Republic of the Philippines
Supreme Court
Baguio City

EN BANC

JUDGE GENIE G. GAPAS-AGBADA, Complainant,	**A.M. No. P-23-084** **[Formerly OCA IPI No. 11-3696-P]**
-versus-	
ATTY. LOUIE T. GUERRERO, Clerk of Court, Office of the Clerk of Court, Regional Trial Court, Virac, Catanduanes, Respondent.	
x----------x	x----------x
ATTY. LOUIE T. GUERRERO, Clerk of Court, Office of the Clerk of Court, Regional Trial Court, Virae, Catanduanes, Complainant,	**OCA IPI No. 12-4000-RTJ**
-versus-	
JUDGE GENIE G. GAPAS-AGBADA, Presiding Judge, Regional Trial Court, Branch 42, Virac, Catanduanes [Acting Presiding Judge, Regional Trial Court, Branch 154, Pasig City and Assisting Judge, Regional Trial Court, Branch 221, Quezon City], Respondent.	
x----------x	x----------x

ATTY. LOUIE T. GUERRERO, Clerk of Court, Office of the Clerk of Court, Regional Trial Court, Virac, Catanduanes,

Complainant,

-versus-

JUDGE LORNA SANTIAGO-UBALDE, Municipal Trial Court, Virac, Catanduanes, designated as Acting Presiding Judge, Municipal Trial Court in Cities, General Santos City, South Cotabato; ARISTOTLE RAMOS, Legal Researcher, ORLANDO V. ARCILLA, JR., Process Server; and ISIDRO GUERRERO, Utility Worker, all of Regional Trial Court, Branch 42, Virac, Catanduanes,

Respondents.

A.M. No. P-23-086 [Formerly OCA IPI No. 12-2548-MTJ]

x----------x

ATTY. LOUIE T. GUERRERO, Clerk of Court, Office of the Clerk of Court, Regional Trial Court, Virac, Catanduanes,

Complainant,

-versus-

KARINA TABUZO, former Clerk III, Regional Trial Court, Branch 42, Virac, Catanduanes, now Clerk of Court, Metropolitan Trial Court, Branch 69, Pasig City,

Respondent.

x----------x

A.M. No. P-23-085 [Formerly OCA IPI No. 12-3996-P]

x----------x

LIBERTY SO-GUERRERO,
Complainant,

-versus-

Presiding Judge GENIE G. GAPAS-AGBADA, Regional Trial Court, Branch 42, Virac, Catanduanes [Acting Presiding Judge, Regional Trial Court, Branch 54, Pasig City and Assisting Judge, Regional Trial Court, Branch 221, Quezon City] and Judge LORNA SANTIAGO-UBALDE, Municipal Trial Court, Virac, Catanduanes, designated as Acting Presiding Judge, Municipal Trial Court in Cities, General Santos City, South Cotabato,
Respondents.

x----------x

OCA IPI No. 11-3764-RTJ

Present:

GESMUNDO, *C.J.*,
LEONEN,
CAGUIOA,
HERNANDO,*
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,*
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,**
KHO, JR., and
SINGH, *JJ.*

Promulgated:

April 25, 2023

x----------x

D E C I S I O N

***PER CURIAM*:**

The Cases

These are five consolidated cases involving related sets of facts.

In **A.M. No. P-23-084 [Formerly OCA IPI No. 11-3696-P]**, Judge Genie G. Gapas-Agbada (Judge Gapas-Agbada) charged Atty. Louie

---

* On leave.
** No part.

Guerrero (Atty. Guerrero), Clerk of Court of Regional Trial Court, Virac, Catanduanes with insubordination, discourtesy, and violation of the Code of Conduct for Court Personnel (CCCP)[1] in connection with the latter's alleged acts of disrespect toward her and acts unbecoming of a member of the Bar and a court employee.[2] Judge Gapas-Agbada also charged Atty. Guerrero with gross misconduct for violations of Republic Act No. 4200 or the Anti-Wiretapping Law,[3] and partisan political activities.[4]

In **OCA IPI No. 12-4000-RTJ**, Atty. Guerrero, on the other hand, charged Judge Gapas-Agbada with oppression, dishonesty, impropriety, and discourtesy for purportedly requiring her staff to drive for her and her relatives during office hours, engaging in drinking sessions, and fraternizing with the Chief Public Attorney of Catanduanes.[5] He also charged her with favoritism towards some of her staff against whom she failed to take disciplinary action despite their alleged wrongdoings.[6]

In **A.M. No. P-23-086 [Formerly OCA IPI No. 12-2548-MTJ]**, Atty. Guerrero also accused Judge Lorna Santiago-Ubalde (Judge Ubalde) of making a false promise to recommend his wife Liberty S. Guerrero (Liberty) to the position of Junior Process Server in the Municipal Trial Court, Virac, Catanduanes and making her prepare food and run errands for her. Too, he accused Utility Aide Isidro Guerrero (Isidro), Legal Researcher Aristotle Ramos (Aristotle), and Process Server Orlando Arcilla (Orlando) of punching the timecards of other court employees, loafing and sleeping during office hours and, except for Isidro, committing falsehoods in their affidavits, which Judge Gapas-Agbada used against him.[7]

In **A.M. No. P-23-085 [Formerly OCA IPI No. 12-3996-P]**, Atty. Guerrero likewise charged Karina Tabuzo (Karina), Clerk III, Regional Trial Court, Branch 42, Virac Catanduanes, now Clerk of Court, Metropolitan Trial Court, Branch 69, Pasig City, with punching the timecards of other employees, going out of the court during office hours, and committing falsehood in her affidavit which Judge Gapas-Agbada used against him.[8]

---

1 OCA IPI No. 11-3696-P, *Rollo*, p. 25.
2 OCA IPI No. 11-3696-P, *id.* at 2-24 and OCA IPI No. 12-4000-RTJ, *id.* at 371.
3 Otherwise known as the Anti-Wiretapping Law.
4 OCA IPI No. 11-3696-P, *id.* at 24-25 and 852.
5 *Id.* at 877-878.
6 *Id.* at 877.
7 OCA IPI No. 12-4000-RTJ, *id.* at 361.
8 *Id.* at 361-362.

In **OCA IPI No. 11-3764-RTJ**, Liberty charged Judge Gapas-Agbada and Judge Ubalde with conduct unbecoming of a judge, falsehood, and misdemeanor.[9] She alleged that Judge Gapas-Agbada's accusations against her husband were false, and that Judge Gapas-Agbada uttered offensive remarks towards the two of them. She likewise claimed that Judge Ubalde promised to recommend her for the position of Utility Aide and later, as Junior Process Server in Municipal Trial Court, Virac, Catanduanes; and asked her to do several personal errands.[10]

The Complaints

In **A.M. No. P-23-084 [Formerly OCA IPI No. 11-3696-P]**, Judge Gapas-Agbada stated that in 2010, she admonished Atty. Guerrero to stop encroaching into the prerogative of Judge Santiago and pressuring the latter to recommend his wife Liberty to the position of Junior Process Server in Municipal Trial Court, Virac, Catanduanes. When Isidro later on got appointed to the said position, Atty. Guerrero blamed her. From then on, Atty. Guerrero became disrespectful and antagonistic towards her despite the fact that she never intervened in the matter and had made it clear to Atty. Guerrero.[11]

She also called the attention of Atty. Guerrero to the reports she received that he and his wife Liberty were using for their own personal benefit the services of Reymond Padilla (Reymond), a utility personnel working at the Hall of Justice. The spouses would ask Reymond to do errands for them during official working hours, like picking up the chickens Liberty was selling and fetching their son from school.[12]

On another matter, she advised Atty. Guerrero to refrain from meddling in the cases filed by Atty. Ruel Borja (Atty. Borja), Chief of the Public Attorney's Office (PAO) in Catanduanes. Atty. Borja had reported to her that PAO clients consulted Atty. Guerrero about their cases.[13]

Another incident, Atty. Guerrero unilaterally picked one Rafael Vallejo, Jr. (Vallejo) as security chief for the Hall of Justice.[14] Atty. Guerrero did so without authority and in defiance of her standing order that she herself

---

9 OCA IPI No. 11-3696-P, *id.* at 853.
10 *Id.* at 886.
11 *Id.* at 853.
12 *Id.*
13 *Id.*
14 *Id.* at 854.

would conduct an interview of the candidates for the post. She eventually found out that Vallejo was a friend and drinking buddy of Atty. Guerrero. She also discovered that Atty. Guerrero had formed a *sosyodad* with security guards and utility workers, whereby the members would deposit cash with Liberty and take turns in hosting a drinking spree among themselves every Saturday afternoon.[15]

When she took over Atty. Guerrero's function of signing the Daily Time Records (DTRs) of the security guards, she discovered that the security guards had not been filing applications for leave whenever they were absent and Atty. Guerrero just tolerated them. She subsequently delegated the authority to sign DTRs to Atty. Lino Gianan (Atty. Gianan), Branch Clerk of Court, Regional Trial Court, Branch 42, Virac, Catanduanes. In the afternoon of June 30, 2011, Atty. Guerrero confronted her in her chambers and insisted that the duty of signing the DTRs of security guards belonged to him. During the confrontation, Atty. Guerrero once again brought up Liberty's failed application for Junior Process Server.[16]

On the evening of June 30, 2011, she and Atty. Guerrero were both invited for dinner at the house of Atty. Gianan. Some members of her staff were also present. They reported to her that Atty. Guerrero was surreptitiously taking pictures and videos of her. When she confronted Atty. Guerrero, the latter replied: "*Paano mo ako mahiling na nasa likuran mo ako? Yata palan igwa kang mata sa likod*" (How did you know that you were photograph[ed], do you have eyes on your back?) To avoid a further confrontation with him, she just left. Still, Atty. Guerrero continued to badmouth her to the other members of her staff who were also present during the dinner. Aristotle, Karina, Milben Ramos (Milben) and Orlando, all employees of Regional Trial Court, Branch 42, reported to her how Atty. Guerrero spewed words of disrespect and invectives against her in their presence. [17]

The next day, she issued Memorandum No. 20-2011[18] dated July 1, 2011 directing Atty. Guerrero to comment on the report relayed to her by the aforenamed employees, *viz.*:

> [Y]ou are directed to submit your comment on the report x x x [that] while you were under the influence of liquor and in the presence of other visitors:

---

15 *Id.*
16 *Id.*
17 *Id.* at 27-27a.
18 *Id.*

1. you stealthily caused the [recording of] the video and surreptitiously photographed me by using a cellphone;

2. after I left the house of [Atty. Gianan], you bragged that without my knowledge, you recorded through your cellphone our discussion/conversation [in my chambers] about the Security Guards of the Hall of Justice, Virac, Catanduanes x x x;

3. you boasted that said video, photographs and record of our conversation shall be used in helping Karen[19] Padilla [Magtagñob] (the former employee at RTC, Br. 42 who was not recommended by the undersigned for permanent appointment) in filing case/s against me;

4. you bragged that Judge Lelu Contreras, Presiding Judge of RTC, Br. 43, Virac, Catanduanes, shall help you and Kare[e]n Padilla [Magtagñob] prepare the charge/s and support your fight against me;

5. you claimed that you advised Mr. Felipe Ubalde, husband of Judge Lorna Santiago-Ubalde of MTC, Virac, Catanduanes, to seek the help of Judge Contreras, and she at once would help him, in executing affidavits against me and Judge Lorna Santiago-Ubalde;

6. you hurled invectives and malicious words against me; and

7. you tried to alienate my staff from me and swayed them not to give their full loyalty to me.

