to request for the release to her custody of the German national Winfried Herbst, who was scheduled to undergo inquest investigation at the Office of the City Prosecutor of Quezon City, for malicious mischief (or vandalism), which the latter apparently committed, after he had allegedly smashed the window glass at the PM Building at 24 Matalino Street, Diliman, Quezon City, where the complainant Melencio P. Manansala III was living or holding office; as well as in asking for the compounding or amicable settlement of the malicious mischief (or vandalism) case against the German national. For, it can hardly be doubted that in making both requests respondent judge, one way or another, wittingly or unwittingly, subtly or blatantly, brought to bear, or sought to bring to bear, upon the precinct commander, the influence of her office as a judge, in an irregular and improper manner. Rightly or wrongly, the public identifies the abstract precept of justice, and the administration of justice, with the persona and actuations of the visible human judge that they see, and with whom they come in contact, or deal with. Respondent judge's plea of good faith thus becomes tenous when it is remembered that as a former fiscal or prosecutor, respondent judge ought to know that there is no legal or statutory warrant or basis, at that time, for her requests/ actions in seeking to obtain (temporary) custody of the still-[to] be-inquested Winfried Herbst, or for the compounding or amicable settlement of the malicious mischief (or vandalism) case, against the latter. However one looks at it, either course of action amounted to an unjustified, if not unlawful, interference or meddling, ("or persuading, inducing or influencing another public officer" to borrow the language of the statute) with the work of the police precinct commander at the time.
>
> Thus conceding, for argument['s] sake, that a finding of liability under Section 3(a) of the Republic Act No. 3019, as amended, would be improper, since a finding that respondent had violated this Section 3(a) requires proof beyond reasonable doubt, for the reason that R.A. No. 3019, as amended, is a penal statute, still under the facts recited, respondent judge can still be held liable, at the very least, for palpable abuse of authority or plain misconduct, a finding whereon can rest upon substantial evidence, as was submitted in this case. (Emphasis and underscoring supplied)

Justice Dacudao thus found respondent judge liable "at the very least, for palpable abuse or plain misconduct," and recommended that respondent judge be fined in the amount of Ten Thousand Pesos (P10,000.00), and warned that a repetition of the same or similar offense will merit a harsher penalty.

By Memorandum[14] of February 28, 2005, the OCA made a contrary finding and recommended the dismissal of the complaint against respondent, to wit:

> After a careful study of the records of the case, we have to withhold our concurrence with the findings of Justice Dacudao. The report of the investigating justice solely relies on the testimony of Atty. Joel Napoleon Coronel, the police superintendent and station commander whom Judge Asdala allegedly called and tried to persuade to release and place the detained Mr. Herbst under her custody. It must be pointed out that not only does Judge Asdala categorically deny having spoken to Atty. Coronel, but the latter himself acknowledges that he did not know the respondent judge and admits "that the person I was talking over the phone may or may not be Judge Asdala.["] There is therefore the shadow of doubt created by the possibility that somebody else could have used the name of Judge Asdala.
>
> The testimonial evidence presented did not remove the probability that Judge Asdala might not be guilty of the offense charged, thus failing to establish a prima facie case against the respondent judge.
>
> The complainant's allegation that Judge Asdala continues to intimidate and use her authority to influence the outcome of the case was never substantiated by evidence, documentary or testimonial.
>
> However, we find that sending Sheriff Cabigao to retrieve the car of Mr. Herbst was improper despite the non-involvement of the car in the criminal case. Even if it was already after office hours, the fact that Sheriff Cabigao, being a personnel of Judge Asdala's own court still in his office uniform and accompanied by two policemen, would send the wrong signal, as it did.
>
> Judges are expected to keep a watchful eye on the conduct of their employees, and not to ask them to perform tasks outside their official functions. They are constrained to instill in the court personnel a sense of propriety and probity in the performance of judicial functions. Given these requirements, the respondent judge should be aware that the slightest semblance of impropriety on the part of the employees of the court stirs ripples of public suspicion and public distrust of the judicial administrators. The slightest breach of duty and the slightest irregularity in the conduct of court officers and employees detract from the dignity of the courts and erode the faith of the people in the judiciary.
>
> While we deem the respondent judge not guilty of violation of Sec 3(a) of R.A. 3019, palpable abuse of authority or plain misconduct, we are of the view that the acts properly imputable to her, while not warranting the imposition of any disciplinary sanction, clearly demonstrate the need for greater care, prudence and discretion in her future actions.
>
> IN VIEW OF THE FOREGOING, we respectfully submit for the consideration of the Honorable Court the following recommendations:
>
> - That the administrative complaint against Judge Fatima G. Asdala of the Regional Trial Court (Branch 87), Quezon City, be DISMISSED for lack of merit;
>
> - That such dismissal notwithstanding, Judge Asdala should be ADMONISHED toavoid acts that are inimical to the service and which would cloud the credibility of the court; and
>
> - That she be STERNLY WARNED that a similar act in the future shall be strictly dealt with. (Emphasis and underscoring supplied)

