

EN BANC

A.M. No. 17-11-06-CA – RE: ANONYMOUS LETTER-COMPLAINT
[with Attached Pictures] AGAINST ASSOCIATE JUSTICE
NORMANDIE B. PIZARRO, COURT OF APPEALS

Promulgated:

March 13, 2018

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DISSENTING OPINION

LEONEN, J.:

Justice Pizarro's acts warrant not merely a fine of ₱100,000.00, but dismissal from the service. I dissent from the *ponencia's* conclusions concerning the imposable penalty.

Concededly, in *City Government of Tagbilaran v. Judge Hontanosas, Jr.*,¹ this Court imposed a ₱12,000.00 fine and issued a stern warning against the respondent therein for playing slot machines in a casino and going to cockpits and placing bets on cockfights. However, the facts and circumstances in this case show that a higher penalty must be imposed on respondent.

In contrast to *City Government of Tagbilaran*, the respondent in this case is not a Municipal Trial Court judge, but a Justice of the Court of Appeals. By virtue of his higher judicial rank as a member of a collegiate appellate court, a degree below only to this Court, respondent should be held to a higher standard of judicial conduct.

The *ponencia's* analysis of Supreme Court Circular No. 4 issued on August 27, 1980 and Administrative Matter No. 1544-0 dated August 21, 1980 reasons that justices of collegiate courts are without the prohibition from entering and gambling in casinos as they are neither judges of inferior courts nor personnel of the court. Instead, respondent was found to have violated, among others, Section 14(4)(a) of Presidential Decree No. 1896, which disallows government officials connected directly with the operation of the government or any of its agencies from playing in Philippine Amusements and Gaming Corporation casinos.

The difference between Supreme Court Circular No. 4 issued on

¹ 425 Phil. 592-603 (2002) [Per C.J. Davide, Jr., First Division].

August 27, 1980 and Administrative Matter No. 1544-0 dated August 21, 1980, and Presidential Decree No. 1896, is that the former prohibits not only playing in gambling casinos, but even mere entry therein. This strict prohibition was emphasized in OCA Circular No. 231-15 dated October 12, 2015, in which judges and court personnel were strictly reminded that they cannot gamble or be seen in casinos.

The stricter version is also found in Memorandum Circular No. 20 issued on October 6, 1986,² Memorandum Circular No. 8 issued on August 28, 2011,³ and Memorandum Circular No. 6 dated September 20, 2016.⁴ This stringent prohibition against government officials entering or being present in gambling casinos is consistent with the code of conduct imposed on public servants. As stated in Memorandum Circular No. 6 dated September 20, 2016:

In view of its negative effect on the public perception of government service as a whole, the mere entry or presence of government officials and employees in a gambling casino shall be considered as conduct prejudicial to the best interest of the service, unless the same was in the performance of official duties and functions.

I disagree that only judges of the inferior courts and court personnel must abide by a severe proscription, while justices of collegiate courts, the latter of which necessarily includes the members of this Court, are given more leniency in the activities they may engage in. Members of the judiciary with higher judicial rank must abide by more stringent norms in the conduct of their professional and personal lives. High-ranking members of the judiciary are the benchmark by which their colleagues and subordinates model their own behavior. Should they act in such a manner not befitting their rank, they should be penalized accordingly. This is the price of occupying an exalted position within our ranks.⁵

By respondent's own admission, he had not only entered at least two casinos, but had gambled both times, albeit in what he terms in a parlor game concept:

Stripped of all technicalities, and to save your Honors of your precious worktime, on the casino table photos, I plead guilty to my indiscretion. My specifics: the same was taken at a Clark casino when I

² Titled "Enjoining Strict Enforcement of P.D. No. 1067-B Granting a Franchise to the Philippine Amusement and Gaming Corporation (PAGCOR) to Establish, Operate and Maintain Gambling Casinos."

³ Titled "Enjoining Government Personnel and All Concerned from Entering or Playing in Casinos."

⁴ Titled "Enjoining All Government Officials and Employees to Strictly Observe and Comply with The Prohibition Against Going to Gambling Casinos."