By Memorandum[20] dated July 4, 2011, Atty. Guerrero responded, thus:

1. Alleged Video/Photograph

I am wondering why you now reacted negatively to being photographed x x x. Could it be because you are afraid of being seen in a deglamorized condition with your ruffled hair, swaying to and from and laughing boisterously, clear signs of your drunkenness?

x x x and I asked who told you that I took your pictures and you answered that you saw me that is why I commented "*Paano mo ako mahiling na nasa likudan mo ako? Yata palan igwa kang mata sa likod?*" (How could you see me when I was at your back? So you have eyes at your back?) x x x[21]

---

19 Sometimes referred to as "Kareen" in some parts of the rollo.
20 OCA IPI No. 11-3696-P, pp. 32-38.
21 *Id.* at 32-33.

2. Recording of the discussion/conversation in your chamber about the security guards

   It is, indeed, true that I recorded what transpired inside your chamber when you were on top of your voice x x x I did this as a safety precaution to avoid either of us from imputing words to each other contrary to what was actually said especially because you are known to deny whenever you are confronted with what you have uttered. It is just unfortunate that I forgot to record the incident subject of your Memorandum x x x[22]

3. Using the video, photographs and record of the conversation to help [Karen] Padilla Magtagñob

   [Karen] has already filed a complaint against you x x and you know this because someone had leaked x x since you have informers all around the Hall of Justice.[23]

4. Bragging that Judge Lelu Contreras will help me and [Karen] Padilla Magtagñob in preparing the charge/s and support my fight against you

   [W]hy should you be offended if Judge Contreras will help me if ever I decide to file a complaint against you? Judge Contreras made the wise decision in not confronting you despite all the malicious demeaning and nasty remarks you have made against her, not to mention the anonymous letter which you asked [Karen] to encode and mail to the Supreme Court.[24]

5. Claiming that I advised Mr. Felipe Ubalde to seek the help of Judge Contreras in executing affidavits against you and his wife

   It was he who offered to execute an affidavit attesting to the fact that you violated the "No Smoking" directive because you and Judge Lorna Ubalde, including him, smoked inside your chamber x x x Do you realize how mad Mr. Ubalde is at you because of your influence on his wife that he even called you "*sulsultant,*" a corruption of "consultant" by joining the words "*sulsol*" and "consultant."

   I am surprised why the affidavit of your informer, Mr. Aristotle Ramos did not mention that Mr. Ubalde is going to complain about your smoking session in your chamber x x x Or, did you have it deleted since it is damaging to you?[25]

6. Hurling invectives and malicious words against you

---

22 *Id.*
23 *Id.*
24 *Id.* at 34.
25 *Id.* at 34 and 856.

You were no longer present when I aired my sentiments against you and my emotions were on high gear considering that we just had an argument inside your chamber x x x

Numero uno yan na bubuwaon [number one liar][26]

You are known to "distort, twist, or even deny" statements you have made whenever you are confronted x x x.

When you asked me to come to your chamber upon receipt of my letter calling your attention to the functions of a Clerk of Court, you justified the authority you have given to your branch clerk x x x because three of them complained against me. But x x x all of the security guards denied having any complaint against me. x x x

You do not only lie for yourself but you wanted us to lie for you. x x x You ordered us to admit having personally given all the raffle prizes x x x because you wanted to save yourself since you were the one who caused the solicitation of items from practicing lawyers, businessmen, publishers, etc.

So, calling you "*bubuwaon*" is no longer malicious or invective because that is the impression you have made on us. x x x Judge Contreras calls you "TRAYDOR" because there is no appropriate word to describe you x x x[27]

Ang pilay na an

Do you consider this malicious or invective when I am just stating a fact?[28] x x x

It is not that you have been boasting of your prior employment with the Office of the Solicitor General? You even discriminated Judge Contreras by saying "*e, siya* Clerk of Court *lang*." But I have come to know that Judge Contreras ACTUALLY WRITES her decision and researches for jurisprudence. She does not even ask her branch clerk of court or legal researcher to prepare facts of the case, while you, who always boast your experience at the OSG, ordered me not just (sic) the facts of the case but to actually draft the decision, which you simply edited, but the entire contents were mine. You even asked me to compute the penalties and yet you boasted of your performance without giving credit to me and your staff, especially the stenographers who worked beyond office hours. What is invective or malicious in this?

---

26 *Id.* at 34.
27 *Id.* at 34-35.
28 *Id.* at 35.

Dai ako natakot sa inyo, dakol akong tawo, dakol akong koneksyon na matabang sakuya, maski si Judge Lelu tutuwangan ako (I am not afraid of her, I have lots of people, I have many connections that would help me, even Judge Lelu would help me)[29]

Kaya ako ipadagos ko ang paglaban sa inya maski pa matanggal ako dyan sa opisina o madisbar ako basta matanggal man siya dai ako sa inya matakot. Tumang ako (I will continue my fight against Judge Gapas-Agbada even to the point of being disbarred for as long as she will be removed from the office, I am not afraid of her. I'm going to fight.)[30]

So what is wrong in these statements? I am just saying that I am not alone if ever I file a complaint against you. And I am willing to put my profession at stake if only to put you down because of the professional abuses and harassment that you have done to me. Are these statements malicious or invective?

x x x Just because she [referring to [Karen] Magtagñob] got pregnant and got married, you dismissed her. Is it because she could no longer serve you the way she did when [she was] still single? x x x

[Y]ou are too secretive about your personal life that you even kept for yourself the fact that you are already a widow x x x Not for once did we see you a grieving widow before your announcement to your staff and even afterwards.[31]

7. Trying to alienate your staff from you and swaying them not to give their full loyalty to you

x x x Can you not feel the working environment they are in under you that some of them have to go to the other branch and have a good laugh to have a relief from the tensed atmosphere you put them in? x x x

[I]t was you who alienated me from the security guards when you told them that you are the boss and not me x x x. You always call for Janet Laynes, DEMO II in my office and send her on errands without her giving the least courtesy of informing me her whereabouts x x x. Could this be because you also told her that I am not her boss?

Is it not that you have been alienating me from Judge Contreras by reminding me that I should be loyal to you and you alone and that you should be one that should be obeyed even

---

29 *Id.* at 36 and 857.
30 *Id.* at 36.
31 *Id.* at 36-37.

> Judge Contreras could give me some advices since she had been a Clerk of Court of RTC-OCC, Iriga City for a long time?[32]
>
> You have been playing favorites to your utility worker, Isidro Guerrero, whose functions you passed on to the [maintenance personnel] of the agency who you required to clean the two staff rooms, the courtroom and your chamber. You even castigate them if you find your bathroom not immaculately clean. x x x
>
> Mr. Ramos, Mr. Arcilla and Ms. Tabuzo were found to be punching in the cards of other personnel that you issued them a memorandum. But you singled out Mr. Arcilla x x x Could it be because you got angry because x x x Mr. Arcilla was seen dancing in a limping manner? Why, then did you not charge him for this act and not for punching the card of other personnel? x x x
>
> x x x unlike you, my wife Liberty S. Guerrero was not under the influence of liquor x x x on that fateful night.
>
> Looking back [at] what transpired at the house of Atty. Gianan, you should be held answerable for the public scandal that night because you are the immediate cause. x x x
>
> x x x Could you not have waited for the right time in your chamber? No, you could and would not wait for the right time and proper place to confront me because you flaunt your power wherever you are.
>
> [Y]ou were not even prevailed upon by one of your staff to settle this matter in your level without elevating this to the Office of the Court Administrator despite her pleas to spare her and the office of any problem that they would face in the future specially that you are expecting to be appointed somewhere in the National Capital Judicial Region. Could it be because you cannot settle the problem in this station because you are the problem?[33]

These imputations were allegedly offensive, abusive, manifestly baseless, uncalled for, and meant to diminish her integrity as a judge.[34]

On July 2, 2011, Atty. Guerrero told then Clerk III (now, Branch Clerk of Court of Branch 69, Metropolitan Trial Court, Pasig City) Karina not to execute an affidavit in support of her or else he would expose damaging information to warrant Karina's dismissal.[35] On even date, when Orlando

---

32 *Id.* at 37.
33 *Id.* at 37-38.
34 OCA IPI No. 12-4000-RTJ, *rollo*, p. 367.
35 *Id.*

served a copy of the affidavits of her witnesses on Atty. Guerrero, the latter got enraged and yelled that he would file cases against those who executed the affidavits in connection with the June 30, 2011 incident.[36]

As for the charge of electioneering and partisan political activities, Atty. Guerrero attempted to recruit Aristotle, Orlando and Albert Belar to join the paralegal team of Joseph A. Santiago (Joseph) who was then running for Governor of Catanduanes in the May 2010 National and Local Elections (2010 Elections).[37] Though her aforenamed staff refused, Atty. Guerrero was able to recruit Orlando's wife, Leilany Arcilla (Leilany), and his nephew Jonmark A. Sta. Rosa (Jonmark). Then, Atty. Guerrero lectured the paralegals regarding their duties and responsibilities and ordered them to distribute election paraphernalia.[38] The paralegals were paid PHP 10,000.00 each, but Atty. Guerrero deducted PHP 1,000.00 from each of them.

The Investigation Proceedings

The cases were later on raffled to Court of Appeals Associate Justice Ramon M. Bato for investigation and recommendation.

During the hearing, Judge Gapas-Agbada identified and testified on the contents of her Judicial Affidavit dated February 28, 2013 and her complaint. In addition, she testified that during the June 30, 2011 incident at Atty. Gianan's house, Atty. Guerrero and Liberty shouted at her, called her a liar, and accused her of a wrongdoing.[39]

Further, she accused Atty. Guerrero of insubordination because despite her directives, he continuously meddled in the handling of PAO cases; pressured Judge Ubalde to recommend his wife Liberty as Junior Process Server; failed to submit the January to June 2011 Performance Ratings of the Office of the Clerk of Court (OCC)-Regional Trial Court staff; and failed to comply with her order to report to her all matters concerning the security guards.[40]

On cross, Judge Gapas-Agbada admitted that she did not personally see Atty. Guerrero take photographs and videos of her at Atty. Gianan's house as

---

36 *Id.*
37 *Id.* at 367 and 369.
38 *Id.*
39 *Id.* at 367.
40 *Id.* at 368-369.

the same was only reported to her by her staff.[41] She also just heard from her staff about Atty. Guerrero's insolent remarks against her.[42] Too, she had no copy of the alleged recording of the conversation between her and Atty. Guerrero in her chambers, and she had no personal knowledge about Atty. Guerrero's electioneering.[43]

On the charge of insubordination, Judge Gapas-Agbada clarified that she did not issue a written directive for Atty. Guerrero to not interfere with Judge Ubalde's prerogative in the selection of her personnel.[44] Anent Atty. Guerrero's alleged interference with PAO cases, she only called Atty. Guerrero's attention. She did not issue a written directive on this either.[45] Too, she had no personal knowledge if Atty. Guerrero was able to submit the Performance Ratings of the OCC-Regional Trial Court staff before the deadline.[46]

Judge Gapas-Agbada presented the following witnesses:

Aristotle testified that he was present during the celebration at Atty. Gianan's house on June 30, 2011. Around 9 p.m., Atty. Guerrero arrived with Liberty, Vallejo, and Nelbert Tablizo (Nelbert). They were already under the influence of alcohol.[47]

Aristotle saw Atty. Guerrero taking pictures and videos of Judge Gapas-Agbada so he informed her about it. When Judge Gapas-Agbada went to Atty. Guerrero, the latter and Liberty talked back in a loud voice and uttered unpleasant words. He approached them and pacified Atty. Guerrero. Judge Gapas-Agbada then left the party.[48] Thereafter, he heard Atty. Guerrero utter:

a. "*Iyan na amo mo, numero uno yan na bubuwaon! Ang pilay na an talaga bubuwaon.*" (Your boss is a number one liar! That cripple is a true liar!)

b. "*Grabe ang loyalty ko sa inya pati respeto, pero ngunyan gabasol akong grabe, mas maboot na grabe si Judge Lelu kaysa sa inya.*"

---

41 *Id.* at 369.
42 *Id.*
43 *Id.* at 371.
44 *Id.* at 370.
45 *Id.*
46 *Id.*
47 CA IPI No. 11-3696-P, *rollo*, p. 862.
48 *Id.*

(I was very loyal to her and respected her but now I regret. Judge Lelu is more kindhearted.)

c. "*Kahuna nya kung sisay syang maurag ta hali daa stang OSG, tapos ako ngani pina draft niya nin desisyon tapos pig tuwangan ko sya na mag simbag duman sa surat nin JBC sa inya, haen man sya ngunyan?* (She thought she was brilliant because she came from OSG, but why did she ask my help in drafting decision[s] and answers to the letter of [the] JBC to her, and where is she now?)

d. "*Dai ako natakot sa inya, dakol akong tawo, dakol akong koneksyon na matabang sakuya, maski si Judge Lelu tutuwangon ako.*" (I am not afraid of her, I have many connections that will help me, even Judge Lelu is willing to help me.)

e. "*Kaya ako ipadagos ko ang paglaban sa inya maski pa matanggal ako dyan sa opisina o madisbar ako basta matanggal man sya, dai ako sa inya natakot. Tumang ako.*" (I will continue my fight against her, even to the point of being disbarred for as long as she will be removed from her office, I am not afraid of her. I'm going to fight.)

f. "*Su reklamo sa inya ni [Karen] Magtagñob, gabos ko ito aram buda gabos ito totoo, buda nag gibo man ako affidavit laban sa inya; totoo itong pigtaram ni [Karen] ta pirmi baga syang aduman sa chamber ni Judge Gapas-Agbada. Ang dai ko man sana dyan ising personal iyo tong anonymous letter na pinadara ni Judge Gapas-Agbada sa Supreme Court laban kay Judge Lelu ta ito palan pina encode sa luwas nin opisina, pero gabos na reklamo aram ko kaya magibo ako affidavit na magpapatotoo sa gabos na reklamo ni [Karen] except duman sa anonymous letter na ito.*" (The complaint of [Karen] Magtagñob is true and I can attest to its veracity. I even executed an affidavit against [Gapas]-Agbada. [Karen's] statement is true because she was always inside the chamber of [Gapas]-Agbada. The only statement I don't know is about the anonymous letter sent by Judge [Gapas]-Agbada to the [Supreme Court] against Judge Lelu because it was encoded outside the office. I will execute [an] affidavit attesting to the veracity of the complaint of [Kareen] except about the anonymous letter.)

g. "*Dai nakaisi si [Gapas]-Agbada na su diskusyunan mi kaso bag o sa chamber nya piga record ko. Piga paya simbag ko talaga sya.*" (She has no knowledge that I recorded our discussion earlier in her chamber. I kept on answering her back.) [sic]

h. "*Si Philip (Felipe Ubalde) ngani nag rani man sakuya na I endorse sya ki Judge Lelu na tabangan sya ta ma gibo man sya affidavit laban sa agom nya na si Judge Lorna Ubalde buda ki Judge [Gapas]-Agbada.*" (Felipe approached me to endorse him to Judge

> Lelu to help him because he will execute an affidavit against his wife Judge Lorna Ubalde and Judge [Gapas]-Agbada).[49]

When Aristotle left the party, he immediately went to Judge Gapas-Agbada's residence and reported the statements made against her by Atty. Guerrero. The next day, he executed an affidavit to support his report to Judge Gapas-Agbada.[50]

He confirmed that Atty. Guerrero attempted to recruit him as a paralegal for Joseph during the 2010 Elections in consideration of PHP 10,000.00, but he refused the offer. He also confirmed that Atty. Guerrero threatened to file a case against him for executing an affidavit in support of Judge Gapas-Agbada.[51]

On cross, Aristotle admitted that he did not see any photographs or videos of Judge Gapas-Agbada taken by Atty. Guerrero. He merely saw Atty. Guerrero position his cellphone and its flash, after which, he heard a click. When he told Judge Gapas-Agbada about the incident, the latter became upset and went to confront Atty. Guerrero.[52] Though he was not present during the confrontation, he overheard Atty. Guerrero say "*bubuwaon ka. bubuwaon ka*" (You're a liar. You're a liar).[53]

He declared that he voluntarily executed his affidavit and claimed that he could not bear the demeaning words said against Judge Gapas-Agbada.[54]

Karina testified that she was present during the celebration at Atty. Gianan's house on June 30, 2011. Around 9 p.m., the group of Atty. Guerrero arrived. She saw Atty. Guerrero take a video and photograph of Judge Gapas-Agbada using his cellphone. When she informed Judge Gapas-Agbada about it, the latter went upstairs to talk to Atty. Guerrero. She heard Atty. Guerrero call Judge Gapas-Agbada a liar. Too, she heard Atty. Guerrero retort that Judge Gapas-Agbada was not the only person photographed. Afterwards, she accompanied Judge Gapas-Agbada downstairs to her car.[55]

---

49 *Id.* at 862-863.
50 *Id.* at 863.
51 *Id.*
52 *Id.* at 864.
53 *Id.*
54 *Id.*
55 *Id.*

When Karina returned to the party, she heard Atty. Guerrero say "*Ang amo nyong an bubuwaon talaga*" (That boss of yours is really a liar). She reported the utterance to Judge Gapas-Agbada and executed an affidavit to that effect, together with Orlando and Milben.

On cross, Karina stated that Atty. Guerrero and his group were already intoxicated when they arrived at Atty. Gianan's house. She confirmed that Atty. Guerrero took pictures and video that night based on how his cellphone was positioned, the flashing of lights, and the clicking sound it produced. Although she told Judge Gapas-Agbada about it, she admitted that she did not see the actual pictures.[56]

She reiterated that she was present when Judge Gapas-Agbada spoke to Atty. Guerrero regarding the photograph and video-taking. Judge Gapas-Agbada was calm. Still an altercation ensued during which Atty. Guerrero called Judge Gapas-Agbada a liar.[57]

As for her Joint Affidavit with Orlando and Milben, she acknowledged that Judge Gapas-Agbada asked them if they were willing to execute the same. She confirmed that there was a threat coming from Atty. Guerrero, coursed through his staff Janet Laynes (Janet), that a case would be filed against her if she did not state the truth in her affidavit.[58]

Orlando testified that on June 30, 2011, he was in the house of Atty. Gianan for a celebration. When Atty. Guerrero and his companions arrived, they were visibly under the influence of alcohol. Atty. Guerrero took pictures and video of Judge Gapas-Agbada.[59]

He followed Judge Gapas-Agbada when she went to talk to Atty. Guerrero. Judge Gapas-Agbada was calm, but Atty. Guerrero answered back and said in a rude voice that Judge Gapas-Agbada was not the only person who was photographed and taken videos of. He tried to calm down Atty. Guerrero, but to no avail.[60] He reported to Judge Gapas-Agbada the malicious words uttered against her by Atty. Guerrero and executed a Joint Affidavit with Karina and Milben.[61]

---

56 *Id.* at 865.
57 *Id.*
58 *Id.*
59 *Id.*
60 *Id.*
61 *Id.*

On the matter of electioneering, he testified that Atty. Guerrero attempted to recruit him to work as a paralegal for Joseph who was then running for Governor in the 2010 Elections, but he refused. Atty. Guerrero then recruited his wife, Leilany, and his nephew, Jonmark, as paralegals, instead.[62] When he served a copy of his affidavit on Atty. Guerrero, the latter shouted at him and threatened to file cases against him.[63]

On cross, he said that during the June 30, 2011 celebration, he was seated together with Judge Gapas-Agbada who was singing. It was then that Atty. Guerrero took a video of Judge Gapas-Agbada. He explained that he was behind Atty. Guerrero that was why he saw the video being taken. After Judge Gapas-Agbada spoke to Atty. Guerrero about the photograph and video-taking, Atty. Guerrero directed his anger towards him and demanded that he identify who among the staff told Judge Gapas-Agbada about it.[64]

As regards his Joint Affidavit with Karina and Milben, he confirmed that it was Karina who prepared the same, but that they all consented to its contents.[65] In response to a clarificatory question, he stated that when Atty. Guerrero said "*Bubuwaon kang pilay ka*," Atty. Guerrero was upstairs while he was downstairs.[66]

Leilany testified that Atty. Guerrero recruited her and Jonmark as paralegals of Joseph for the 2010 Elections. On May 2, 2010 at 1 p.m., a meeting was held in the house of Atty. Guerrero. She was assigned to the Municipality of Baras, Catanduanes (Baras).[67]

On May 5, 2010, in a restaurant in Baras, Atty. Guerrero and one Mr. Barceta conducted lectures on election matters, particularly on what to do during the election day itself and how to protect the votes of Joseph.[68]

On May 9, 2010, around 10:30 a.m., while she and the other paralegals were inside the house of Atty. Guerrero, he (Atty. Guerrero) distributed election paraphernalia to them, instructing "*Pa simple lang kita sa mga paraphernalias na ini ta baad igwa ng ga masid satuya, baad malectioneering ako*" (Let's just be discreet with these paraphernalia, someone might be

---

62 *Id.* at 866.
63 *Id.*
64 *Id.*
65 *Id.*
66 *Id.*
67 *Id.* at 866-866-a.
68 *Id.* at 866-a

observing us, I might be charged with electioneering). Atty. Guerrero further informed them that the paralegals would be paid PHP 10,000,00 each, but they would only receive PHP 9,000.00 because PHP 1,000.00 would go to him.[69]

On cross, Leilany said that she learned about Atty. Guerrero's search for paralegals through her husband, and that she did not sign any document that she received PHP 9,000.00.