The pertinent provisions of the Code of Judicial Conduct read:

> CANON 2
>
> A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES.

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> RULE 2.01. – A Judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.
>
> x x x
>
> RULE 2.04. – A Judge shall refrain from influencing in any manner the outcome of litigation or dispute pending before another court or administrative agency. (Emphasis and underscoring supplied)

Above-quoted Rule 2.04 is reproduced as CANON 2, Sec. 3 in the NEW CODE OF JUDICIAL CONDUCT FOR THE PHILIPPINE JUDICIARY which took effect on June 1, 2004.

In administrative cases, the quantum of proof necessary to hold a respondent liable for the charge is substantial evidence or such relevant evidence as a reasonable mind may accept as adequate to support a conclusion.[15]

In the case at bar, respondent denies having talked to Atty. Coronel. She admits though that she talked to one Maceren who, by her claim, butted in during her phone conversation with Herbst. She proffers, however, that when she conversed with Maceren, she identified herself as Mrs. Asdala and merely asked him if a complaint had been filed against Herbst, for what offense, and when the case would be inquested.

Respondent's plain denial of the charge of influencing does not suffice to discredit the straightforward claim of Atty. Coronel, however.

> MR. MANANSALA:
>
> Did you inform me of, for lack of a better term at this point in time, inquiries from a certain judge regarding the Winfried Herbst complaint?
>
> ATTY. CORONEL:
>
> I called you to my office because I received a phone call from a person who introduced herself as Judge Asdala of the Regional Trial Court of Quezon City concerning the investigation of a criminal complaint being conducted by our office against Mr. Herbst.
>
> x x x
>
> JUDGE ASDALA:
>
> What particular words that the person you were talking with on [the] phone tell you that is now being considered by Mr. Manansala as "pakikialam"?
>
> ATTY. CORONEL:
>
> The person who introduced herself as Judge Asdala asked me if I can possibly help a certain Mr. Herbst who was brought in to our station for investigation and that he would not be detained and be released to the custody of the person who introduced herself as Judge Asdala.
>
> x x x
>
> JUDGE ASDALA:
>
> Is it not that you entertained Mr. Manansala in your office because he is an English-speaking guy and he was decently dressed or what?
>
> ATTY. CORONEL:
>
> I asked Mr. Manansala to my office because I received a call from a person who introduced herself as Judge Asdala and that is the reason why I asked Mr. Manansala to my office and asked him if he is willing to settle

the case amicably with Mr. Herbst.

JUDGE ASDALA:

When you called Mr. Manansala in your office, you informed him that a certain Judge Ma. Fatima Asdala called in order to ask for a favor, is that it?

ATTY. CORONEL:

I informed him that Judge Asdala called me and ask me to help the person under investigation, Mr. Herbst, if possible to have the person released from detention and I told Mr. Manansala the only way that I can do this is to have the case settled amicably so that . . . no case will be filed against Mr. Herbst.

x x x

JUDGE ASDALA:

Why did you take interest, Mr. Coronel, when the case should have been handled by the investigator of the case?

