AAA AND BBB, COMPLAINANTS, VS. HON. SUWERTE L. OFRECIO, PRESIDING JUDGE, BRANCH 6, FAMILY COURT, REGIONAL TRIAL COURT, STA. CRUZ, LAGUNA, RESPONDENT.

A.M. No. RTJ-24-078 (Formerly OCA IPI No. 19-5007-RTJ), June 10, 2026

Ponente: INTING, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/e55969332cba/

INTING, J.:

The rigorous process governing the selection and appointment of magistrates underscores the Judiciary's unwavering commitment to ensuring that only individuals of proven competence, integrity, probity, and independence ascend to the bench. This stringent standard serves to safeguard the dignity of judicial office, uphold the impartiality of adjudication, and promote public trust and confidence in the administration of justice. Ergo, in the paramount interest of preserving the honor, integrity, and credibility of the Judiciary, the Court cannot countenance misconduct within its ranks. The Court shall not close its eyes to the transgression of its members and will not hesitate to impose appropriate disciplinary sanctions upon those who blemish the image of the Judiciary in the public eye.[1]

For the Court's resolution is an Administrative Complaint[2] filed by AAA and her mother, BBB (collectively, complainants), against Presiding Judge Suwerte L. Ofrecio (Judge Ofrecio), of Branch 6, Family Court, Regional Trial Court, Sta. Cruz, Laguna (RTC-Family Court), for gross misconduct, abuse of authority, usurpation of authority, and gross ignorance of the law.[3]

The Antecedents

AAA, who is a 13-year-old minor, and her mother, BBB, are the private complainants in Criminal Case No. SC-24718 titled, People of the Philippines v. Jimwell De Leon y Salazar, for violation of Section 5(b) of Republic Act No. 7610. The criminal case was raffled to the sala of Judge Ofrecio. In an Order[4] dated August 29, 2019, the RTC-Family Court set the criminal case for arraignment and pre-trial conference on September 3 and 10, 2019.[5]

Complainants stated in their Complaint that during the hearing on September 3, 2019, and prior to the actual arraignment and pre-trial conference, Judge Ofrecio uttered the remarks, "Ang daya ng pagpepresent nyo sa bata, dahil may relasyon daw sila eh. Absuwelto yan dito," to which BBB replied, "Wala po silang relasyon," to negate Judge Ofrecio's allegation.[6] Judge Ofrecio did not falter and responded, "Hindi mo ito alam[,] mommy ka kasi mommy ka eh [sic], kung anoman ang namamagitan sa kanila ay pwedeng hindi mo ito alam, eh sila ang mga nag-uusap sa mga chat messages eh, sila ang nag-uusap! Tsaka pabalik-balik yung mga anak mo doon sa kanila! Kung pwede mai[i]ntindihan ko kung 12 years old below ang bata, kasi with or without consent crime pa rin yan pero kung more 12 years na, 12 years and one day ay hindi na pwede, kailangan ay without consent ng complainant. Ang dami ko ng hiniring na ganyan, na magbo-boyfriend pero in the end anong nangyari? Alangan naman na ipakulong ko ang taong wala naman kasalanan na wala naman pala talagang krimen kasi ginusto naman pala talaga nila! Tingnan nyo yan oh, kung halimbawang talagang mag-boyfriend sila he had been in jail for quite

a time, ilang araw ka ng nandyan?"[7] Accused Jimwell De Leon (Jimwell) answered, "17 days po." Judge Ofrecio exclaimed, "17 days! Panay na hearing natin nato."[8]

Complainants further stated that Judge Ofrecio made several comments showing predisposition and bias towards Jimwell even before the criminal case was tried. After the roll call, Judge Ofrecio ordered every person in the room, including BBB, to leave.[9]

On the same day, and after the arraignment and pre-trial proceeding, Judge Ofrecio called AAA for direct examination, which took about 2 ½ hours. AAA recalled the grueling experience she had on September 3, 2019, as she felt humiliated and harassed by the questions of Judge Ofrecio, who seemed to have taken over the direct examination for the prosecution.[10] Below is an excerpt of the questions given by Judge Ofrecio:

> COURT:
>
> . . . .
>
> Q
>
> Yun ang sinabi niya, pag [nagsumbong] ka na hinalikan ka niya papatayin ka niya?
>
> A
>
> Hindi po.
>
> Q
>
> Pero naulit pa ang pangalawa na pagkikita niyo. Hindi ka na sana [nakipagkita] sa kanya the second, the third, the fourth time, di ba? Alam mo na yung tama o mali hindi ba? Noong [hinalikan] ka niya sinumbong mo kay mommy para hindi na naulit ng second time na makipag meet ka pero bakit ka pa [makikipagkita] sa kanya ng pangalawa, pangatlo, pang-apat na beses, nililigawan ka ba niya?
>
> A
>
> Hindi po.[11]
>
> . . . .
>
> PROS. ARANGUREN:
>
> Q
>
> So he was lying down on bed while you were sucking his penis?
>
> A
>
> Yes, Ma'am.

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COURT:

Q

Bakit ka pumayag na isubo yung titi niya doon sa bunganga mo e hind mo naman yan boyfriend sabi mo kanina diba o mag boyfriend nakayo?

A

Hindi pa po, pinilit niya po yung ulo ko na isubo yun sa titi niya.

Q

Kaya nga pinag hahalikan ka niya diba, hinahawakan niya yung dede mo nilamas niya diba, tapos dapat ipapasok niya yung finger niya doon sa ari mo, pero dahil sa meron ka nga sinabi mo sa kanya na meron kang mens kaya pinasubo niya yung titi niya sa bunganga mo. Bakit hindi kinagat o sinaktan mo nalang sana yung titi niya habang nakasubo? Hindi mo ba yun ginawa?

A

Hindi po.

Q

Pero Nakita mo siyang nag jakol doon sa harapan mo, kaya nag palabas siya, alam mo rin na nakapag palabas siya?

A

Opo, puti po yung kulay?[12]

. . . .

Q

Mahal mo ba siya nung nangyayari sa inyo yun don sa hotel?

A

Hindi po.

. . . .

Q

O gusto mo siya?

A

Wala po.

. . . .

Q

Wala kang pag hanga pero bakit sumama ka sa kanya, mula June 01, June 06, natapos naulit muli nung July 08, bakit ka sumama sa isang lalaki kung ayaw mo naman siya o may crush ka din sa kanya?

A

Wala po.

Q

Nililigawan ka ba niya?

A

Hindi po.

Q

Edi mas lalo sana, lalo hindi ka niya nililigawan e bakit ka sumama sa isnag lalaki na ganyan tapos naulit ng naulit yung nangyari, hindi lang [paghalik], pinasubo pa pala niya yung titi niya nung June 06, tapos nangyari ulit nung July 08, bakit sumama ka pa sa kanya? Sabi mo kinatakutan mo na siya nung unang araw palang na nangyari, sana hindi ka na sumama sa kanya pa nung pangalawa at pangtalong pagkakataon?

A

Hindi ko na po alam.[13]

BBB asserted that although she was outside of the courtroom she could hear Judge Ofrecio continuously interfering with the direct examination of AAA conducted by Prosecutor Adino Aranguren (Pros. Aranguren). BBB even heard Judge Ofrecio raise her voice throughout the direct examination and asked more irrelevant questions, such as:

COURT:

. . . .

Q

Nasa normal ka namang pag iisip, naiintindihan mo kung ano yung tama at saka mali kasi 13 years old ka na diba, alam mo na din kung ano yung sex?

A

Opo.

Q

Alam mo na kung anong ginagawa sa sex?

A

Opo

Q

At alam [mo na] rin ba na yung pagsubo niya doon sa titi niya sa bunganga mo ay sex na rin?

A

Hindi ko po alam.[14]

. . . .

PROS. ARANGUREN:

Q

On July 08, while his penis was in your mouth what was he doing, was he likewise holding your head?

A

Hinawakan niya pa din po.

COURT:

Q

And he was making forward and backward movement?

A

Opo.

Q

Pero hindi ka na nasuka?

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A

Hindi po...

Q

Bakit hindi ka na nasuka?

A

Kasi po pinipigil ko po na wag po ibaba masyado.

Q

Wag ibaba yung?

A

Wag po ipilit, wag po isagad.

Q

Yung ari niya wag isagad doon sa loob ng bunganga mo?

A

Opo.

Q

Para hindi ka masuka, ginawa naman niya yun hindi niya sinagad?

A

Opo.

Q

So ikaw [nagsabi], nag request mismo na wag niya isagad?

A

Hindi po.

Q

Ano?

A

Ako po yung...

Q

Ikaw yung nagsabi?

A

Hindi po, ginawa ko po mismo.

Q

Ikaw mismo gumawa na wag isagad yung [pagsubo] sa bunganaga mo para hindi ka masuka?

A

Opo.

Q

Nag enjoy naman siya sa ginawa mo?

A

Sabi niya po.

Q

Sabi niya nag enjoy siya?

A

Opo.

PROS. ARANGUREN:

Q

[D]id you like it while his penis was inside your mouth?

A

No, Ma'am.

COURT:

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Q

Hindi mo nagustuhan pero bakit sinubo mo pa?