⁵ *Dacera, Jr. v. Judge Dizon*, 391 Phil. 835-845 (2000) [Per J. Ynares-Santiago, First Division] citing *Vda. De Enriquez v. Judge Bautista*, 387 Phil. 544-554 (2000) [Per J. Vitug, Third Division]; *Anonymous v. Judge Achas*, 705 Phil. 17-25 (2013) [Per J. Mendoza, Third Division].

was accompanying a balikbayan US-based provincemate and former friend in Saudi Arabia some forty (40) years ago. We played a little after early breakfast, without our identity introduced or known, in parlor game fashion, small not big stakes. The photos might have been taken by people with ulterior motives knowing that I am planning for early retirement. I also confess that, sometime in 2009, when I was found to be sick of terminal cancer and was “biking and biking until I die”, I also played casino parlor game concept. Again, an indiscretion for a dying man.⁶

This makes it at least two times he has violated the express prohibition laid down in Presidential Decree No. 1896.

Canon 2 of the New Code of Judicial Conduct emphasizes that the requirement of integrity not only in a judge’s discharge of their office, but in their personal demeanor as well:

CANON 2

Integrity

Integrity is essential not only to the proper discharge of the judicial office but also to the personal demeanor of judges.

SECTION 1. 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.

SECTION 2. The behavior and conduct of judges must reaffirm the people’s faith in the integrity of the judiciary. Justice musty not merely be done but must also be seen to be done.

SECTION 3. Judges should take or initiate appropriate disciplinary measures against lawyers or court personnel for unprofessional conduct of which the judge may have become aware.

Moreover, Canon 4 of the New Code of Judicial Conduct requires propriety and the appearance of propriety in all of a judge’s activities:

CANON 4

Propriety

Propriety and the appearance of propriety are essential to the performance of all the activities of a judge.

SECTION 1. Judges shall avoid impropriety and the appearance of impropriety in all of their activities.

SECTION 2. As a subject of constant public scrutiny, judges must accept personal restrictions that might be viewed as burdensome by the

⁶ Comment, p. 1.



ordinary citizen and should do so freely and willingly. In particular, judges conduct themselves in a way that is consistent with the dignity of the judicial office. ...

Judges and justices must be irreproachable in their conduct, professional and personal, considering the exacting demands of moral righteousness and uprightness on the judiciary.⁷ The personal restrictions imposed on members of the judiciary and all other court personnel on entry in gambling casinos may appear burdensome, even excessive, but appearance is as important as reality in the performance of judicial functions and public service.⁸

Respondent's repeated violations of Presidential Decree No. 1896 not only demonstrate his disregard of the law and the norms of judicial service, but also seriously taint the public's perception of the judiciary and corrode the image it strives to uphold.

In violating Canons 2 and 4 of the New Code of Judicial Conduct, respondent committed gross misconduct.⁹ Gross misconduct includes "an act that is inspired by the intention to violate the law, or that is a persistent disregard of well-known rules"¹⁰, and tends to seriously undermine the faith and confidence of the people in the Judiciary.¹¹ As gross misconduct is a serious charge, dismissal from the service with all the accessory penalties is one of the sanctions which may be imposed.¹² Considering respondent's judicial rank, as well as the fact that he had admitted to violating the law at least twice, such a severe penalty is necessary under the circumstances.

ACCORDINGLY, I vote to hold Court of Appeals Associate Justice Normandie B. Pizarro **GUILTY** of gross misconduct. I vote that he be **DISMISSED** from the service, with the accessory penalties of forfeiture of all his retirement benefits, except accrued leave benefits, and disqualification

⁷ *Atty. Rosales v. Judge Villanueva*, 452 Phil. 121-128 (2003) [Per J. Azcuna, First Division]; *Delu Cruz v. Judge Bersamira*, 402 Phil. 671-684 (2001) [Per J. Ynares-Santiago, First Division].

⁸ *Ascaño, Jr. v. Judge Jacinto, Jr.*, A.M. No. RTJ-15-2405, January 12, 2015 [Per C.J. Sreno, First Division].

⁹ Section 8, Rule 140 of the Rules of Court states, in part:

Sec. 8. *Serious charges*. – Serious charges include: ...

3. Gross misconduct constituting violations of the Code of Judicial Conduct. ...

¹⁰ *Rosqueta v. Asuncion*, 730 Phil. 64-78 (2014) [Per J. Bersamin, First Division].

¹¹ *Id.*

¹² Section 11, Rule 140 of the Rules of Court states, in part:

Sec. 11. *Sanctions*. – A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:

1. 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 or controlled corporations. *Provided, however*, That the forfeiture of benefits shall in no case include accrued leave credits;

2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or

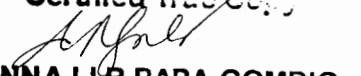
3. A fine of more than P20,000.00 but not exceeding P40,000.00. ...

from reinstatement or appointment to any public office, including government-owned or controlled corporations.



MARVIC M.V. F. LEONEN
Associate Justice

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