Judge Ubalde testified that she had known Judge Gapas-Agbada since 2005 and found her to be firm, straight, honest, courageous and strong, yet respectful of the rights of others. She denied that she and Judge Gapas-Agbada smoked in the latter's courtroom or chambers, or that Judge Gapas-Agbada gave instructions to solicit raffle prizes for the court's 2010 Christmas Party.[70]

On the matter of Liberty's application for Junior Process Server in her Court, she reported to Judge Gapas-Agbada that:

> a. Atty. Guerrero had been following up his recommendation for the appointment of his wife, [Liberty], as utility aid of MTC-Bato, Catanduanes and Virac, Catanduanes, and later, to the position of process server in MTC-Virac, Catanduanes;
>
> b. After she informed Liberty that she may apply for the position of utility aide in MTC, Virac, once it is opened, since the utility aide has filed early retirement, Liberty went to her office and informed he[r] that Atty. Guerrero was upset because he expected that she would get the slot of the process server, and not the position of utility aide;
>
> c. She explained to Liberty that the work of a process server is very demanding and since she has no experience in court, she cannot perform the functions of a process server well, so she should instead apply for the position of utility aide;
>
> d. Besides, she explained to Liberty that the position of process server has not yet been declared vacant;
>
> e. Despite her lengthy explanation, Liberty did not want to leave her office so she sarcastically asked her if she wanted her "blank recommendation:" "*Ano ba talaga gusto mo Betty, mag sign ako ng blank recommendation*?;"
>
> f. To further discourage Liberty, she casually mentioned that if ever the Executive Judge would have a recommendee, she would assess the same.

---

69 *Id.*
70 *Id.*

> Later, she apologized to Judge Gapas-Agbada as she did not make any recommendation, but she thought of doing if only to stop Liberty from bothering her. She thought that the Spouses Guerrero would be ashamed of Judge Gapas-Agbada as she recommended Atty. Guerrero's promotion;
>
> g. The next day, Liberty went again to her office, but this time, informing her that Atty. Guerrero was mad as he was sure that Judge [Gapas]-Agbada had recommended Isidro Guerrero, Utility Aide of RTC, Branch 42, for the position of process server in MTC-Virac. This she refuted and informed Liberty the truth that Judge Gapas-Agbada never recommended anyone to any position in her sala;
>
> h. She reported all these things to Judge Gapas-Agbada because she was already disturbed over the repeated follow-ups of Atty. Guerrero and his wife Liberty;
>
> i. Liberty even confronted her at the house and demanded that she and Judge [Gapas]-Agbada personally meet her (*magharap harap tayo*) to know who was telling the truth. She told her that it is true that she reported everything to Judge [Gapas]-Agbada and she pointed [out] to her several times that Judge [Gapas]-Agbada never recommended anyone to her. She emphasized to her that they should give respect to Judge [Gapas]-Agbada.

On cross, Judge Ubalde said that at first, Atty. Guerrero did not pressure her to recommend his wife Liberty to the position of Junior Process Server in her court. After constant follow-ups, however, Atty. Guerrero already exerted undue pressure on her, leading her to report the matter to Judge Gapas-Agbada, as the Executive Judge.[71] She hoped that Judge Gapas-Agbada would talk to Atty. Guerrero about his improper interference in her prerogative to recommend applicants to vacant positions in her *sala*.[72]

She clarified that Atty. Guerrero never confronted her, and that it was Liberty who told her that Atty. Guerrero was mad.[73]

Judge Gapas-Agbada formally offered her documentary exhibits on April 15, 2013. The affidavit of Jonmark, a nephew of Orlando, was not admitted because he was not presented to identify the same during the hearing.[74]

---

71 *Id.* at 867-868.
72 *Id.* at 868.
73 *Id.*
74 *Id.*

In **OCA IPI No. 12-4000-RTJ**, Atty. Guerrero testified that Judge Gapas-Agbada played favorites with her staff, particularly Isidro, who was spared from disciplinary actions despite his wrongdoings and was even recommended to the position of Junior Process Server in Municipal Trial Court, Virac, Catanduanes.[75] Her conduct was also unbecoming of a judge, considering that she required Reymond to drive for her and her relatives during office hours; she engaged in drinking sessions and committed acts that caused her dishonor; and she fraternized with Atty. Borja, Chief of PAO in Catanduanes.[76] It was he who drafted the decisions, orders, and resolutions of Judge Gapas-Agbada, including the computation of penalties in criminal cases.[77] He thus prayed that she be administratively charged, disciplined and, consequently, disbarred.[78]

In support of his charges, he submitted his judicial affidavit and those of his witnesses: (1) Nelbert; (2) maintenance personnel Lester Orendain (Lester); (3) Liberty; and (4) Reymond, which were the same affidavits offered in A.M. No. P-23-084 [Formely OCA IPI No. 11-3696-P].[79] He also submitted several photos showing Judge Gapas-Agbada holding a glass of liquor while socializing.[80]

In **A.M. No. P-23-086 [Formerly OCA IPI No. 12-2548-MTJ]**, Atty. Guerrero essentially testified that Judge Ubalde falsely promised to recommend his wife, Liberty, to the position of Junior Process Server in the Municipal Trial Court, Virac, Catanduanes. She also made Liberty prepare food for parties and run errands for her, only to tell her later on that Isidro was the one recommended at the behest of Judge Gapas-Agbada. More, she engaged in a business activity, extended loans during office hours in her chambers, used court personnel for her personal interest such as sending them on errands to buy food for her and her family, cleaning her van and driving for her. Occasionally, she also drank liquor and smoked in the chambers of Judge Gapas-Agbada. He thus prayed that Judge Ubalde be administratively charged, disciplined and disbarred.[81]

As regards Isidro, Aristotle, and Orlando, they punched the timecards of other employees, loafed, and slept during office hours. Except for Isidro, their affidavits contained falsehoods which Judge Gapas-Agbada used against

---

75 OCA IPI No. 12-4000-RTJ, *rollo*, p. 387.
76 *Id.* at 387-388.
77 *Id.* at 387.
78 *Id.* at 388.
79 *id.*
80 *Id.* at 390.
81 *Id.*

him. He thus prayed that the three of them be administratively charged and disciplined. As evidence, he offered the same affidavits in A.M. No. P-23-084 [Formerly OCA IPI No. 11-3696-P].[82]

In **A.M. No. P-23-085 [Formerly OCA IPI No. 12-3996-P]**, Atty. Guerrero testified that Karina punched the timecards of other employees, often went out of the court during office hours, and wrote false statements in her affidavit which Judge Gapas-Agbada used against him. He thus prayed that she be administratively charged and disciplined.

He presented a Certification dated July 18, 2011 issued by the Bureau of Immigration showing her various travels abroad from October 2007 to November 2010. Karina allegedly traveled without securing the corresponding travel authority from the Supreme Court.[83]

In **OCA IPI No. 11-3764-RTJ**, Liberty claimed that Judge Gapas-Agbada falsely accused her husband, Atty. Guerrero, of improper conduct and wrongdoings. They were offended that she accused them of pressuring Judge Ubalde to recommend her to the position of Utility Aide and later on, as Junior Process Server in the Municipal Trial Court, Virac, Catanduanes. She also saw Judge Gapas-Agbada drinking in Atty. Gianan's house on June 30, 2011 and during Christmas party of the court.[84]

As for Judge Ubalde, she promised her (Liberty) that she will recommend her for the position of Utility Aide, and later on, as Junior Process Server. In exchange, Judge Ubalde asked her to do many things like joining the networking business *Load Mo Sarili Mo* (LMSM); finding casual employment for Nards Yves Vega and her niece, Merlisa Rufino (Merlisa); paying her electric bills; and preparing food for the birthday of her son and welcome party of her staff, Godofredo Benavidez.[85]

As evidence, she offered her affidavit and the affidavits of Clerk Erlinda Lucero, former Chief of Staff of Provincial Board Member Joseph Mendoza, and Lester Bryan Orendain (Lester).[86]

Respondents' Defenses

---

82 *Id.*
83 *Id.* at 395.
84 *Id.* at 396.
85 *Id.*
86 *Id.* at 397-398.

In **A.M. No. P-23-084 [Formerly OCA IPI No. 11-3696-P]**, Atty. Guerrero reiterated the contents of his Memorandum dated July 1, 2011, and denied the allegations against him and Liberty. Further, he essentially averred that:

1. Contrary to Judge Gapas-Agbada's claims, neither he nor Liberty encroached into the prerogative of Judge Ubalde in filling up the position of Junior Process Server in Municipal Trial Court, Virac, Catanduanes. It was Judge Ubalde who promised the position to Liberty.

2. Reymond did not drive for his wife to deliver chickens because they did not have a poultry farm. Neither did Reymond fetch their son from school. It was Judge Santiago who had been availing of Reymond's services.

3. He did not meddle in the PAO cases filed in court. Litigants approached him because they found him likable unlike Atty. Borja who was said to be "*suplado.*"

4. He did not commit insubordination *vis-a-vis* the security guards at the Hall of Justice because there was no directive from Judge Gapas-Agbada which he willfully disregarded. Too, the letter he wrote to Judge Gapas-Agbada regarding the authority to sign the DTRs of security guards was respectful.

5. He did not play computer games during office hours. The two (2) computers in Branch 42, Regional Trial Court, Virac, Catanduanes were used by the clerks. He would draft his decisions, orders, and resolutions using yellow papers or recycled paper.

6. Judge Gapas-Agbada hates Judge Lelu Contreras (Judge Contreras) Judge Gapas-Agbada would tell him negative things about Judge Contreras.

7. As known to the court staff, he drafted some of the decisions, resolutions and orders of Judge Gapas-Agbada.

8. He was not resentful when Judge Gapas-Agbada would call Janet. He was only concerned that Janet would not inform him before leaving the office to go to Judge Gapas-Agbada.

9. Judge Gapas-Agbada favors Orlando despite the latter having punched the time card of another employee.

10. Judge Gapas-Agbada was drunk during the celebration at Atty. Gianan's house on June 30, 2011.

11. He did not shout at Judge Gapas-Agbada when he discovered that she delegated the signing of the DTRs of security guards to her Branch Clerk of Court.

12. He is not guilty of violating the Anti Wire Tapping law because the supposed recording of the conversation inside Judge Gapas-Agbada's chambers in the afternoon of June 30, 2011 does not exist.

13. Calling Judge Gapas-Agbada *"pilay"* was just a statement of fact, and thus not malicious.

14. He did not threaten Karina with dismissal should she execute an affidavit in favor of Judge Gapas-Agbada. He only told her to make sure that her affidavit was correct because if it were not, he would get even with her since he knew a lot of damaging information about her.

15. He did not shout at Orlando when the latter served him copies of the affidavits of Judge Gapas-Agbada's witnesses. He merely pointed out to Orlando that he was lying in his affidavit because he was not present when Atty. Guerrero expressed his feelings against Judge Gapas-Agbada.