A

Baka po may ibang gawin e.[15]

BBB attested that Judge Ofrecio asked more questions than Pros. Aranguren, and that she exposed AAA to harassment, humiliation, hostility, and an adverse court environment. She even asked one of the court personnel to allow AAA to have a break to which Judge Ofrecio replied, "Baka sila ang gutom, sila ang kumain."[16] BBB recalled that when AAA got out of the courtroom, the latter cried profusely. Hence, on September 9, 2019, BBB filed a Motion to Inhibit stating therein the obvious bias, prejudgment, and hostility of Judge Ofrecio against AAA as well as her disregard of A.M. No. 00-4-07-SC or the Rule on Examination of a Child Witness.[17]

During the hearing scheduled on September 10, 2019, Judge Ofrecio already pronounced her intention to deny the Motion to Inhibit filed by BBB, and instead of calling AAA for the scheduled cross-examination, Judge Ofrecio called Police Staff Sergeant Joana Marie Gannaban for direct examination. Likewise, during the hearing on September 12, 2019, Judge Ofrecio called Police Captain Mark Phillip Almedilla, who was not one of the prosecution witnesses. BBB asserted that Judge Ofrecio took active participation and control in the prosecution of the criminal case, specifically, that she subpoenaed witnesses who were not included as prosecution witnesses in the Pre-Trial Order.[18]

Further, when complainants engaged the legal services of Atty. Reynaldo Evangelista as private prosecutor during the hearing on September 12, 2019, BBB claimed that Judge Ofrecio became furious and sent everyone out of the courtroom. Judge Ofrecio even shouted, "Get out of my courtroom." BBB doubted the capability of Judge Ofrecio to dispose of the case without bias; hence, she filed a Petition for Certiorari with the Court of Appeals (CA) assailing Judge Ofrecio's denial of the Motion for Inhibition.[19]

Due to this harrowing experience, BBB had her daughter, AAA, undergo a psychological assessment. In the Psychological Assessment Report[20] of AAA, the psychologist, Dr. Mariflor J. Gatchalian (Dr. Gatchalian), found her to be suffering from moderate to severe emotional trauma fitting the DSM 5 criteria for Acute Stress Disorder. The Psychological Assessment Report also indicated that her emotional distress was attributed to her recent experience.[21] During the conduct of the psychological assessment, AAA revealed that she was demeaned by the people whom she thought would provide her justice, and she felt "self-blame," as indicated in the Psychological Assessment Report: "[s]he also expressed fear of going to school and [courtroom] getting in the presence of authority reminding her of the man who hurt her and the authority figure who blamed her."[22]

In her Comment,[23] Judge Ofrecio denied acting as a prosecutor during the hearing of the criminal case. She averred that: 1) she only asked clarificatory questions which are apt and necessary; 2) she made sure that the minor was treated well, and the conduct of the proceedings was gender sensitive; 3) she even called AAA "anak" and provided her drinks while testifying; and 4) she was lenient with the minor and allowed her to take the witness stand despite her failure to appear for cross-examination on seven prior occasions.[24]

As to the alleged unnecessary utterances she made prior to the arraignment, Judge Ofrecio asserted that such allegation lacks factual and legal bases. She further asserted that the allegation was purposely ill-motivated and fabricated, as Atty. Eliezer V. Gojas was not yet hired as a private prosecutor at that time, and that if there was a glaring prejudgment on her part, the public prosecutor could have demanded her inhibition.[25]

Lastly, Judge Ofrecio argued that the instant administrative complaint was only filed by complainants due to the denial of the Petition for Certiorari they filed before the CA in the Decision[26] dated July 26, 2022. The CA held

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therein that the Motion for Inhibition filed by the complainants lacked the conformity of the public prosecutor. Moreover, it ruled that there was no clear and convincing evidence showing a valid or legal ground for Judge Ofrecio's inhibition.

The Judicial Integrity Board (JIB) Report and Recommendation
dated January 18, 2024

In the Report and Recommendation[27] dated January 18, 2024, the Judicial Integrity Board (JIB)-Office of the Executive Director (OED), through Atty. Eduardo C. Tolentino, the acting executive director, dismissed the administrative complaint for being premature.[28] The JIB ratiocinated that the Petition for Certiorari filed by complainants before the CA raised and extensively discussed the same issues raised in the administrative complaint. Hence, the JIB-OED recommended that complainants await the resolution of the CA.[29]

The JIB Report dated October 8, 2024

The JIB, in its Report[30] dated October 8, 2024, found Judge Ofrecio guilty of gross misconduct constituting violations of the New Code of Judicial Conduct and recommended her dismissal from the service, with forfeiture of all or part of her benefits, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations, to wit:

> ACCORDINGLY, we respectfully RECOMMEND to the Honorable Supreme Court that:
>
> (1)
>
> the instant administrative Complaint against Judge Suwerte L. Ofrecio, Family Court, Regional Trial Court, Branch 6, Sta. Cruz, Laguna, be RE-DOCKETED as a regular administrative matter[; and]
>
> (2)
>
> she be found GUILTY of [g]ross [m]isconduct constituting violations of the New Code of Judicial Conduct and be DISMISSED from the service with forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits.[31]

The JIB concluded that Judge Ofrecio's conduct during the direct examination of AAA utterly lacked judicial temperament. It observed that Judge Ofrecio asked numerous inappropriate and humiliating questions to the child witness regarding sexual acts which were outside the scope of the Information, instead of limiting the questioning to the elements of sexual abuse as alleged in the Information. The JIB further declared that Judge Ofrecio contravened the mandate provided under Section 19 of A.M. No. 00-4-07-SC when she posed her questions in a humiliating and condescending manner. Moreover, the psychological assessment, which detailed the trauma and mental injury sustained by AAA was not disputed by Judge Ofrecio.[32] Hence, the JIB found Judge Ofrecio guilty of gross misconduct for disregarding Canons, 2, 4, and 6 of the New Code of Judicial Conduct.[33]

The JIB also noted that Judge Ofrecio is a respondent in five administrative complaints for gross misconduct pending before the Court:

- JIB FPI No. 23-285-RTJ (Judicial Integrity Board v. Hon. Suwerte L. Ofrecio, Presiding Judge, Branch 6, Family Court, Sta. Cruz, Laguna);

- JIB FPI No. 23-292-RTJ (PLTCOL Milany Martinez, PCPT Daniel Mamolo Solano, PSSg Espina, PAT Elias Babino Canapi, PMSg Gerald Macatangay, PSSg Jhon Kevin Villarino and PCpl Michael Angelo v. Hon. Suwerte L. Ofrecio, Presiding Judge, Branch 6, Family Court, Sta. Cruz, Laguna);

- JIB FPI No. 24-385-RTJ (Anonymous v. Hon. Suwerte L. Ofrecio, Presiding Judge, Branch 6, Family Court, Sta. Cruz, Laguna);

- JIB FPI No. 24-436-RTJ (PCOL Randy Glenn G. Silvio v. Hon. Suwerte L. Ofrecio, Presiding Judge, Branch 6, Family Court, Sta. Cruz Laguna); and

- JIB FPI No. 24-445-RTJ (Anonymous v. Hon. Suwerte L. Ofrecio, Presiding Judge, Branch 6, Family Court, Sta. Cruz, Laguna).[34]

The Issue

The sole issue to be resolved by the Court is whether Judge Ofrecio should be held administratively liable for gross misconduct, abuse of authority, and gross ignorance of the law.

The Court's Ruling

The Court adopts and approves the findings and recommendation of the JIB and finds Judge Ofrecio guilty of gross misconduct constituting violation of the New Code of Judicial Conduct.

At the outset, it bears emphasis that the present administrative case is governed by the 2025 Code of Judicial Conduct and Accountability (2025 CJCA). Section 1 of the General Provisions of the 2025 CJCA explicitly provides for its retroactive application, viz.:

> SECTION 1. Transitory clause. – The Code shall be applied to all pending and future cases, except to the extent that, in the opinion of the Supreme Court, its retroactive application would not be feasible or would work injustice, in which case the procedure under which the cases were filed shall govern.

In the present case, the Court finds no circumstance that would render the retroactive application of the 2025 CJCA either unfeasible or unjust. Accordingly, the provisions of the 2025 CJCA must govern the administrative case at bar.

It is a settled principle that members of the bench are not only expected to possess the requisite legal knowledge and competence, but must likewise embody the highest standards of judicial temperament marked by sobriety, equanimity, and self-restraint, which are indispensable attributes of judicial office.[35] Judges must, at all times, conduct themselves in a manner that upholds the dignity of the court and inspires public confidence in the integrity and impartiality of the Judiciary. They ought not to be perceived as petty, intemperate, or overbearing, for such demeanor is antithetical to the solemnity and impartiality that the robe demands.[36]

Regrettably, Judge Ofrecio fell short of the exacting standards of judicial decorum and failed to discharge the duties of her office in a manner befitting the esteem and trust reposed in the Judiciary.

The arbitrary actions of Judge Ofrecio, taken together, amount to gross misconduct constituting violations of the New Code of Judicial Conduct

Misconduct is defined as "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by [a] public officer."[37] Misconduct is deemed gross when there is substantial evidence showing corruption, clear intent to violate the law, or flagrant disregard of established rules, which must be proven by substantial evidence.[38] Absent these elements, the misconduct is classified as simple.