ATTY. CORONEL:

Because I believe in my mind at that time that it was Judge Asdala who called me and asked for my assistance regarding Mr. Herbst who she claimed to be a family friend and asked me if possible to release Mr. Herbst to her custody. That is why I asked Mr. Manansala to come to my office and if there could be a possible amicable settlement between Mr. Manansala and Mr. Herbst so that no criminal complaint could be filed against Mr. Herbst.

JUSTICE DACUDAO:

In other words, you were attempting to forge some kind of an amicable settlement?

ATTY. CORONEL:

Yes, Your Honor, I was trying to arrange an amicable settlement between Mr. Manansala and Mr. Herbst at that time.

JUSTICE DACUDAO:

Why did you do that? What is your purpose?

ATTY. CORONEL:

I believed I spoke to Judge Asdala over the phone and then I would like to accommodate her request that her friend will not be detained any longer if the case will be settled between Mr. Manansala and Mr. Herbst at that time.

x x x

JUDGE ASDALA:

Because actually, the reason why the complainant would file this is because of the damage, he would want that rectified, correct?

ATTY. CORONEL:

Yes, ma'm.

JUDGE ASDALA:

That is the main reason why you were trying to forge a settlement between Mr. Manansala and Mr. Herbst and not particularly because somebody called you?

ATTY. CORONEL:

I took interest in the case because of the call I received that afternoon that is why I asked Mr. Manansala to come to my office and asked him if an amicable settlement can be arranged between him and Mr. Herbst.

JUDGE ASDALA:

So it is not for the reason that the case is actually the subject of a usual settlement that you took interest in but because of the call of a certain person who represented herself as Judge Asdala. Is that what you are trying to say?

ATTY. CORONEL:

Yes.

x x x

JUSTICE DACUDAO:

What was the gist of the conversation?

ATTY. CORONEL:

Your Honor, I was informed by my desk officer at that time that a call from Judge Asdala was received by them and asked me if I will be willing to talk with Judge Asdala. I received that call and I spoke to a woman who introduced herself as Judge Asdala of RTC Quezon City. And then the person over the phone asked me if I can possibly help a Mr. Herbst, a German national, who was brought in to Station 10 for investigation considering that the person is a friend of hers and if possible, Mr. Herbst would not be detained at our station.

JUSTICE DACUDAO:

You mentioned of a desk officer, what is the name of that desk officer?

ATTY. CORONEL:

At that time, the person who approached me was Police Chief Inspector Danilo Maceren, Your Honor.

JUSTICE DACUDAO:

Where is he now?

ATTY. CORONEL:

Major Maceren is now in Cosovo, Yugoslavia. He is part of the U.N. Peace Visiting Mission.

x x x (Emphasis and underscoring supplied)[16]

Moreover, respondent's vacillating version regarding the phone conversation with the police officer flaws her credibility. In her Comment to the complaint at bar, she stated that during her phone conversation with Herbst, "she heard someone in the background ask Herbst who he was in conversation with" and "[b]efore she knew it, someone other tha[n] Herbst was on the line and he introduced himself as some police officer whose name [she] cannot recall and asked what is it [she] wanted to know and who [she was] xxx."[17] And during her interview on air by Atty. Mauricio, she likewise admitted having talked to a police officer in Station 10, to wit:

ATTY. BATAS MAURICIO (BMM): Welcome po kayo dito sa ating Direct Connect at kasama po natin dito

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> si Judge Marcelino Bautista at Ginoong Melencio Manansala, at nirereklamo na nakikialam daw po kayo dito sa hinuling suspect na nakaditine sa station ng Quezon City police. Ano po ang inyong panig Judge Asdala?
>
> JUDGE FATIMA ASDALA (JFA): Ah well . . . dun sa salitang pikikialam, I think that's an incorrect adaptation of, ah . . . kung ano man, ang naging ginawa ko.
>
> BMM: Ok?
>
> JFA: Hindi ako nakialam. I only helped a friend who is a family friend, (pause) ah more than even a family friend because he is like a member of the family.
>
> BMM: Totoo po bang . . judge
>
> x x x
>
> JFA: Now, ang sinasabi siguro niyang pakikialam . . . when I requested no, I requested, ah, ahhh, I think I was talking with one Major Mazaren(?) . . . (Emphasis and underscoring supplied)[18]