16. He did not commit electioneering nor any partisan political activity. It was Liberty who looked for paralegals for Joseph when the latter was running for Governor of Catanduanes.[87]

Regarding the June 30, 2011 incident inside Atty. Gianan's house, when Atty. Guerrero arrived together with Liberty, Judge Gapas-Agbada was singing and visibly drunk, judging from her hair which was ruffled or "*buhaghag.*"[88] When he was confronted by Judge Gapas-Agbada regarding

---

87 *Id.* at 378-380.
88 *Id.* at 380.

his alleged photograph and video-taking, he told Liberty to let Judge Gapas-Agbada check his cellphone. The latter did not find any photograph or video.[89]

On the charge of electioneering, he claimed that he only asked the court staff if they had any relative or friends that they could refer to Liberty who was looking for paralegals. He himself did not recruit anyone to be a paralegal.[90]

He admitted that litigants approached him for advice regarding their rights and obligations under the law. But he never discussed the merits of their cases pending in the court.[91]

In response to clarificatory questions, he admitted that the "*sosyodad*" between the security guards of the Hall of Justice and himself was still existing. The members did have drinking sessions every Saturday during which they used their money collection or contribution. As for the security guards who did not file their applications for leave, Atty. Guerrero said that he had no knowledge thereof until Vallejo told him about it.[92]

Atty. Guerrero presented the following witnesses:

Joselito Barceta, a former employee in the congressional office of Joseph, testified that he instructed Liberty to refrain from recruiting paralegals from the government service since they were strictly prohibited to participate in political campaigns. He maintained that Atty. Guerrero did not participate in their campaign.[93]

He was not present when Atty. Guerrero was allegedly recruiting Orlando and Aristotle as paralegals. He also did not witness Leilany meet and talk with Atty. Guerrero.[94]

Carmela Orendain testified that in May 2010, she heard that Liberty was looking for paralegals for Joseph. She applied and was later hired. While

---

89 *Id.*
90 *Id.* at 380-381.
91 *Id.* at 381.
92 *Id.*
93 *Id.*
94 *Id.* at 382.

at Atty. Guerrero's house, they received PHP 10,000.00 from Liberty for their services. They did not deal with Atty. Guerrero.[95]

Judge Contreras testified that when she learned about the June 30, 2011 incident at the house of Atty. Gianan, she tried to talk to Karina to persuade Judge Gapas-Agbada not to take the matter to the Court Administrator. She admitted that in July 2011, when Judge Gapas-Agbada was already the Assisting Judge in Quezon City, she signed the performance ratings of Atty. Guerrero despite knowing of the incident between the latter and Judge Gapas-Agbada. She was not aware that Judge Gapas-Agbada had directed Atty. Guerrero to submit his performance ratings to her (Judge Gapas-Agbada).[96]

Maykel Bagadiong testified that Judge Gapas-Agbada ordered his removal as security guard but later reinstated him because his sister worked as "*alalay*" for Judge Gapas-Agbada's mother.[97]

On cross, he admitted that his judicial affidavit was prepared by Atty. Guerrero.[98]

Vallejo testified that he was with Atty. Guerrero when the latter went to the house of Atty. Gianan on June 30, 2011. He noticed Judge Gapas-Agbada singing and visibly drunk. Too, he heard Judge Gapas-Agbada confront Atty. Guerrero about the alleged photograph and video-taking. Atty. Guerrero replied that he did not take any photograph and video. More, upon inspection of Atty. Guerrero's cellphone, no photograph or video was found.[99]

He was removed from duty sometime in February 2011, and got replaced by Noli Calderon. Upon inquiry with Mr. Mamerto Ancheta of the security agency, he found out that he was replaced upon the request of Judge Gapas-Agbada.[100] He admitted the existence of the "*sosyodad.*" It was a great help to them because when they had no money, they could borrow money from the fund.[101]

---

95 *Id.*
96 *Id.* at 382-383.
97 *Id.* at 383.
98 *Id.*
99 *Id.*
100 *Id.*
101 *Id.*

As for the security guards who were not filing their leaves, he stated that it was a practice which Judge Gapas-Agbada knew. The security guards agreed among themselves who would assume the post/duty of the one who would be absent, and the latter would compensate the former by taking the former's schedule of duty.[102]

He claimed that he was instructed by Judge Gapas-Agbada to report who among court staff were punching the timecards for their co-employees. He found out that these employees were Aristotle, Karina, Orlando, and Isidro. He did not know if Judge Gapas-Agbada filed cases against these employees.[103]

As for Judge Gapas-Agbada's alleged favoritism, he noticed that Isidro, Orlando, Aristotle, and Karina frequently went outside the office during work hours. Judge Gapas-Agbada got angry at them, but not at Isidro.[104] Judge Gapas-Agbada was also lenient with Judge Ubalde when it came to smoking within court premises despite the Supreme Court circular prohibiting smoking inside the Hall of Justice.[105]

On cross, Vallejo explained that his testimony was similar to the respective testimonies of Atty. Guerrero and Nelbert because they gave the same answers to Atty. Susan Ordinario (Atty. Ordinario), the lawyer who assisted in the preparation of their judicial affidavits. He clarified that Atty. Guerrero did not initiate the "*sosyodad.*"[106]

Karen Magtagñob (Karen), second cousin of Judge Gapas-Agbada, testified that she used to be a Stenographer III at Regional Trial Court, Branch 42, Virac, Catanduanes and an "*alalay.*" She stated that Judge Gapas-Agbada could be scary, uttered offensive words and threw whatever was in her hands. Judge Gapas-Agbada, Judge Ubalde and the latter's husband, Philip, smoked inside Judge Gapas-Agbada's chambers.[107]

On cross, Karen admitted that she filed a separate administrative complaint against Judge Gapas-Agbada docketed as A.M. OCA IPI No. 11-3631-RTJ and that the same was dismissed by the Supreme Court.[108]

---

102 *Id.*
103 *Id.* at 384.
104 *Id.*
105 *Id.*
106 *Id.*
107 *Id.*
108 *Id.*

Lester testified that Atty. Guerrero did not own a poultry farm, nor sell chickens. On cross, he admitted that his judicial affidavit was prepared by Atty. Ordinario without asking the questions reflected therein. It was Atty. Ordinario who crafted the questions and answers in his judicial affidavit.[109]

Liberty testified that she was at Atty. Gianan's house on June 30, 2011 together with Atty. Guerrero, Rafael, and Nelbert. She saw Judge Gapas-Agbada singing. Too, she noticed that Judge Gapas-Agbada was drunk, judging from her appearance and actions–swaying to and from, with disheveled hair, and laughing loud.[110]

She confirmed that Judge Gapas-Agbada confronted Atty. Guerrero about the alleged photograph and video-taking. When a commotion ensued, Karina pulled away Judge Gapas-Agbada. When the latter left, Karina told Atty. Guerrero to settle his conflict with Judge Gapas-Agbada. Atty. Guerrero snapped "*An problema kaya pan-o an amo nyo, ta bubuwaon ta dai sya nag-aamin kan mga pigataram nya*" (The problem is, your boss is a liar, she does not admit what she said).[111]

Sometime in 2010, Joselito Barceta (Barceta) contacted her for assistance in recruiting paralegals for Joseph. Initially, they were looking for law graduates, but since there were not enough law graduates in Catanduanes, non-law graduates were allowed.

Atty. Guerrero then asked her if Barceta could accommodate Orlando's wife Leilany and nephew Jonmark. Except these two, all other applicants dealt directly with her. Atty. Guerrero did not conduct lectures, and that it was she who distributed the election supplies. She also paid the paralegals PHP 10,000.00 each.[112]

On cross, Liberty stated that she submitted the names of the applicants for paralegal to Barceta. She denied that Atty. Guerrero was involved in her application for Junior Process Server at Municipal Trial Court, Virac, Catanduanes. She nonetheless admitted that she did errands for Judge Ubalde because she was interested in the position.[113]

---

109 *Id.* at 385.
110 *Id.*
111 *Id.*
112 *Id.* at 386.
113 *Id.*

Reymond testified that he did not drive for Liberty to pick up chickens for sale, nor to fetch her and Atty. Guerrero's son during office hours.[114] Instead, it was Judge Gapas-Agbada who ordered him to run errands, like driving for Judge Gapas-Agbada's parents and other relatives, during office hours.[115]

He became Atty. Guerrero's driver when the latter's previous driver left. His "marginal job" with Atty. Guerrero was known to Judge Gapas-Agbada. Finally, he admitted his membership in the "*sosyodad.*"[116]

On cross, Reymond admitted that the contents of his judicial affidavit were similar to those of Nelbert, and that Atty. Guerrero paid for his fare to Manila to attend the hearing. He confirmed that he is the brother of Karen, who previously filed an administrative case against Judge Gapas-Agbada.[117]

Nelbert testified that on the evening of June 30, 2011, he was with Atty. Guerrero and other friends in the house of Atty. Gianan. When they arrived, Judge Gapas-Agbada and other court staff were sitting around a table with bottles of liquor. Judge Gapas-Agbada was singing and visibly drunk.[118]

Judge Gapas-Agbada confronted Atty. Guerrero about the latter's alleged photograph and video-taking. Atty. Guerrero denied the accusation and offered his cellphone to be inspected.[119]

On cross, he admitted that he is a distant relative of Atty. Guerrero, the latter spent for his expenses in Manila in connection with the hearings in the administrative case, and some answers in his judicial affidavit were similar or identical to the answers in the judicial affidavit of Atty. Guerrero.[120]

In **OCA IPI No. 12-4000-RTJ,** Judge Gapas-Agbada disputed the allegations against her. She never recommended Isidro to Judge Ubalde for the position of Junior Process Server. Neither did she exempt him from disciplinary sanctions for his infractions nor tolerate the loafing, sleeping, or laziness of her staff during office hours. Atty. Guerrero also never drafted her

---

114 *Id.* at 386.
115 *Id.*
116 *Id.*
117 *Id.*
118 *Id.* at 386-387.
119 *Id.* at 387.
120 *Id.*

decisions, orders, and resolutions as she personally did it herself. In fact, the writing style of Atty. Guerrero is very much different from the quality of her decisions, orders, and resolutions.[121]

Reymond never drove for her and her family. She would never do what she forbids her staff from doing. Reymond's claim to the contrary was false and made only to suit Atty. Guerrero's desire to get even with her.[122] The truth is, she personally drives her car.[123] She also does not engage in drinking sessions or committed acts that would dishonor her. Too, she only smokes when she is at home.[124] In her six years in Catanduanes, she distanced herself from almost everyone. She refrained from accepting invitations, except for select official functions and family gatherings of her staff.[125] The pictures presented by Atty. Guerrero were taken during such family gatherings.[126]

Lastly, she did not fraternize with Atty. Borja. Her dealings with him were purely official. The pictures showing that she was seated next to him were taken during the christening of the son of Aristotle where several employees of the Hall of Justice were also invited as guests.[127]

In **A.M. No. P-23-086 [Formerly OCA IPI No. 12-2548-MTJ]:**

Judge Ubalde riposted that she never promised the position of Junior Process Server in the Municipal Trial Court, Virac, Catanduanes to Liberty. On the contrary, it was Atty. Guerrero and Liberty who pressured her to endorse Liberty for the job.[128] Atty. Guerrero and Liberty went to her house and asked her to back up the latter for the position of Utility Aide in the Municipal Circuit Trial Court of Bato-San Miguel. She, however, did not promise the position to them. Neither did she promise them the position of Junior Process Server in Municipal Trial Court, Virac, Catanduanes. She in fact explained to Liberty the hazards attached to position. Liberty told her that Atty. Guerrero was upset and angry.[129]

---

121 *Id.* at 388.
122 *Id.*
123 *Id.* at 389.
124 *Id.*
125 *Id.*
126 *Id.* at 389-390.
127 *Id.* at 389.
128 *Id.* at 391.
129 *Id.* at 392.