Corruption as an element of gross misconduct connotes the unlawful or wrongful use of an official of his or her station or character to procure some benefit for himself or herself, contrary to the rights of others.[39] Meanwhile, clear willful intent to violate the law and flagrant disregard of established rules presuppose that there is an order or regulation defied by the public official.[40] Intent, being a state of mind, is ascertained from the acts or conduct

of the person. Flagrant disregard of established rules is demonstrated by the employee's propensity to ignore the rules, as clearly manifested by his or her actions.[41] Being analogous to willful intent to violate the law, it is established when the public official or employee concerned, through culpable acts or omission, clearly manifests a pernicious tendency to ignore the law or rules.[42]

In the instant case, complainants alleged that Judge Ofrecio committed gross misconduct through flagrant disregard of A.M. No. 00-4-07-SC when she unduly interfered with the prosecution's direct examination of AAA and subjected the child witness, AAA, to sexually explicit, intimidating, and humiliating questioning. Complainants further averred that the judge's inappropriate behavior caused emotional distress and trauma to the minor, as allegedly supported by an unrebutted psychological evaluation.

Notably, Section 19 of A.M. No. 00-4-07-BC mandates as follows:

> Section 19. Mode of questioning. - The court shall exercise control over the questioning of children so as to (1) facilitate the ascertainment of the truth, (2) ensure that questions are stated in a form appropriate to the developmental level of the child, (3) protect children from harassment or undue embarrassment, and (4) avoid waste of time.
>
> The court may allow the child witness to testify in a narrative form.

After a thorough review of the records of the case, which includes the transcript of stenographic notes of the hearing on September 3, 2019, the Court finds that Judge Ofrecio acted in flagrant disregard of A.M. No. 00-4-07-SC constituting gross misconduct.

Intent, though internal, may be inferred from conduct, context, and attendant circumstances. Here, several acts of Judge Ofrecio reveal a deliberate and conscious disregard of judicial duty.

First. Before the hearing even began, Judge Ofrecio's statement to BBB, "Ang daya ng pagpepresent nyo sa bata, dahil may relasyon daw sila eh. Absuwelto yan dito," shows a predetermined belief in the accused's innocence and an intent to discredit the complainant's case. Such a remark, made prior to arraignment, evidences conscious pre-judgment and bias—a grave deviation from the duty of neutrality.

Second. During AAA's testimony, Judge Ofrecio persistently propounded sexually graphic, accusatory, and humiliating questions, such as "Bakit hindi mo na lang kinagat ang titi niya?" and "Nag-enjoy naman siya sa ginawa mo, sabi niya?" These questions were neither clarificatory nor necessary to establish the elements of the crime. Rather, they betrayed a deliberate choice to confront a minor with degrading insinuations of consent and moral blame. The repeated use of explicit sexual language in interrogating a 13-year-old child-victim cannot be excused as overzealousness; it constitutes the intentional infliction of embarrassment and a willful disregard of the Court's duty to protect a child witness.

Third. As a Family Court judge, Judge Ofrecio is presumed to be fully aware of A.M. No. 00-4-07-SC and its protective objectives. Her continued resort to explicit, adult-framed questioning despite this knowledge demonstrates conscious defiance of an established rule—A.M. No. 00-4-07-SC. This is not mere ignorance, but a deliberate subversion of the procedural safeguards designed to shield child witnesses from trauma.

Fourth. Even after the child visibly showed distress, and BBB requested a short recess, Judge Ofrecio dismissively replied, "Baka sila ang gutom, sila ang kumain." Her awareness of the victim's suffering, coupled with her refusal to temper her behavior, underscores reckless indifference and willful persistence in an improper course of action.

Fifth. The psychological assessment prepared by Dr. Gatchalian confirmed that AAA suffered moderate to severe

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emotional trauma directly traceable to her courtroom experience. This outcome was the foreseeable and natural consequence of Judge Ofrecio's manner of questioning. When the harm is both foreseeable and avoidable, persistence in such conduct indicates mens rea—an intentional disregard of duty.

Taken together, these circumstances manifest a pattern of behavior revealing bias, pre-judgment, and deliberate insensitivity, not inadvertence. Judge Ofrecio's words and actions display a willful intent to violate the law and a flagrant disregard of established judicial standards, thus, meeting the requisites of gross misconduct under Rule 140 of the Rules of Court.

A fortiori, the arbitrary acts of Judge Ofrecio constitute violations of the 2025 CJCA, viz.:

CANON II
Fidelity

> Fidelity refers to a judge's fealty to their role in the administration of justice and to the institution, in ensuring the efficient and effective operation of the court.
>
> . . . .
>
> SECTION 2. Fealty to the role as a judge. — A judge shall be faithful to one's role in the administration of justice. In the discharge of official functions, a judge shall ensure that one's conduct is above reproach and is perceived to be so.
>
> SECTION 3. Fealty to the institution. — A judge shall faithfully discharge one's functions so as to inspire confidence in the Judiciary. Justice must not merely be done but must also be seen to be done.

CANON III
Impartiality

> Impartiality means fairness in the discharge of judicial functions without favor for or bias against any party to the proceeding. It applies not only to the decision itself but also to the process by which the decision is made.
>
> . . . .
>
> SECTION 2. Appearance of impartiality. — In the discharge of duties, a judge shall not only be impartial but must also appear to be impartial to a reasonable observer, who is referred to as a reasonable, fair-minded, and informed person.
>
> . . . .
>
> SECTION 4. Conduct and statement of judge to promote impartiality. — A judge shall ensure that one's conduct and statements, both in and out of court, inspire and maintain public confidence in the impartiality of the judge.
>
> . . . .
>
> SECTION 10. Prohibition against improper comments. — During the pendency of a case or when there is a likelihood that a case could come before them, a judge shall not knowingly make any comment in and out of court that could reasonably be expected or perceived to affect its outcome, impair the fairness of the process, or diminish the public's confidence in the court's impartiality.

CANON IV
Propriety

> . . . .
>
> SECTION 2. Highest ethical standards. — A judge's conduct shall be beyond reproach and conform to the

highest ethical standards.

A judge must be aware of prevailing social norms. A judge shall refrain from committing any act, in or out of court, that may cause dishonor or ridicule to, or reasonably tend to tarnish the image and dignity of, the judicial office.

. . . .

SECTION 4. Use of appropriate language. — A judge shall use only dignified, gender-fair and child- and culturally-sensitive language at all times.

SECTION 5. Judicial temperament. — A judge shall, at all times, exhibit the judicial temperament required of the position as reflected in the ability to effectively and respectfully communicate with counsel, witnesses, litigants, court staff, and other court users, as well as the willingness to listen to and consider all sides of a debatable position. A judge shall strive to be patient, open-minded, courteous, tactful, courageous, resolute, compassionate, and humble.

SECTION 6. Proper decorum and appearance. — A judge shall observe proper decorum in keeping with the dignity of the judicial office.

A judge's attire shall at all times be consistent with the dignity of the judicial office, with due respect to the person's sexual orientation, gender identity, and expression.

. . . .

CANON VI
Competence and Diligence

Competence and diligence encompass a judge's knowledge, skills, values, and personal qualities necessary to efficiently and effectively perform their noble role of dispensing justice fairly and objectively.

. . . .

SECTION 8. Duty to ensure prompt, orderly, and efficient court proceedings. — A judge shall ensure the prompt, orderly, and efficient flow of court proceedings, and avoid delay in the disposition of cases.

In all court proceedings, a judge shall maintain order and decorum and shall be patient, dignified, and courteous at all times, using appropriate language, and require similar conduct from court personnel, lawyers and other court users.

Time and again, the Court has consistently underscored that judges must, at all times, conduct themselves in a manner that upholds and preserves the dignity, integrity, and independence, and respect for their office, the Court, and the Judiciary as a whole.[43] They are expected to embody propriety and impartiality not only in the performance of their official duties, but also in their personal conduct, thereby promoting public confidence in the judicial system.[44] Indeed, it is not enough that judges be actually impartial; they must also manifest such impartiality in appearance, for justice must' hot only be done, but must also be seen to be done. As officers of the Court and instruments of justice, members of the bench are held to the highest standards of judicial decorum and ethical behavior.[45]

It is evident, however, that in the hearing conducted on September 3, 2019, Judge Ofrecio failed to adhere to these exacting standards. Her actuations during the hearing failed to reflect the required degree of restraint, propriety, and impartiality demanded of a magistrate, thereby compromising the dignified and orderly atmosphere that must pervade the courtroom and diminishing the public's regard for the judicial office.

Accordingly, the JIB is correct in finding Judge Ofrecio guilty of gross misconduct constituting violations of the

2025 CJCA.

The JIB is correct in not finding Judge Ofrecio guilty of abuse and usurpation of authority and gross ignorance of the law

Upon careful scrutiny of the allegations of abuse and usurpation of authority as well as gross ignorance of the law against Judge Ofrecio, the Court finds no merit warranting the imposition of disciplinary sanction under these charges.