During the investigation conducted by Justice Dacudao, however, while Atty. Coronel was on cross-examination by respondent, respondent, in reply to the question of the Justice if she denied being the Judge Asdala who made a telephone call to the police station, evasively answered the Justice and stated that she did not speak with anybody.

> JUDGE ASDALA:
>
> So there is a possibility that it was not Judge Asdala and that her name was only being used in order for you to hear her over the phone?
>
> ATTY. CORONEL:
>
> Yes.
>
> JUSTICE DACUDAO:
>
> By the way, Judge Asdala, are you denying that you were the person?
>
> JUDGE ASDALA:
>
> Precisely, that is my statement. Those are the essence of my Answer and Comment to the Complaint filed by Mr. Manansala with the office of the City Prosecutor.
>
> JUSTICE DACUDAO:
>
> You mean to say you are not that person?
>
> JUDGE ASDALA:
>
> Not, Your Honor. I did not speak. Even in the interview, Your Honor, I said I did not speak with anybody, I did not request anybody to release the accused to my custody because I wouldn't possibly do that, Your Honor, because I am aware of the procedure when a case is supposed to be heard for inquest, it is only the Fiscal who can order the release of the accused and not any police officer.[19] (Emphasis and underscoring supplied)

As for respondent's act of ordering her sheriff to engage the assistance of policemen and retrieve Herbst's car, this Court finds that respondent should also be faulted therefor. For by such act, she availed of the services of a government employee – inutusan niya – for private concerns. In any event, that her sheriff was even ordered to engage the services of policemen could not have been intended other than to demonstrate her perceived might as a judge in order to hopefully secure an unimpeded release of the car. Her claim that the sheriff was "all too willing to help" does not, even if true, albeit the sheriff's testimony does not reflect such claim, extenuate her or mitigate

her liability.

In fine, this Court finds well-taken the investigating Justice's evaluation of complainant's allegations. Instead, however, of palpable abuse of authority or plain misconduct, respondent is found liable for gross misconduct constituting violation of the earlier quoted provisions of the Code of Judicial Conduct, a serious charge under Rule 140 of the Rules of Court, as amended.[20] Section 11 of said rule reads:

> SECTION 11. Sanctions
>
> A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:
>
> - Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned and controlled corporations, Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
>
> - Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
>
> - A fine of more than P20,000.00 but not exceeding P40,000.00

WHEREFORE, respondent Judge Fatima G. Asdala, having been found GUILTY of GROSS MISCONDUCT, is hereby FINED in the amount of P40,000.00 with a STERN WARNING that a repetition of the same or similar offense will be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Callejo, Sr., Azcuna, Chico-Nazario, and Garcia, JJ., concur.
Puno, J., on sick leave.
Panganiban, and Sandoval-Gutierrez, JJ., on official leave.
Tinga, J., no part, close association with the party.

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[1] Rollo at 38-39.

[2] Id. at 15.

[3] Id. at 16-24.

[4] Id. at 16-22.

[5] Id. at 56.

[6] Transcript of Stenographic Notes (TSN), April 19, 2004 at 30-43.

[7] Id. at 46.

[8] Id. at 73.

[9] Id. at 81-83.

[10] Id. at 87-88.

[11] TSN, April 20, 2004 at 6.

[12] Id. at 10-12.

[13] Rollo at 160-193, 303-308.

[14] Id. at 490-494.

[15] Pimentel v. De Leoz, 400 SCRA 193, 204-205 (2003).

[16] TSN, April 19, 2004 at 30-65.

[17] Rollo at 17.

[18] Id. at 79.

[19] Id. at 43.

[20] By A.M. No. 01-8-10-SC effective October 1, 2001.

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