Because of their reactions, she reported the matter to Judge Gapas-Agbada as she felt that they were already encroaching into her prerogative to choose her recommendee to the position.[130] When they suspected that Isidro would be recommended to the position, they got mad at her and Judge Gapas-Agbada. Atty. Guerrero's accusations are totally untrue since the position of Junior Process Server only became vacant and got filled up after she was already assigned to a different court in General Santos City. More, it was not Judge Gapas-Agbada who recommended Isidro for the position but Acting Presiding Judge Arnel Cezar.[131]

Too, she never took advantage of the services of Liberty. It was actually the latter who offered to cook for her on different occasions, but all her services were paid. Neither did she gratuitously engage the services of other employees of the Hall of Justice for her personal benefit. She admitted that Reymond drove for her when she attended the wake of the sister of her Branch Clerk of Court but it was with the consent and permission of Atty. Guerrero.[132]

Lastly, she denied that she and Judge Gapas-Agbada were smoking in the latter's chambers and indulged in drinking sprees since they were both avoiding unofficial and unnecessary socializations.[133]

Isidro countered that Judge Gapas-Agbada did not recommend him to Judge Santiago for the position of Junior Process Server since both judges were already assigned in Metro Manila when the position became vacant. His application, in fact, did not bear any recommendation.[134] He also was not idling, sleeping, or playing *mahjong* during office hours as he was diligent with his duties. He was only impleaded in the complaint by Atty. Guerrero because the latter resented that it was he (Isidro) who got appointed as Junior Process Server, instead of Liberty.[135]

Aristotle claimed he was stating the truth in his affidavit. Anent the charge of punching the timecards of other employees, this was the subject of past disciplinary actions imposed on him by Judge Gapas-Agbada. Atty. Guerrero was bringing it up again only to pressure him to recant his affidavit in support of Judge Gapas-Agbada. In any case, Atty. Guerrero was also guilty of the same offense since his timecard was falsified by the guards. More, he

---

130 *Id.*
131 *Id.* at 391.
132 *Id.*
133 *Id.*
134 *Id.* at 392.
135 *Id.* at 392-393.

never loafed nor slept during office hours. During all the time, he was out of the office, it was always with the permission of Judge Gapas-Agbada or Atty. Gianan.[136]

Orlando testified that the offenses of loafing and punching the timecards of other employees had already been the subject of a disciplinary action by Judge Gapas-Agbada and the Supreme Court. He has already reformed ever since. He also did not go out of the office during office hours for no reason except when: (a) he was serving subpoenas and orders; (b) he was doing some errands for Judge Gapas-Agbada or Atty. Gianan; and (c) he has to go to the bank to encash a check or get his allowance.[137]

In **A.M. No. P-23-085 [Formerly OCA IPI NO. 12-3996-P]**, Karina countered that Judge Gapas-Agbada already disciplined her for the charge of punching timecards of other employees and she has never repeated it. The only time she went out of the office during office hours was when she accompanied Atty. Borja who was invited to lecture at the Army Camp in Lictin, San Andres, Catanduanes, in lieu of Judge Gapas-Agbada who declined the invitation.[138] She admitted, on cross, though that she was not issued a travel order for the same.[139]

In **OCA IPI No. 11-3764-RTJ, Judge Gapas-Agbada** said that Liberty filed a case against her to cast aspersion on her integrity and reputation and that of Judge Ubalde. Liberty filed the case to absolve her husband Atty. Guerrero from the administrative complaints against him. She reiterated her defenses in OCA IPI No. 11-4000-RTJ regarding the charges of drinking and favoritism.[140] She likewise adopted her evidence in that case.[141]

Judge Ubalde suspected that Liberty's complaint was an act of vengeance for her affidavit in support of Judge Gapas-Agbada's complaint against Atty. Guerrero. The truth is it was Atty. Guerrero and Liberty who did unsolicited favors like volunteering to do some tasks in exchange for her recommendation of Liberty to the position of Junior Process Server; she never sold LMSM kits as it was her estranged husband who transacted with Liberty who said so in her complaint; it was Liberty who insisted that she (Judge Ubalde) prepared a recommendation letter for her niece Merlisa, which she

---

136 *Id.* at 393-394.
137 *Id.* at 394.
138 *Id.*
139 *Id.* at 396.
140 *Id.* at 398.
141 *Id.* at 399.

did not do. Merlisa was eventually employed through her own effort; and Judge Gapas-Agbada never recommended Isidro for the position of Junior Process Server.[142] She adopted her evidence in A.M. No. P-23-086 [Formerly OCA IPI No. 12-2548-MTJ].[143]

Report and Recommendation of the Investigating Justice

In his Report and Recommendation [144] dated August 16, 2013, Investigating Associate Justice Ramon M. Bato, Jr. made the following disposition:[145]

> ***WHEREFORE,*** in view of the foregoing, undersigned Investigating Justice hereby recommends the following:
>
> A.M. OCA IPI No. 11-369[6]-P
>
> (a) On the charge of insubordination, it is recommended that it be ***DISMISSED*** for lack of basis.
>
> (b) On the charge of discourtesy, it is recommended that Atty. Louie T. Guerrero be meted out the penalty of ***REPRIMAND***, in line with *Jaravata vs. Orencia,* A.M. No. P-12-3035, promulgated on June 13, 2012, considering that this is Atty. Guerrero's first offense.
>
> (c) On the charge of violation of the Code of Conduct for Court Personnel, for recommending for employment (in the Judiciary) a member of his immediate family (Violation of Section 2[e], Canon III of the Code of Conduct for Court Personnel), it is recommended that the said charge be ***DISMISSED*** for lack of basis.
>
> However, as for electioneering (Violation of Section 45, P.D. 807 [Civil Service Law] and Sec. 55, Chapter 8, Subtitle A, Title I, Book V of the Administrative Code of 1987), the penalty prescribed by Section 22(h), Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws is ***DISMISSAL FROM THE SERVICE.***
>
> A.M. OCA IPI NO. 12-4000-RTJ

---

142 *Id.*
143 *Id.* at 400.
144 OCA IPI No. 12-3996-P, *rollo*, pp. 505-588. Penned by Investigating Associate Justice Ramon M. Bato, Jr.
145 *Id.* at 586-587.

The counter-charge against Judge Genie G. Gapas-Agbada is recommended ***DISMISSED*** for lack of merit.

A.M. OCA IPI No. 12-2548

The charges against Judge Lorna Santiago are recommended ***DISMISSED*** for lack of merit.

Meanwhile, as for the charge, against Aristotle Ramos, Orlando Arcilla and Isidro Guerrero, of punching the DTRs of other employees, it is recommended that Aristotle Ramos and Isidro Guerrero be ***FINED*** [₱]5,000.00 each, with the ***STERN WARNING*** that any repetition of similar acts will be dealt with more severely. The charge against Orlando Arcilla is recommended ***DISMISSED***, the same having already been the subject of A.M. No. P-10-2742, promulgated on December 14, 2009, for which Orlando Arcilla was meted the penalty of stern warning.

A.M. OCA IPI No. 12-3996-P

As for the charge of punching the DTRs of other employees, it is recommended that Karina Tabuzo be ***FINED*** [₱]5,000.00, with the ***WARNING*** that any repetition of similar acts will be dealt with more severely.

Regarding the charge that Karina Tabuzo travelled abroad from October 2007 to November 2010 without permission or clearance to travel from the Supreme Court, it is recommended that she be ***SEPARATELY INVESTIGATED*** for the same.

A.M. OCA IPI No. 3764-RTJ

The charges of conduct unbecoming of judge, falsehood and misdemeanor against Judge Genie G. [Gapas]-Agbada and Judge Lorna Santiago are recommended ***DISMISSED*** for lack of basis.[146] (*Emphases and italizations in the original.*)

Memorandum of the Office of the Court Administrator (OCA)

Upon review, the OCA essentially adopted the foregoing Report and Recommendation, with modification, *viz.*:[147]

---

146 *Id.*

147 *Id.* at 589-643.

WHEREFORE, in view of the foregoing, it is respectfully recommended for the consideration of the Honorable Court that:

1. **A.M. OCA IPI No. 11-3696-P**

   a. the administrative complaint against Atty. Louie T. Guerrero, Clerk of Court, Office of the Clerk of Court, Regional Trial Court, Virac, Catanduanes, for insubordination, discourtesy, violation of the Code of Conduct for Court Personnel and grave misconduct for violation of Anti-Wiretapping Law be **RE-DOCKETED** as a regular administrative matter;

   b. the charge of insubordination against Atty. Guerrero be **DISMISSED** for lack of basis;

   c. Atty. Guerrero be found **GUILTY** of discourtesy in the performance of duties and be **REPRIMANDED**;

   d. the charge of violation of the Code of Conduct for Court Personnel, for recommending for employment (in the Judiciary) a member of his immediate family (Violation of Section 2[e], Canon III of the Code of Conduct for Court Personnel), be **DISMISSED** for lack of basis; and

   e. Atty. Guerrero be found **GUILTY** of Gross Misconduct (relative to the charge of wiretapping and electioneering) and be **DISMISSED** from the service with forfeiture of retirement benefits, except his earned leave credits, and disqualification for re-employment in the government service, including government-owned and controlled corporation;

2. **A.M. OCA IPI NO. 12-4000-RTJ**

   The counter-charge against Judge Genie G. [Gapas]-Agbada, RTC, Branch 42, Virac, Catanduanes [Assisting Judge, RTC, Branch 221, Quezon City] for oppression, dishonesty, impropriety, favoritism and discourtesy, be **DISMISSED** for lack of merit.

3. **A.M. OCA IPI No. 12-2548-MTJ**

   a. The administrative complaint against Judge Lorna B. Santiago-Ubalde, MTC, Virac, Catanduanes, [Acting Presiding Judge, MTCC, General Santos City, South Cotabato], for false promise to recommend Liberty S. Guerrero to the position of Junior Process Server, be **DISMISSED** for lack of merit.

b. The administrative complaint against Aristotle Ramos, Legal Researcher, and Isidro Guerrero, Utility Worker, all of RTC, Branch 42, Virac, Catanduanes, for punching the time cards of other employees, loafing and sleeping during office hours and for falsehood (except for Isidro Guerrero) in their affidavits, be **RE-DOCKETED** as a regular administrative matter; and

c. Aristotle Ramos and Isidro Guerrero be found **GUILTY** of dishonesty and be **FINED** in the amount of [₱]5,000.00 each, with a **STERN WARNING** that any repetition of similar acts will be dealt with more severely;

d. The charge against Orlando Arcilla is recommended **DISMISSED**, said charge having been the subject already of A.M. No. P-10-2742, resolved on December 14, 2009, for which Orlando Arcilla was given a stern warning.

4. **A.M. OCA IPI No. 12-3996-P**

a. The administrative complaint against Karina Tabuzo, former Clerk III, RTC, Branch 42, Virac, Catanduanes, now Clerk of Court, Metropolitan Trial Court, Branch 69, Pasig City), (sic) of punching the time cards of other employees, leaving court during office hours and falsehood in her affidavit, be **RE-DOCKETED** as a regular administrative matter;

b. Karina Tabuzo be found **GUILTY** of dishonesty and be **FINED** in the amount of P5,000.00, with a stern **WARNING** that any repetition of similar acts will be dealt with more severely; and

c. Regarding the charge that Karina Tabuzo travelled abroad from October 2007 to November 2010 without permission or clearance to travel from the Supreme Court, that she be **SEPARATELY INVESTIGATED** for the same.

5. **A.M. OCA IPI No. 3764-RTJ**

The administrative complaint against Judge Genie Gapas-Agbada and Judge Lorna Santiago-Ubalde, for conduct unbecoming of a judge, falsehood and misdemeanor, be **DISMISSED** for lack of basis.[148] (Emphases in the original.)