Complainants imputed abuse and usurpation of authority to Judge Ofrecio on the ground that she purportedly assumed the role of the public prosecutor during the direct examination of the child witness, AAA, by taking the lead in propounding questions, thereby abandoning her proper role as a judge, which, they argue, should have been limited to asking clarificatory questions. They likewise alleged gross ignorance of the law, contending that Judge Ofrecio violated the clear mandate of A.M. No. 00-4-07-SC, when she posed improper questions to AAA, allegedly causing the latter embarrassment and distress, and failed to allow necessary breaks throughout the duration of her testimony.

For liability to arise for gross ignorance of the law, the assailed order, decision, or actions of the judge in the performance of official duties must not only be found erroneous but, more importantly, also shown to have been driven by bad faith, dishonesty, hatred, or other similar motive.[46]

It is elementary that reliance on mere allegations, conjectures, and suspicions will leave an administrative complaint with no leg to stand on, and that charges based on mere suspicion and speculation cannot be given credence.[47] It is incumbent upon the complainants to prove their accusations with substantial evidence, or "that amount of evidence which a reasonable mind might accept as adequate to justify a conclusion."[48] Thus, if the complainants fail to discharge this burden of proof, the administrative complaint must necessarily fail.

As in the present case, complainants fell short of discharging their burden as to the charges of abuse and usurpation of authority and gross ignorance of the law. There is no substantial evidence on record demonstrating that Judge Ofrecio, in the exercise of her judicial discretion and in taking control over the questioning of the child witness, acted with bad faith, dishonesty, or any other wrongful intent that would justify a finding of gross ignorance of the law. Likewise, there is no showing that Judge Ofrecio, under the pretense of her judicial authority, deliberately violated the procedural safeguards under A.M. No. 00-4-07-SC or intentionally caused harm to AAA so as to constitute abuse of authority.

Contrary to complainants' assertion, Judge Ofrecio did not usurp the prosecutorial function during the direct examination of AAA. Under Section 19 of A.M. No. 00-A-07-SC, it is the duty of the court to exercise control over the questioning of child witnesses, with the objectives of facilitating the ascertainment of the truth, tailoring the mode of questioning to the child's developmental level, and protecting the child from harassment and undue embarrassment. Accordingly, Judge Ofrecio was not precluded from propounding questions; in fact, she was expressly mandated to do so. While her approach may have been flawed or injudicious at certain points, such conduct is not tantamount to prosecutorial usurpation nor does it amount to gross ignorance of the law.

Hence, in the absence of substantial evidence showing wrongful intent or culpable motivation, and considering that Judge Ofrecio acted within the bounds of judicial discretion authorized by the rules, the Court finds no basis to hold her administratively liable under the charges of abuse and usurpation of authority and gross ignorance of the law.

As to the proper penalty

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Gross misconduct constituting violations of the 2025 CJCA is a serious offense under Section 18, and sanctioned under Section 22, Canon VII, of the 2025 CJCA, as follows:

> Section 22. Penalties. —
>
> (1) If the respondent is guilty of a serious charge, any of the following sanctions shall be imposed:
>
> (a)
>
> Dismissal from service, forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
>
> (b)
>
> Suspension from office without salary and other benefits for one year and one day up to three years; and/or
>
> (c)
>
> A fine of PHP 101,000.00 but not more than PHP 500,000.00.

In determining the proper penalty, the Court is guided not only by the classification of the offense, but also by the nature, gravity, and consequence of the misconduct, the circumstance under which it was committed, and its impact on the integrity of the Judiciary and public confidence in the administration of justice.

Here, the Court takes judicial notice of the JIB's report that Judge Ofrecio is presently the respondent in five other administrative complaints, some of which remain pending before this Court and others before the JIB. However, the pendency of such administrative cases cannot be considered an aggravating circumstance in the determination of the proper penalty. Under Canon VII, Section 24, paragraph 2(a) of the 2025 CJCA, only a prior finding of administrative liability with the corresponding imposition of a penalty—regardless of the nature or gravity of the offense—may be appreciated as an aggravating factor. In contrast, the mere pendency of administrative proceedings, absent any final adjudication and imposition of a penalty, does not possess any legal weight for the purpose of aggravating the penalty to be imposed.

Nonetheless, the absence of a legally appreciable aggravating circumstance does not diminish the gravity of Judge Ofrecio's misconduct. Her actuations were not a mere lapse in courtroom management, nor an isolated instance of intemperate language. As a Family Court judge, Judge Ofrecio was bound to exercise heightened sensitivity, restraint, and circumspection in handling cases involving children, especially where the child witness is an alleged victim of sexual abuse. Instead, she subjected AAA, a 13-year-old child witness, to humiliating, accusatory, and sexually explicit questioning in open court, contrary to the protective purpose of A.M. No. 00-4-07-SC. Her conduct not only caused undue embarrassment and distress to the child witness, but also impaired the dignity of the proceedings and diminished public confidence in the impartiality, propriety, and competence expected of members of the bench.

Considering the nature and gravity of the offense, the vulnerability of the child witness, Judge Ofrecio's position as a Family Court judge, the resulting affront to the dignity of judicial proceedings, and the absence of any mitigating or aggravating circumstance, the Court finds Judge Ofrecio liable for the serious offense of gross misconduct constituting violations of the 2025 CJCA and imposes upon her the penalty of suspension from office

without salary and other benefits for a period of one year and one day.

ACCORDINGLY, the Court finds respondent Presiding Judge Suwerte L. Ofrecio, of Branch 6, Family Court, Sta. Cruz, Regional Trial Court, Laguna, GUILTY of gross misconduct constituting violation of the Code of Judicial Conduct under Rule 140, Section 14(a), of the Rules of Court. The Court imposes upon Judge Ofrecio the penalty of SUSPENSION from office without salary and other benefits for a period of one year and one day. She is likewise STERNLY WARNED that a repetition of the same or similar offense shall be dealt with more severely.

Let copies of this Decision be furnished to the Office of the Bar Confidant to be appended to respondent Judge Suwerte L. Ofrecio's personal record as an attorney, the Integrated Bar of the Philippines for its information and guidance, and the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.

Gesmundo, C.J., Caguioa, Hernando, Lazaro-Javier, Zalameda, Gaerlan, Lopez, Dimaampao, Marquez, and Villanueva, JJ., concur.
Leonen, SAJ., see separate concurring and dissenting opinion.
Rosario,[*] Kho, Jr.,[*] and Singh,[*] JJ., on leave.

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[*] On leave.

[*][*] In line with the Resolution dated February 4, 2025 in A.M. No. 23-10-18-SC titled "Further Amendments to Supreme Court Amended Administrative Circular No. 83-2015 (Re: Protocols and Procedures in the Promulgation, Publication, and Posting on the websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances)," the names of the private offended parties along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

[1] See Uy v. Judge Lorredo, 957 Phil. 125, 134 (2024) [Per Curiam, En Banc].

[2] Rollo, pp. 2-23.

[3] Id. at 2.

[4] Id. at 51.

[5] Id. at 4.

[6] Id.

[7] Id.

[8] Id. at 5.

[9] Id.

[10] Id. at 5-6.

[11] Id. at 77.

[12] Id. at 95.

[13] Id. at 98.

[14] Id. at 99.

[15] Id. at 100-101.

[16] Id. at 8.

[17] Id.

[18] Id. at 9-10.

[19] Id. at 11-12.

[20] Id. at 126-134.

[21] Id. at 131.

[22] Id. at 130-131.

[23] Id. at 378-386.

[24] Id. at 382.

[25] Id.

[26] Id. at 435-453. The July 26, 2022 Decision in CA G.R. SP No. 162526 was penned by Associate Justice Alfredo D. Ampuan and concurred in by Associate Justices Zenaida T. Galapate-Laguilles and Jennifer Joy C. Ong of the Fifteenth Division, Court of Appeals, Manila.

[27] Id. at 428-434. Signed by Acting Executive Director Eduardo C. Tolentino of the Judicial Integrity Board.

[28] Id. at 434.

[29] Id. at 433.

[30] Id. at 454-476. Penned by Justice Angelina Sandoval-Gutierrez (Ret.) and concurred in by Justice Cielito N. Mindaro-Grulla (Ret.).

[31] Id. at 475.

[32] Id. at 469-470.

[33] Id. at 473-474.

[34] Id. at 473.

[35] See Atty. Seludo y. Judge Fineza, 488 Phil. 74, 76 (2004) [Per J. Sandoval-Gutierrez, En Banc].

[36] See Uy v. Presiding Judge Lorredo, 957 Phil. 125, 130 (2024) [Per Curiam, En Banc], citing Dela Cruz v. Judge Carretas, 559 Phil. 5, 16 (2007) [Per J. Corona, First Division].

[37] Office of the Court Administrator v. Sicad, 943 Phil. 86, 93-94 (2023) [Per Curiam, En Banc].

[38] Domingo v. Civil Service Commission, 874 Phil. 587, 603 (2020) [Per J. Lazaro-Javier, First Division].

[39] Amilhamja v. Ombudsman-Mindanao, Field Investigation Unit, 953 Phil. 140, 149 (2024) [Per J. Inting, Third Division], citing Civil Service Commission v. Nierras, 569 Phil. 37, 42 (2008) [Per J. Quisumbing, En Banc].

[40] Mahinay v. Court of Appeals, 899 Phil. 195, 206 (2021) [Per J. Carandang, First Division].

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[41] Id.

[42] Amilhanya v. Ombudsman-Mindanao, Field Investigation Unit, 953 Phil. 140, 149 (2024) [Per J. Inting, Third Division], citing Office of the Ombudsman v. Rojas, 857 Phil. 482, 493-494 (2019) [Per J. Reyes, A. Jr., Third Division].

[43] Bloomberry Resorts and Hotels, Inc. v. Hon. Luna II, 956 Phil. 295, 313 (2024) [Per J. Hernando, En Banc], citing Tormis v. Judge Paredes, 753 Phil. 41, 54 (2015) [Per J. Mendoza, Second Division].

[44] See Taborite v. Judge Sollesta, 456 Phil. 51, 57-58 (2003) [Per J. Sandoval-Gutierrez, Third Division].

[45] See Muin v. Avestruz, Jr., 597 Phil. 586, 587 (2009) [Per Curiam, En Banc]; Mendaño v. Judge Maceda, 326 Phil. 99, 106 (1996) [Per Curiam, En Banc].

[46] Arevalo v. Judge Posugac, 860 Phil. 1, 10 (2019) [Per J. Reyes, A. Jr., Third Division].

[47] Tan v. Atty. Alvarico, 888 Phil. 345, 356 (2020) [Per C.J. Peralta, First Division], citing Zara v. Atty Joyas, 853 Phil. 21, 24-25 (2019) [Per J. Peralta, Third Division].

[48] Tan v. Atty. Alvarico, id. at 355, citing Rule 133, Section 6 of the Rules of Court.

A.M. No. RTJ-24-078 (Formerly OCA IPI No. 19-5007-RTJ) – AAA and BBB,[*] Complainants, v. HON. SUWERTE L. OFRECIO, Presiding Judge, Branch 6, Family Court, Regional Trial Court, Sta. Cruz, Laguna, Respondent.

CONCURRING AND DISSENTING OPINION

LEONEN, SAJ:

I concur that respondent Hon. Suwerte L. Ofrecio is administratively liable for gross misconduct. However, given the exceptional gravity of the offense—perpetrated against a child in a case pending before her court—and the heightened duty of care, impartiality, and protection owed by the court to vulnerable participants, I respectfully disagree as to the penalty imposed. I submit that the ultimate penalty of dismissal from service is warranted.

This case involves an administrative complaint filed by AAA and her BBB (collectively, complainants), against Hon. Suwerte L. Ofrecio (Judge Ofrecio), Presiding Judge of Branch 6, Family Court, Sta. Cruz, Laguna, for gross misconduct, abuse of authority, usurpation of authority, and gross ignorance of the law.[1]

AAA, a 13-year-old minor, together with her mother, BBB, are the private complainants in a criminal case involving lascivious conduct under Section 5(b) of Republic Act No. 7610, which was raffled to the sala of Judge Ofrecio.[2] They alleged that Judge Ofrecio made remarks, even before trial, that revealed a predisposition and bias in favor of the accused.[3]

Complainants further alleged that, during direct examination, Judge Ofrecio propounded questions to AAA that were manifestly inappropriate, irrelevant, and traumatizing, leaving the child witness humiliated and subjected to judicial harassment.[4] They likewise averred that the judge effectively usurped the role of the prosecutor, taking over the direct examination in a manner that compromised both the witness's dignity and the court's duty of impartiality.[5]

In the aftermath of this harrowing ordeal, BBB sought a psychological assessment for her daughter. The evaluation revealed that AAA was suffering from moderate to severe emotional trauma consistent with the DSM 5

criteria for Acute Stress Disorder.[6] The Psychological Assessment Report further underscored that her distress stemmed directly from her recent experience, poignantly noting that she felt "demeaned by the people whom she thought would provide her justice,"[7] and that she had developed a deep-seated fear of returning to school and the courtroom—places that now evoke memories "of the man who hurt her and the authority figure who blamed her."[8]

In the meantime, BBB filed a motion to inhibit, asserting that Judge Ofrecio had displayed evident bias, prejudgment, and hostility toward AAA, as well as a disregard for A.M. No. 00-4-7-SC, or the Rule on the Examination of a Child Witness.[9] It was eventually denied, prompting BBB to file a petition for certiorari with the Court of Appeals.[10]

For her part, respondent judge denied having assumed the role of a prosecutor during the proceedings, maintaining that her interventions were limited to necessary clarificatory questions.[11] She further asserted that she ensured the minor was treated with due care and that the proceedings were l conducted in a gender-sensitive manner.[12] She likewise pointed out that she permitted the minor to take the witness stand notwithstanding her prior failures to appear for cross-examination.[13]

Respondent judge claimed that the administrative complaint was filed only after the Court of Appeals denied their petition for certiorari due to the lack of the public prosecutor's conformity. She also cited the Court of Appeals' finding that there was no clear and convincing evidence to warrant her inhibition.[14]

On January 18, 2024, the Judicial Integrity Board (JIB) – Office of the Executive Director (OED) dismissed the complaint for being premature.[15] In its Report and Recommendation, the JIB found that the petition for certiorari filed by the complainants before the Court of Appeals raised and thoroughly discussed the very same issues invoked in the administrative complaint.[16]

On October 8, 2024, the JIB found Judge Ofrecio guilty of gross misconduct for violating the New Code of Judicial Conduct and recommended her dismissal from the service, with forfeiture of benefits and disqualification from holding any public office, including positions in government-owned or controlled corporations.[17]

In its Report, the JIB found that Judge Ofrecio's conduct during AAA's direct examination showed a complete lack of judicial temperament. It noted that she asked inappropriate and humiliating questions about sexual acts beyond the allegations in the Information, in violation of the Rule on the Examination of a Child Witness. The JIB further emphasized that the undisputed psychological assessment confirmed the trauma suffered by AAA, leading to the finding that Judge Ofrecio was guilty of gross misconduct for violating Canons 2, 4, and 6 of the New Code of Judicial Conduct.[18]

The ponencia affirmed the findings of the JIB and found Judge Ofrecio guilty of gross misconduct.[19] However, it modified the penalty to suspension from office for a period of one year and one day rationing that while the respondent judge have five other pending administrative complaints, "only a prior finding of administrative liability with the corresponding imposition of a penalty . . . may be appreciated as an aggravating factor."[20]

With all due respect, I part ways with the majority as to the penalty imposed.

I

On November 11, 2025, the Court approved the 2025 Code of Judicial Conduct and Accountability, which applies to all incumbent justices and judges in the Philippine Judiciary unless otherwise provided. Thus, Judge Ofrecio's infractions shall be evaluated under the new Code.

The Preamble of the 2025 Code of Judicial Conduct and Accountability emphasizes that integrity embodies the

core values every judge must uphold: independence, fidelity, impartiality, propriety, equality, competence, diligence, and accountability. These principles define the ethical foundation of Judicial office and serve as the true measure of a Judge's fitness to remain on the bench. A judge who fails to uphold any of these essential values proves unworthy of the trust and authority vested in the judiciary.

Section 2 and 3 of Canon II on Fidelity provides:

> SECTION 2. Fealty to the role as a judge. - A judge shall be faithful to one's role in the administration of justice. In the discharge of official functions, a judge shall ensure that one's conduct is above reproach and is perceived to be so.
>
> SECTION 3. Fealty to the institution. - A judge shall faithfully discharge one's functions .so as to inspire confidence in the Judiciary. Justice must not merely be done but must also be seen to be done.

Meanwhile, Section 4 and 5 of Canon IV on Propriety states:

> SECTION 4. Use of appropriate language. -A judge shall use only dignified, gender-fair and child- and culturally-sensitive language at all times.
>
> SECTION 5. Judicial temperament. - A judge shall, at all times, exhibit the judicial temperament required of the position as reflected in the ability to effectively and respectfully communicate with counsel, witnesses, litigants, court staff, and other court users, as well as the willingness to listen to and consider all sides of a debatable position. A judge shall strive to be patient, open-minded, courteous, tactful, courageous, resolute, compassionate, and humble. (Emphasis supplied)

At the same time, Section 2 and 4 of Canon V on Equality mandates:

> SECTION 2. Avoidance of stereotyping. - A judge shall refrain from stereotyping anyone based on their circumstances. Neither shall a judge exhibit conduct or use language that perpetuates discriminatory stereotypes.
>
> SECTION 4. Permissible differential treatment. - In ensuring equal access to court proceedings and remedies, a judge shall make reasonable adjustments to accommodate vulnerable persons, to the extent allowed by existing laws and rules.
>
> A vulnerable person is one who is at a higher risk of harm than others, including, but not limited to, children, women, the elderly, the homeless, persons with disability, persons deprived of liberty, human rights victims, victims of domestic violence, victims of armed conflict, those who are socioeconomically disadvantaged, or those who belong to racial or ethnic minorities. (Emphasis supplied)

In Correa v. Belen,[21] the Court underscored these values and emphasized that a judge is the visible embodiment of the law. For this reason, judges are required, at all times, to comport themselves in a manner that preserves the people's faith in the judicial system, including by being temperate in both word and deed.[22]

Divinagracia v. Ozon[23] defined what constitutes gross misconduct:

> "Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer." The offense becomes gross misconduct when any of the elements of corruption, clear intent to violate the law, and flagrant disregard of established rule is present.[24] (Citations omitted)