In **A.M. OCA IPI No. 11-3696-P**, the OCA found that Atty. Guerrero's harsh and insulting words against Judge Gapas-Agbada in the presence of her staff, calling her a liar, a cripple, and a drunkard, constitute a violation of Rule

[148] *Id.* at 641-643.

11.04[149] of Canon 11 of the Code of Professional Responsibility (CPR).[150] Meanwhile, it was duly established that he recruited or attempted to recruit employees of the Hall of Justice to work as paralegals for Joseph, then candidate for Governor in Catanduanes during the 2010 Elections, in violation of the Civil Service Law and the Administrative Code of 1987.[151] Too, his admission that he recorded his conversation with Judge Gapas-Agbada without her consent is sufficient to find him guilty of violating the Anti-Wiretapping Law as he was in fact impelled by bad faith when he committed the same.[152]

He, however, cannot be found guilty of insubordination for lack of evidence. While Atty. Guerrero's conduct was willful and characterized by a perverse attitude, it cannot be said that the orders he violated pertained to his duties as Clerk of Court. Rather, the directives Judge Gapas-Agbada gave him were merely incidental to his assigned tasks as Clerk of Court.[153] The charges of conflict of interest were also not proven as it appears that it was Liberty who wanted the position of Junior Process Server and who persuaded Judge Ubalde to recommend her. Being her husband, Atty. Guerrero merely supported her.[154]

In **A.M. OCA IPI No. 12-4000-RTJ**, the OCA dismissed all the charges against Judge Gapas-Agbada for insufficiency of evidence. Nothing supports Atty. Guerrero's allegation that she is guilty of favoritism, delegation of decision-writing, conduct unbecoming of a judge, or fraternizing with Atty. Borja.[155]

In **A.M. OCA IPI No. 12-2548-MTJ**, the OCA ordained that Atty. Guerrero failed to substantiate his allegations against Judge Ubalde. There was no clear-cut evidence that she promised the position to Liberty or that she took advantage of Liberty by making her do various tasks. On the contrary, the parties admitted that the appointing authority belongs to the Supreme Court, and that Liberty voluntarily offered her services because she wanted Judge Ubalde to recommend her.[156]

---

149 Rule 11.04. A lawyer shall not attribute to a Judge motives not supported by the record or have no materiality to the case.
150 OCA IPI No. 12-4000-RTJ, *rollo*, p. 402.
151 *Id.* at 403-404.
152 *Id.* at 406.
153 *Id.* at 405.
154 *Id.*
155 *Id.* at 406-409.
156 *Id.* at 409.

The charges against Isidro, Aristotle, and Orlando of loafing and sleeping during office hours and committing falsehoods in their respective affidavits were also unsupported by evidence. Only the offense of punching of timecards of other employees was proven as the same was admitted by these respondents. Though the offense was committed in 2008, the lapse of time does not exonerate them.[157]

For **A.M. No. P-23-085 [Formerly OCA IPI No. 12-3996-P]**, the OCA likewise found no evidence to find Karina guilty of leaving the office during office hours and committing falsehood in her affidavit. She, however, also admitted punching the timecards of other employees for which she must be penalized. As regards the claim that she went abroad sans travel clearance, this was only raised by Atty. Guerrero for the first time when he testified during the investigation proceedings. It should thus be the subject of a separate administrative investigation to afford Karina her right to due process.[158]

Finally, in **OCA IPI No. 3764-RTJ**, the OCA dismissed the charges against Judge Gapas-Agbada and Judge Ubalde for lack of evidence. There is no merit in Liberty's claim that Judge Ubalde had promised the position of Junior Process Server to her. The position was not even open yet at that time. It was only opened when Judge Santiago was already assigned to another station.[159]

On December 6, 2015, Isidro passed away.[160]

On January 25, 2022, Atty. Guerrero filed a *Manifestation with Prayer to Expedite Resolution of the Above-Docketed Cases*, stating that: (a) he was appointed as Associate City Prosecutor at the Office of the City Prosecutor, Legazpi, Albay on March 6, 2014, and then as Assistant Provincial Prosecutor at the Office of the Provincial Prosecutor of Catanduanes on March 18, 2015; and (b) "the parties [have] long reconciled, forgiven each other, and had moved on."[161]

Our Ruling

---

157 *Id.* at 410.
158 *Id.* at 411.
159 *Id.* at 412.
160 OCA IPI No. 12-2548-MTJ, *rollo*, pp. 335-336.
161 OCA IPI No. 11-3696-P, *rollo*, pp. 1028-1031.

Preliminarily, the prevailing rule for the discipline of members, officials, employees, and personnel of the Judiciary is A.M. No. 21-08-09-SC.[162] It shall apply to all pending administrative cases involving employees and personnel of the Judiciary.[163]

Section 4 of A.M. No. 21-08-09-SC provides:

> SECTION 4. *Administrative Case Considered as Disciplinary Actions Against Members of the Philippine Bar.* — An administrative case against any of those mentioned in Section 1 (1) of this Rule shall also be considered as a disciplinary action against him or her as a member of the Philippine Bar, *provided*, that the complaint specifically states that the imputed acts or omissions therein likewise constitute a violation of the Lawyer's Oath, the Code of Professional Responsibility, the Canons of Professional Ethics, or such other forms of breaches of conduct that have been traditionally recognized as grounds for the discipline of lawyers.

As for Atty. Guerrero, the charges against him shall likewise be treated as a disciplinary action under the Code of Professional Conduct for lawyers,[164] also known as the CPR. This is because Judge Gapas-Agbada's complaint in A.M. OCA IPI No. 11-3696-P also accuses him of violations of the CPR constituting gross misconduct.

We now resolve.

The Constitution equates public office with public trust.[165] As public officers, court personnel, from the presiding judge to the lowliest of clerk, are thus required to conduct themselves beyond reproach, circumscribed with the heavy burden of responsibility as to free them from any suspicion that may taint the good image of the judiciary.[166]

A.M. No. P-23-084 [Formerly OCA IPI No. 11-3696-P]

The charges against Atty. Guerrero for insubordination

---

162 Further Amendments to Rule 140 of the Rules of Court issued on February 22, 2022.

163 *Gandia-Asuncion v. Martin*, A.M. No. P-22-042, June 28, 2022 [Per Curiam, *En Banc*].

164 A.M. OCA IPI No. 11-3696-P, *rollo*, p. 25.

165 Constitution, Article XI, Section 1, provides:
Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.

166 See *In Re: Report of COA on the Shortage of Accountabilities of Clerk of Court Lilia S. Buena*, 348 Phil. 1, 10 (1998) [Per Curiam, *En Banc*].

and violation of the CCCP for improperly influencing Judge Ubalde are dismissed for lack of merit

The charge of violation of the CCCP by attempting to influence Judge Ubalde to appoint Liberty is dismissed for lack of substantial evidence.[167] In this vein, we quote with approval the findings of the OCA, *viz.*:

> [T]he evidence does not convincingly establish that Atty. Guerrero abused his office and that he recommended [Liberty] for employment. What appears from the record is that it was Liberty who wanted the position of Junior Process Server x x x. It was also Liberty who tried to persuade Judge [Ubalde] by offering and volunteering to cook for and do errands x x x. Atty. Guerrero merely supported Liberty.[168]

The charge of insubordination must likewise be dismissed.

Insubordination is defined as a refusal to obey some order, which a superior officer (such as a judge) is entitled to give and have obeyed.[169] The term imports an unwillingness to submit to authority and refusal to perform official duty.[170]

Here, apart from Judge Gapas-Agbada's allegation that she required Atty. Guerrero: (a) to refrain from meddling in cases filed in court by entertaining litigants; (b) to desist from exerting pressure on Judge Ubalde regarding the appointment of Liberty; and (c) to report all concerns regarding the security guards at the Hall of Justice, there is no documentary evidence that she actually issued said directives.[171] Further, Atty. Guerrero's failure to submit the Performance Ratings of OCC-Regional Trial Court Staff before Judge Gapas-Agbada left for Manila does not amount to insubordination. He sufficiently explained that his inability to comply was due to his preparation of his Memorandum dated July 4, 2011 regarding the incident in Atty. Gianan's house. Thus, it cannot be said that his non-compliance was willful or intentional.[172]

---

167 OCA IPI No. 11-3696-P, *rollo*, p. 895.

168 *Id.*

169 *Espinosa v. Balisnomo*, A.M. No. P-20-4039, February 26, 2020 [Per J. Lazaro-Javier, First Division], citing *Judge Dalmacio-Joaquin v. Dela Cruz*, 604 Phil. 256, 261 (2009) [Per J. Velasco, Jr., First Division]; See *Judge Arabani v. Arabani*, 806 Phil. 129, 144 (2017) [Per J. Perlas-Bernabe, *En Banc*].

170 *Espinosa v. Balisnomo, supra*, citing *Office of the Court Administrator v. Licay*, 825 Phil. 81, 87 (2018) [Per Curiam, *En Banc*].

171 See OCA IPI No. 12-4000-RTJ, *rollo*, p. 370.

172 *Id.* at 406.

We, nonetheless, find Atty. Guerrero guilty of the other charges imputed to him.

Atty. Guerrero is guilty of five counts of gross misconduct, as well as engaging in partisan political activity

Time and again, the Court stressed that the behavior of all employees and officials involved in the administration of justice, from judges to the most junior clerks, is circumscribed with heavy responsibility. The Judiciary demands the best possible individuals in the service and **it had never and will never tolerate** nor condone any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the justice system. As such, **the Court will not hesitate to rid its ranks of undesirables** who undermine its efforts towards an effective and efficient administration of justice, thus, tainting its image in the eyes of the public.[173]

For lawyers who are also members of the Judiciary, the standard they are expected to meet is even higher. For one of the qualifications required of lawyers is good moral character. When lawyers clearly show by a series of acts, that they do not follow such moral principles as should govern the conduct of an upright person, and that, in their dealings with their clients and the courts, **they disregard the rules of professional ethics** to be observed by lawyers, **it is the duty of the Court**, as guardian of the interests of society and preservation of the ideal standard of professional conduct, to make use of its powers **to deprive them** of the professional attributes which they so unworthily abused.[174]

On this score, Atty. Guerrero miserably failed to uphold the standards required of members of the Bar and of the Judiciary. We find him guilty of five counts of gross misconduct for: (1) grave disrespect to Judge Gapas-Agbada by using intemperate, insulting, and demeaning language against her; (2) unauthorized recording of his private conversation with Judge Gapas-Agbada; (3) covertly taking photos and video of Judge Gapas-Agbada to portray her in a bad light; (4) participating in the *sosyodad*; and (5) threatening court staff Aristotle, Orlando, and Karina with filing of administrative

---

173 See *Dela Rama v. De Leon*, A.M. No. P-14-3240, March 2, 2021 [Per Curiam, *En Banc*].
174 See *Buenaventura v. Atty. Gille*, A.C. No. 7446, December 9, 2020 [Per Curiam, *En Banc*].

complaints against them if they testify against him. We likewise find him liable for partisan political activity.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer or employee. To warrant dismissal from the service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment.[175]

We discuss *in seriatim.*

First. By flauntingly and repeatedly disrespecting Judge Gapas-Agbada by using insulting and demeaning language against her, Atty. Guerrero violated Rule 1.01, Canon 1, Rule 7.03, Canon 7, and Rule 11.03, Canon 11 of the CPR which provide:

> CANON 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.
>
> RULE 1.01 A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.
>
> CANON 7 — A lawyer shall at all times uphold the integrity and dignity of the legal profession, and support the activities of the integrated bar.
>
> RULE 7.03 A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.
>
> CANON 11 — A lawyer shall observe and maintain the respect due to the Courts and to judicial officers and should insist on similar conduct by others.
>
> RULE 11.03 A lawyer shall abstain from scandalous, offensive or menacing language or behavior before the Courts.