In Office of the Court Administrator v. Reyes,[25] respondent judge was found guilty of gross misconduct and was dismissed from service after forensic evidence from a court-issued laptop revealed he had been engaging in corrupt practices and soliciting bribes from lawyers, litigants, and local elective officials:

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> In the case at bar, even without evidence of his receipt of the bribes, Judge Reyes's solicitation. of money and even, his mete fraternizing with lawyers, are already consummated violations of the New Code of Judicial Conduct, and constitute gross misconduct. His casual interactions with lawyers and litigants who have pending cases in his sala, even if there be no evidence of a pay-off, only serve to heighten the public's doubts on the credibility of the judiciary to discharge its mandate. His unethical behavior does not only damage his reputation and qualifications but also tarnishes the image of the judiciary as it sends the message that justice can be bought for a price. He thus lost and should be stripped of the honor of wearing the judicial robe. If this Court had dismissed a sheriff for asking a bribe of PHP 1,500.00, there is no reason to give a different penalty to a judge who engages in bribery and extortion.[26] (Citation omitted)

Meanwhile, in Balutan v. Villarosa,[27] respondent judge was found guilty of gross misconduct and fined in lieu of dismissal due to his retirement, after repeatedly disregarding established rules:

> Here, Judge Villarosa has shown a stubborn disregard of the rules which casts doubt on his impartiality, integrity, and propriety as shown by the totality of the circumstances relating to the issuance of his writs of injunction and execution. Undeniably, Judge Villarosa allowed his court to be weaponized through an abuse of court processes. His act clearly violated the New Code of Judicial Conduct particularly Canon 2, Section 1 which requires that judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer.[28]

II

The principle of the best interest of the child stands as a foundational pillar of the Philippine legal system and reflects the State's highest commitment to the protection of children as among the most vulnerable members of society. More than a mere aspirational policy, it is a controlling legal and moral imperative that permeates the Constitution, statutes, procedural rules, and jurisprudence.

The Philippine Constitution unequivocally accords paramount importance to the welfare and best interests of children, mandating their protection, proper care, and full development as an essential duty of the State. Article II, Section 13 of the Philippine Constitution reads:

> Section 13. The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.

This policy is strengthened by Article XV, Section 3(2) of the Philippine Constitution which states that the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development shall be defended.

In furtherance of this constitutional. policy, Congress has enacted numerous statutes designed to protect children from abuse, exploitation, violence, neglect, and other forms of harm, while ensuring their access to education, rehabilitation, and social support.

Republic Act No. 7610[29] affords special protection to children from all forms of abuse, neglect, cruelty exploitation and discrimination and other conditions, prejudicial to their development. Section 2 of the law provides:

> It shall be the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control.
>
> The best interests of children shall be the paramount consideration in au actions concerning them, whether

> undertaken by public or private social welfare institutions, courts of law, administrative authorities, and legislative bodies, consistent with the principle of First Call for Children as enunciated in the United Nations Convention of the Rights of the Child. Every effort shall be exerted to promote the welfare of children and enhance their opportunities for a useful and happy life

This principle is prioritized by requiring that the reporting of cases involving physical or psychological injury, sexual abuse or exploitation, or negligent treatment of children, including its investigation, be conducted in a manner consistent with promoting the best interest of the child victim while ensuring the effective prosecution of offenders.[30]

Similarly, Republic Act No. 11642[31] reinforces this by establishing that the best interest of the child is the paramount consideration in adoption and alternative childcare policies, emphasizing simple, inexpensive, and expeditious administrative proceedings.[32]

Further expanding this protective umbrella into the digital landscape, Republic Act No. 11930[33] mandates that fundamental consideration be given to children's interests in all actions related to online safety and protection from sexual exploitation, including the conduct of a closed-door investigation, prosecution, and/or trial.[34]

Complementing these legislative measures, constitutional commissions and executive agencies have adopted policies, programs, and protocols that institutionalize child-sensitive procedures and protective interventions across various sectors.

The Commission on Human Rights (CHR), in its capacity as the Ombudsman for Children, interprets this standard through a rights-based child protection framework anchored in the United Nations Convention on the Rights of the Child.[35] A critical parameter eetablished by the Commission is that the best interest of the child must prevail over public access to information, ensuring the privacy and safety of children are never compromised.[36]

On Witness Protection, the CHR recognizes that child witnesses are entitled to special protection measures consistent with their age and circumstances. This includes referral to the Department of Social Welfare and Development (DSWD) or appropriate child-caring agencies, safeguarding of their identity and personal information, access to education and welfare services, and assistance from trained personnel capable of handling children with the necessary sensitivity and care.[37]

The Executive branch, particularly through the Department of Education (DepEd), adopts the principle of "First Call for Children," which mandates that the best interest of the child be the paramount consideration in all decisions and actions within the school system.[38] The Department reiterates a zero-tolerance policy for child abuse, exploitation, or bullying to maintain an environment conducive to learning.[39] Furthermore, the Executive branch recognizes the participatory rights of children, requiring that their views be accorded due weight in the formulation and implementation of· policies affecting them.[40]

Our very own Judiciary has reinforced these protections through procedural rules and jurisprudence that recognize the unique vulnerability of children and require courts to uphold the best interests of the child as a paramount consideration.

Under the 2019 Revised Rule on Children in Conflict with the Law[41] and the Rule on Examination of a Child Witness,[42] the "best interest of the child" is defined as the totality of circumstances and conditions that are most congenial to the survival, protection, and security of the child and most encouraging to their physical, psychological, and emotional development. It is also interpreted as the least detrimental available alternative for safeguarding the child's growth.[43]

With regard to children in conflict with the law,[44] the judge is duty-bound to take an active and vigilant role in ensuring that the rights, welfare, and dignity of the child are fully protected at every stage of the proceedings. Section 39 of A.M. No. 02-1-18-SC provides:

> SECTION 39. Responsibilities of the Court. — For the protection of the rights of the child in the conflict with the law, the court shall have the following responsibilities:
>
> (1) To monitor the status of a child whose case is pending in its court placed in a "Bahay Pag-asa" or other institution during the pendency of the child's case;
>
> (2) To receive and refer to the proper agency complaints concerning violations of the rights of the child whose case is pending in its court;
>
> (3) To require all professionals working for the welfare of the child, such as barangay captains, teachers, social workers, medical professionals, and law enforcers, to render regular monthly reports to the court;
>
> (4) To order access to adequate services for rehabilitation, counseling and other forms of reintegration for the child;
>
> (5) To ensure that the child who is capable of forming his or her own views has the right to express those views freely in all matters affecting the child, and that such views be accorded due weight in accordance with the developmental age and maturity of the child;
>
> (6) To ensure that the child, either directly or through a representative, is provided the opportunity to be heard in all proceedings affecting such child;
>
> (7) To ensure communication at all times between the judge and the child;
>
> (8) To ensure that the child sits with close family members and other persons of the child's choice during the court proceedings;
>
> (9) To ensure that the child can communicate freely with counsel at all times;
>
> (10) To ensure that the child is informed in age-appropriate language of all stages of the judicial proceeding affecting such child;
>
> (11) To ensure that a child placed in a "Bahay Pag-asa" or Youth Rehabilitation Center or in any child facility be given appropriate medical examination in order to determine and put on record any evidence of ill-treatment; to identify any physical or mental condition requiring medical attention; and thereafter make sure that the child is provided adequate treatment and medical attention;
>
> (12) To ensure that a child is informed as soon as possible of the death, serious illness or injury of any immediate family member and be allowed to visit the ill family member or attend the funeral, when appropriate and advisable;
>
> (13) To ensure that if a child dies during the pendency of the case or within six (6) months from release, an independent inquiry is conducted on the circumstances of the death and a report thereof, including the child's death certificate, be made available to the child's mother or father, guardian, custodian or nearest relative;
>
> (14) When appropriate and advisable, to allow the child to temporarily leave the detention home or rehabilitation center by means of an "out-on-pass" order to attend special family occasions such as Christmas and New Year celebrations. The "out-on-pass" order shall contain reasonable restrictions to ensure safety, security and timely return to detention as may be determined by the court;
>
> (15) To allow at all times, and from the moment of initial contact, any member of the family or the guardian of the child to visit the child, unless prejudicial to the latter's best interest;

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> (16) To allow the appointment of a Guardian Ad Litem if available and advisable, to enable the child to raise concerns and complaints without fear of retribution; and
>
> (17) To undertake all other appropriate measures to ensure the promotion of the best interest of the child and the child's eventual reintegration in society.

When determining this interest, the court must consider factors such as the child's age, sex, mental and physical health, the emotional ties between the parents and the child, and the parents' ability to provide for basic needs like food, shelter, and medical care. Additional considerations include the child's established living pattern concerning school and community, the presence of other relatives in a better position to provide care, and the child's own background, maturity, and level of understanding.[45] Ultimately, judicial proceedings must be conducted in a manner that allows the child to participate fully and freely while minimizing trauma.[46]

Similarly, in the examination of a child witness, the judge assumes a proactive and protective role, acting as the primary guardian of the child's welfare to minimize trauma while facilitating the search for truth. This role includes the exclusive authority to conduct competency examinations and the continuing duty to assess the child's ability to testify throughout the proceedings.[47]

Even prior to the adoption of the Rule on Examination of a Child Witness, the Court consistently recognized that a child, irrespective of age, may be deemed a competent witness, subject to the judge's determination:

> No precise minimum age can be fixed at which children shall be excluded from testifying. The intelligence, not the age, of a young child is the test of the competency as a witness. It is settled that a child, regardless of age, can be a competent witness if he can perceive and, in perceiving, can make known his perception to others and that he is capable of relating truthfully the facts for which he is examined.
>
> In determining the competency of a child witness, the court must consider his capacity (a) at the time the fact to be testified to occurred such that he could receive correct impressions thereof; (b) to comprehend the obligation of an oath; and (c) to relate those facts truly to the court at the time he is offered as a witness. The examination should show that the child has some understanding of the punishment which may result from false swearing. The requisite appreciation of consequences is disclosed where the child states that he knows that it is wrong to tell a lie, and that he would be punished if he does so, or that he uses language which is equivalent to saying that he would be sent to hell for false swearing. A child can be disqualified only if it can be shown that his mental maturity renders him incapable of perceiving facts respecting which he is being examined and of relating them truthfully.
>
> The question of competency of a child-witness rests primarily in the sound discretion of the trial court. This is so because the trial judge sees the proposed witness and observes his manner of testifying, his apparent possession or lack of intelligence, as well as his understanding of the obligation of an oath. Since many of the witness' manners cannot be photographed into the record, the finding of the trial judge will not be disturbed or reversed unless from what is preserved it is clear that such finding was erroneous.[48] (Citations omitted)

The judge is also empowered to modify and control the courtroom environment in whatever manner may be necessary to ensure the child's safety, comfort, dignity, and psychological well-being throughout the proceedings. Section 13 of A.M. No. 004-07-SC reads:

> SECTION 13. Courtroom Environment. — To create a more comfortable environment for the child, the court may, in its discretion, direct and supervise the location, movement and deportment of all persons in the courtroom including the parties, their counsel, child, witnesses, support persons, guardian ad litem, facilitator, and court personnel. The child may be allowed to testify from a place other than the witness chair. The witness chair or other place from which the child testifies may be turned to facilitate his testimony but the opposing party and his counsel must have a frontal or profile view of the child during the testimony of the child. The

> witness chair or other place from which the child testifies may also be rearranged to allow the child to see the opposing party and his counsel, if he chooses to look at them, without turning his body or leaving the witness stand. The judge need not wear his judicial robe.
>
> Nothing in this section or any other provision of law, except official in-court identification provisions, shall be construed to require a child to look at the accused.
>
> Accommodations for the child under this section need not be supported by a finding of trauma to the child.

Furthermore, the judge bears the solemn responsibility of strictly regulating the manner and mode of questioning to ensure that the child is protected from intimidation, confusion, humiliation, or retraumatization, consistent at all times with the child's best interests and psychological well-being. Section 19 of A.M. No. 004-07-SC provides:

> SECTION 19. Mode of Questioning. — The court shall exercise control over the questioning of children so as to (1) facilitate the ascertainment of the truth, (2) ensure that questions are stated in a form appropriate to the developmental level of the child, (3) protect children from harassment or undue embarrassment, and (4) avoid waste of time.
>
> The court may allow the child witness to testify in a narrative form.

To safeguard the child's privacy and emotional security, the judge may exclude the public from the courtroom,[49] authorize live-link television testimony,[50] preside over videotaped depositions,[51] and issue stringent protective orders to keep all records regarding the child under seal.[52]

All these serve as the primary mechanisms through which the State safeguards the child's fundamental rights to survival, protection, development, and meaningful participation in matters affecting them. Taken together, this commitment is reflected in a whole-of-government approach—through constitutional mandates, legislative enactments, executive measures, and judicial safeguards—that embodies a unified and coordinated State policy placing the welfare, dignity, and rights of the child at the center of governance and the administration of justice.

III

To recall, complainants charged Judge Ofrecio with gross misconduct because of her "flagrant disregard of A.M. No. 00-4-7-SC when she . . . subjected the child witness, AAA, to sexually explicit, intimidating, and humiliating questioning."[53] An excerpt of the questions of Judge Ofrecio are reproduced below:

> COURT:
>
> . . . .
>
> Q
>
> Pero naulit pa ang pangalawa na pagkikita niyo. Hindi ka na sana nakipag kita sa kanya the second, the third, the fourth time, di ba? Alam mo na yung tama o mali hindi ba? Noong [hinalikan] ka niya sinumbong mo kay mommy para hindi na naulit ng second time na makipag meet ka pero bakit ka pa makikipagkita sa kanya ng pangalawa, pangatlo, pang-apat na beses, nililigawan ka ba niya?
>
> A
>
> Hindi po.

. . . .

Q

Bakit ka pumayag na isubo yung titi niya doon sa bunganga mo e hind mo naman yan boyfriend sabi mo kanina diba o mag boyfriend na kayo?

A

Hindi pa po, pinilit niya po yung ulo ko na isubo yun sa titi niya.

Q

Kaya nga pinag hahalikan ka niya diba, hinahawakan niya yung dede mo nilamas niya diba, tapos dapat ipapasok niya yung finger niya doon sa ari mo, pero dahil sa meron ka nga sinabi mo sa kanya na meron kang mens kaya pinasubo niya yung titi niya sa bunganga mo. Bakit hindi kinagat o sinaktan mo nalang sana yung titi niya habang nakasubo? Hindi mo ba yun ginawa?

A

Hindi po.

Q

Pero Nakita mo siyang nag jakol doon sa harapan mo, kaya nag palabas siya, alam mo rin na nakapag palabas siya?

A

Opo, puti po yung kulay?

Q

Wala kang pag hanga pero bakit sumama ka sa kanya, mula June 01, June 06, natapos naulit muli nung July 08, bakit ka sumama sa isang lalaki kung ayaw mo naman siya o may crush ka din sa kanya?

A

Wala po.

Q

Nililigawan ka ba niya?

A

Hindi po.

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Q

Edi mas lalo sana, lalo hindi ka niya nililigawan e bakit ka sumama sa isnag [sic] lalaki na ganyan tapos naulit ng naulit yung nangyari, hindi lang pag halik, pinasubo pa pala niya yimg titi niya nung June 06, tapos nangyari ulit nung July 08, bakit sumama ka pa sa kanya? Sabi mo kinatakutan mo na siya nung unang araw palang na nangyari, sana hindi ka na sumama sa kanya pa nung pangalawa at pangtalong pagkakataon?

A

Hindi ko na po alam.

. . . .

Q

Hindi mo nagustuhan pero bakit sinubo mo pa?

A

Baka po may ibang gawin e.[54]

Complainants further averred that the judge's deeply inappropriate conduct inflicted severe emotional distress and psychological trauma upon the minor, as evidenced by the psychological evaluation.[55]

The ponencia ruled that Judge Ofrecio acted in flagrant disregard of Section 19 of A.M. No. 00-4-07-SC which constitutes gross misconduct.[56] I fully agree.

The excerpts from the transcript starkly reveal the profoundly sexually explicit, patently inappropriate, and deeply humiliating nature of Judge Ofrecio's questioning. Far from exhibiting the restraint, sensitivity, and dignity demanded of a judicial officer—especially in proceedings involving a child witness—her remarks were degrading and utterly incompatible with the mode of questioning required of a child witness.

To ascertain whether the crime charged had been committed, Judge Ofrecio needed only to ask questions necessary to elicit the truth (i.e. whether AAA was sexually abused). Instead, the transcript plainly reveals that she framed her questions in a manner designed to reinforce the reprehensible narrative that AAA herself was to blame for the abuse inflicted upon her. By repeatedly insisting that AAA should not have accompanied the accused the second, third, and fourth time because "something sexual" had already been done to her,[57] Judge Ofrecio abandoned the role of an impartial magistrate and effectively assumed the role of an advocate for the defense. Worse, she shifted the blame from the accused to the child victim herself.

Judge Ofrecio's questions were not directed toward the fair ascertainment of facts. Rather, they were calculated to cast doubt upon AAA's credibility by faulting her for circumstances no 13-year-old child can reasonably be expected to navigate with the judgment, maturity, or freedom of an adult. Her remarks displayed not merely insensitivity, but a disturbing disregard of the realities of child abuse, where fear, intimidation, manipulation, and psychological coercion often render minors incapable of resisting or escaping their abusers.

As a parent and as a member of the bench, I strongly abhor such reprehensible conduct.

A judge presiding over a case involving a child victim of sexual abuse has the solemn duty to protect the child from further trauma, harassment, and undue embarrassment—not to subject her to accusatory and degrading questioning that insinuates complicity in her own abuse.

AAA entered the courtroom seeking the protection and succor of the law after suffering sexual abuse that had already caused her acute stress, and severe emotional trauma.[58] Yet, instead of finding refuge in the court, she

was met with hostility, humiliation, and victim-blaming from the very judge duty-bound to safeguard her welfare. Judge Ofrecio not only failed AAA, she exacerbated the child's trauma by turning the courtroom into an arena of further emotional harm and retraumatization.

Most alarming is that these statements came from a Family Court judge, who is expected to possess heightened sensitivity toward children and an exacting understanding of the legal protections afforded to them. Instead of embodying the Judiciary's constitutional duty to safeguard vulnerable children, Judge Ofrecio caused renewed psychological and emotional harm to the victim in open court and perpetuated the pernicious notion that a child may somehow bear responsibility for the sexual violence committed against her.

IV

Section 18, Canon VII of the 2025 Code of Judicial Conduct and Accountability classifies gross misconduct as a serious offense. Section 22, Canon VII of the same rule provides for the penalty for a serious offense:

> SECTION 22. Penalties. -
>
> (1)
>
> If the respondent is found guilty of a serious offense, any of the following penalties shall be imposed:
>
> (a) Dismissal from the service, forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office, including in government-owned or -controlled corporations. Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
>
> (b) Suspension from office without salary and other benefits for one year and one day up to three years; and/or
>
> (c) A fine of PHP 101,000.00 but not more than PHP 500,000.00. (Emphasis supplied)

Meanwhile, Section 24 and 25 of Canon VII of the 2025 Code of Judicial Conduct and Accountability provides for modifying circumstances in determining the appropriate penalty and the manner of its imposition:

> SECTION 24. Modifying Circumstances. - In determining the appropriate penalty to be imposed, the Court may, in its discretion, appreciate the following mitigating and aggravating circumstances:
>
> (1) Mitigating circumstances:
>
> (a) First offense;
>
> (b) Length of service of, at least, 10 years with no previous disciplinary case where respondent was meted an administrative penalty;
>
> (c) Exemplary performance;
>
> (d) Humanitarian considerations;
>
> (e) Unconditional admission of guilt and public demonstration of remorse; and
>
> (f) Other analogous circumstances.
>
> (2) Aggravating Circumstances:
>
> (a) Finding of previous administrative liability where a penalty has been imposed, regardless of nature or gravity;
>
> (b) Length of service facilitated the commission of the offense;

(c) Employment of fraudulent means to conceal the offense;

(d) Arrogance, belligerent attitude of the respondent, or lack of remorse; and

(e) Other analogous circumstances.

SECTION 25. Manner of imposition of penalty. - If one or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court may impose the penalty of suspension or fine, for a period or amount not exceeding double of the maximum prescribed under this Canon.

If one or more mitigating circumstances and no aggravating circumstances are present, the Supreme Court may impose the penalty of suspension or fine, for a period or amount not less than half of the minimum prescribed under this Canon.

If there are both aggravating and mitigating circumstances present, the Supreme Court may offset each against the other.

Notwithstanding the foregoing, the Supreme Court may impose the next higher or lower penalty against the respondent subject to its appreciation of the number and gravity of the mitigating and aggravating circumstances present.

The ponencia took judicial notice of the JIB's reporting which stated that Judge Ofrecio has five administrative complaints pending before this Court and before the JIB.[59] However, it explained that "the mere pendency of administrative proceedings, absent any final adjudication and imposition of a penalty, does not possess any legal weight for the purpose of aggravating the penalty to be imposed."[60] Thus, the ponencia imposed a penalty of suspension from office for a period of one year and one day.[61]

While I agree that Section 24(2)(a) of Canon VII contemplates a prior finding of administrative liability and, therefore, does not strictly apply to mere pending administrative complaints, I respectfully submit that the existence of such pending complaints may nevertheless be appreciated under Section 24(2)(e) of the same Canon as "other analogous circumstances."

Although pending complaints do not yet constitute conclusive proof of wrongdoing, they may still be considered insofar as they reflect a pattern of alleged misconduct relevant to the determination of the appropriate administrative penalty.

In Office of the Court Administrator v. Dumayas,[62] the Court took into consideration the respondent judge's pending administrative charges in determining the appropriate penalty to be imposed. It explained:

> That a significant number of litigants saw it fit to file administrative charges against Judge Dumayas, with most of these cases having the same grounds, i.e., gross ignorance of the law or procedure and knowingly rendering unjust judgment, only shows how poorly he has been performing as a member of the bench. The Court takes the aforementioned incidents as evidence of respondent's stubborn propensity to not follow the rule of law and procedure in rendering judgments and orders. This definitely has besmirched the integrity and seriously compromised the reputation, not only of his court, but more importantly, of the entire judicial system which he represents.[63]

To disregard them entirely would unduly constrain the Court's ability to assess the totality of circumstances surrounding the respondent's fitness to remain in judicial service. After all, the imposition of disciplinary sanctions is not solely punitive in character but also seeks to preserve the integrity of the Judiciary and protect public confidence in the courts.[64]

Besides, the penalty for grave misconduct as a serious offense is any of the following: (a) dismissal from service;

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(b) suspension from office; or (c) a fine of PHP 101,000.00 but not more than PHP 500,000.00. Thus, the penalty of dismissal from service is still warranted.

All told, while I do agree with the majority that respondent judge is liable for gross misconduct, this Court cannot and must not overlook misconduct of such a grave and reprehensible nature, especially where the victim is a child whom the Judiciary is constitutionally and morally bound to protect. Under these circumstances, the ultimate penalty of dismissal from the service is not merely warranted—it is imperative to uphold the Judiciary's solemn duty to safeguard vulnerable children, preserve the integrity of the courts, and maintain the people's faith in the administration of justice.

ACCORDINGLY, I vote to DISMISS respondent Judge Suwerte L. Ofrecio from service.

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[*] In line with the Resolution dated February 4, 2025 in A.M. No. 23-10-18-SC titled "Further Amendments to Supreme Court Amended Administrative Circular No. 83-2015 (Re: Protocols and Procedures in the Promulgation, Publication, and Posting on the websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances)," the names of the private offended parties along with all other personal circumstances that may tend to establish their identities, are made confidential to protect their privacy and dignity.

[1] Ponencia, p. 2.

[2] Id.

[3] Id. at 2-3.

[4] Id. at 3-6.

[5] Id. at 6-7.

[6] Id. at 7.

[7] Id.

[8] Id.

[9] Id. at 6.

[10] Id. at 7.

[11] Id.

[12] Id.

[13] Id. at 7-8.

[14] Id. at 8.

[15] Id.

[16] Id.

[17] Id. at 8-9.

[18] Id. at 9.

[19] Id. at 10.

[20] Id. at 18.

[21] 641 Phil. 131 (2010) [Per J. Nachura, Second Division].

[22] Id. at 136.

[23] 950 Phil. 571 (2024) [Per Curiam, En Banc].

[24] Id. at 579-580.

[25] 948 Phil. 100 (2023) [Per Curiam, En Banc].

[26] Id. at 144-145.

[27] 951 Phil. 700 (2024) [Per Curiam, En Banc].

[28] Id. at 712.

[29] Republic Act No. 7610 or the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act."

[30] See section 2 of Republic Act No. 7610.

[31] Republic Act No. 11642 or the "Domestic Administrative Adoption and Alternative Child Care Act."

[32] See section 2 and 8 of Republic Act No. 11642.

[33] Republic Act No. 11930 or the "Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act."

[34] See section 2 and 21 of Republic Act No. 11930.

[35] See approval of the CHR Child Protection Policy, Resolution CHR (IV) No. POL 2015-007, [May 4, 2015].

[36] See IX (F) of Resolution CHR (IV) No. POL 2015-007.

[37] See IX (H) of Resolution CHR (IV) No. POL 2015-007.

[38] See section 2 of DepEd Child Protection Policy, DepEd Order No. 040-12.

[39] See section 2 of DepEd Child Protection Policy, DepEd Order No. 040-12.

[40] See section 7(G) of DepEd Child Protection Policy, DepEd Order No. 040-12.

[41] See the 2019 Supreme Court Revised Rule on Children in Conflict with the Law, A.M. No. 02-1-18-SC.

[42] See the Rule on Examination of Child Witness, A.M. No. 00-4-07-SC.

[43] See section 4(e) of A.M. No. 02-1-18-SC; Section 4(g) of A.M. No. 00-4-07-SC.

[44] A child in conflict with the law is a person below 18 years old who is alleged as, accused of, or adjudged as having committed an offense under Philippine Laws. (2019 Supreme Court Revised Rule on Children in Conflict with the Law, A.M. No. 02-1-18-SC).

[45] A.M. No. 02-1-18-SC (2019), sec. 40.

[46] A.M. No. 02-1-18-SC (2019), sec. 43.

[47] See A.M. No. 02-1-18-SC (2019), sec. 6(d) and (f).

[48] People v. Pruna, 439 Phil. 440, 458-459 (2002) [Per C.J. Davide, Jr., En Banc].

[49] See A.M. No. 004-07-SC (2019), sec. 23.

[50] See A.M. No. 004-07-SC (2019), sec. 25.

[51] See A.M. No. 004-07-SC (2019), sec. 27.

[52] See A.M. No. 004-07-SC (2019), sec. 31.

[53] Ponencia, p. 12.

[54] Id. at 3-4, 6.

[55] Id. at 12.

[56] Id.

[57] Id. at 3-4.

[58] Id. at 7.

[59] Id. at 18.

[60] Id.

[61] Id. at 19.

[62] 827 Phil. 173 (2018) [Per Curiam, En Banc].

[63] Id. at 189-190.

[64] Flores-Concepcion v. Castañeda, 884 Phil. 66, 106 (2020) [Per J. Leonen, En Banc]

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