In disciplinary cases against lawyers and court personnel, substantial evidence or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion is necessary to justify the imposition

---

[175] See *Dela Rama v. De Leon*, *supra* note 173.

of administrative liability.[176] But when the charges are judicially admitted by the respondent, as here, the requirement to meet the necessary quantum of evidence no longer applies.[177]

Notably, Atty. Guerrero, has not, in any manner, denied that he referred to Judge Gapas-Agbada, a polio survivor,[178] as "***bubuwaon***" (liar), "***pilay***" (cripple), "***pilay na bubuwaon***" (crippled liar), "***sulsultant***" (a corruption of "consultant" by joining the words "*sulsol*" and "consultant"), and "***traydor***" (traitor).[179] In fact, he had the audacity to replead his Memorandum dated July 4, 2011 as part of his evidence before the Investigating Justice:[180]

> x x x
>
> It was [Mr. Felipe Ubalde] who offered to execute an affidavit attesting to the fact that you violated the "No Smoking" directive because you and Judge Lorna Ubalde, including him, smoked inside your chamber x x x Do you realize how mad Mr. Ubalde is at you because of your influence on his wife that he even called you **"*sulsultant*," a corruption of "consultant" by joining the words "*sulsol*" and "consultant."**[181]
>
> x x x
>
> You were no longer present when I aired my sentiments against you and my emotions were on high gear considering that we just had an argument inside your chamber x x x
>
> ***Numero uno yan na bubuwaon*** **[number one liar]**[182]
>
> **You are known to "distort, twist, or even deny" statements you have made whenever you are confronted** x x x
>
> **So, calling you "*bubuwaon*" is no longer malicious or invective because that is the impression you have made on us.** x x x Judge Contreras **calls you "TRAYDOR"** because there is no appropriate word to describe you x x x[183]
>
> ***Ang pilay na am***

---

176 See *Partsch v. Atty. Vitorillo*, A.C. No. 10897, January 4, 2022 [Per J. Hernando, *En Banc*], citing *Spouses Nocuenca v. Bensi*, A.C. No. 12609, February 10, 2020 [Per J. Hernando, Second Division].

177 Rules of Court, Rule 129, Section 4.

178 OCA IPI No. 11-3696-P, *rollo*, p. 15.

179 OCA IPI No. 11-3696-P, *rollo*, pp. 34 and 856; OCA IPI No. 12-4000-RTJ, *rollo*, p. 402.

180 OCA IPI No. 12-4000-RTJ, *rollo*, p. 378.

181 OCA IPI No. 11-3696-P, *rollo*, pp. 34 and 856.

182 *Id.*

183 *Id.* at 35.

> **Do you consider this malicious or invective when I am just stating a fact?**[184] x x x (Emphases supplied)

Thus, he is deemed to have judicially admitted making these shaming remarks.[185]

The Court is nothing but appalled by how Atty. Guerrero deported himself before Judge Gapas-Agbada. He even had the temerity to reproduce and adopt in his aforesaid Memorandum these malicious and hurtful words, exhibiting anew his rude and disrespectful behavior. The words he used were so laced with malevolence and arrogance that to simply call them discourteous would be a gross understatement.

By casting aspersion on the character of Judge Gapas-Agbada and by resorting to name-calling and mockery, Atty. Guerrero cast upon himself, too, serious doubt on his character. It bears emphasis that he openly uttered these words in the presence of several court staff.[186] Undoubtedly, his remarks diminished their trust and confidence in the integrity of the legal profession which he represented and was duty-bound to protect. More important, the Court, as an organ of the State, cannot condone disrespect and ridicule against a person with disability, as ordained by the *Magna Carta* for Disabled Persons.[187]

Although Atty. Guerrero claims that the incident which preceded his spew of offensive language was emotionally charged, he ought to be reminded that the language he employed is highly unbecoming of a member of the legal profession.[188] While the Court has recognized the right of lawyers to criticize judges, said right does not constitute an unbridled license to malign and insult the court and its officers.[189]

Regardless of the truth or falsity of his imputations against Judge Gapas-Agbada, Atty. Guerrero transgressed the lines of propriety by referring to her repeatedly as a **liar**, **cripple**, "***sulsultant***," and **traitor**. More alarming is the fact that his utterances were deliberate and intentional, calculated to malign, defame, and bring down Judge Gapas-Agbada.

---

184 *Id.*
185 *See* Rules of Court, Rule 129, Section 4.
186 OCA IPI No. 12-4000-RTJ, *rollo*, pp. 365-367 and 371-374.
187 Republic Act No. 7277. Approved March 24, 1992.
188 *See Martin v. Ala*, A.C. No. 10556, June 30, 2021.
189 *See In re: Atty. Sorreda*, 502 Phil. 292, 301 (2005) [Per J. Garcia, *En Banc*].

It bears stress that Atty. Guerrero's barrage of insults against Judge Gapas-Agbada cannot be considered as plain and simple discourtesy. They were defamatory, cruel, and sadistic. The Court notes with utter disapproval the following conceited statements he made in his Memorandum, sealing our verdict that he must be found guilty of *gross* misconduct, *viz.*:

> ***Dai ako natakot sa inyo, dakol akong tawo, dakol akong koneksyon na matabang sakuyo, maski si Judge Lelu tutuwangan ako*** (I am not afraid of her, I have lots of people, I have many connections that would help me, even Judge Lelu would help me)[190]
>
> ***Kaya ako ipadagos ko ang paglaban sa inya maski pa matanggal ako dyan sa opisina o madisbar ako basta matanggal man siya dai ako sa inya matakot. Tumang ako*** (I will continue my fight against Judge Gapas-Agbada even to the point of being disbarred for as long as she will be removed from the office, I am not afraid of her. I'm going to fight.)[191]
>
> **So what is wrong in these statements? I am just saying that I am not alone if ever I file a complaint against you. And I am willing to put my profession at stake if only to put *you* down because of the professional abuses and harassment that you have done to me. Are these statements malicious or invectives?**[192] (Emphases supplied)

Second. Atty. Guerrero admitted in his Memorandum dated July 4, 2011 that he recorded the conversation between himself and Judge Gapas-Agbada in the latter's chambers in the afternoon of June 30, 2011 without her consent. Indignantly, he even went on to express his regret that he was not able to repeat the surreptitious recording during Atty. Gianan's party, *viz.*:[193]

> **It is, indeed, true that I recorded what transpired inside your chamber when you were on top of your voice** x x x I did this as a safety precaution to avoid either of us from imputing words to each other contrary to what was actually said especially because you are known to deny whenever you are confronted with what you have uttered. **It is just unfortunate that I forgot to record the incident subject of your Memorandum**[194] x x x (Emphases supplied)

On this score, he must be found liable for another count of gross misconduct.

---

190 OCA IPI No. 11-3696-P, *rollo*, pp. 36 and 857.
191 *Id.* at 857.
192 *Id.*
193 OCA IPI No. 12-4000-RTJ, *rollo*, p. *Id.* at 364.
194 *Id.*

Third. Atty. Guerrero is liable for covertly taking photos and videos of Judge Gapas-Agbada during Atty. Gianan's party to portray her in a bad light, and for trying to alienate her from her court staff by discrediting her, calling her a **liar** and a **traitor**, and charging her with favoritism in dealing with her staff.

In his Memorandum dated July 4, 2011, he never disputed secretly taking Judge Gapas-Agbada's photos and video. Instead, he insolently taunted her for even confronting him about it, *viz.*:

> 8. Alleged Video/Photograph
>
> I am wondering why you now reacted negatively to being photographed x x x. Could it be because you are afraid of being seen in a deglamorized condition with your ruffled hair, swaying to and from and laughing boisterously, clear signs of your drunkenness?
>
> x x x and I asked who told you that I took your pictures and you answered that you saw me that is why I commented "*Paano mo ako mahiling na nasa likudan mo ako? Yata palan igwa kang mara sa likod?*" (How could you see me when I was at your back? So you have eyes at your back?) x x x[195]

He further argued that when he allowed Judge Gapas-Agbada to check his cellphone, she did not find any photograph of video.[196] The absence thereof, however, does not necessarily mean that he did not take the photographs or videos. On the contrary, the uniform testimonies of the court staff Aristotle, Karina and Orlando on how they saw Atty. Guerrero take photos and videos of Judge Gapas-Agbada behind her back based on the positioning of his phone, the flash of the camera and the clicking sound it made are sufficient to convince this Court of the veracity of this charge against him.

For this violation, Atty. Guerrero must be found guilty of another count of gross misconduct.

Fourth. Atty. Guerrero admitted that there was indeed a "*sosyodad*" among the security guards of the Hall of Justice and himself. The members of said group did have drinking sessions every Saturday for which they used

---

[195] OCA IPI No. 11-3696-P, *rollo*, pp. 32-33.
[196] *Id.* at 34.

collected/contributed money.[197] Vallejo and Reymond, Atty. Guerrero's own witnesses, admitted their membership in the "*sosyodad.*"[198]

His involvement in the "*sosyodad*" violates Canon III of the CCCP, which provides:

> Section 1. Court personnel shall avoid conflicts of interest in performing official duties. Every court personnel is required to exercise utmost diligence in being aware of conflicts of interest, disclosing conflicts of interest to the designated authority, and terminating them as they arise.
>
> (a) A conflict of interest exists when:
>
> i. The court personnel's objective ability or independence of judgment in performing official duties is impaired or may reasonably appear to be impaired[.] x x x

By fraternizing with the security guards and drinking with them every Saturday, Atty. Guerrero's objectivity was severely impaired. Consequently, Vallejo admitted that security guards had not been filing their leaves because they have devised a system where they merely agreed among themselves who would assume the post/duty of the security guard who would be absent, and the absent guard would simply compensate the reliever by taking the latter's scheduled duty.[199]

Had it not been for the familiarity fostered by Atty. Guerrero and his rank unprofessionalism, the security guards would not have been so bold as to not file their official leaves whenever they were absent. His acts are highly prejudicial to the Judiciary since the persons who participated in the "*sosyodad*" are the ones charged with securing the Hall of Justice.

Fifth. Atty. Guerrero is liable for threatening Aristotle, Orlando, and Karina that he would file cases against them as a way of retaliation for their execution of affidavits to support Judge Gapas-Agbada's case against him.

---

197 *Id.* at 871.
198 *Id.* at 873 and 876.
199 *Id.* at 873.

The consistent testimonies of Judge Gapas-Agbada,[200] Aristotle,[201] and Orlando[202] indubitably established that Atty. Guerrero made threats that he would file cases against them for executing affidavits supporting Judge Gapas-Agbada's complaint against him when Orlando furnished him with copies of the same. He even spitefully ensured that his threats would reach the persons concerned by instructing his staff Janet to relay his message to Karina.[203]

Though filing of a legal action is not unlawful *per se*, especially when duly supported by facts and evidence, it is still considered a wrong though not constituting a crime when the threat was made to impose a condition as it infringes on a person's liberty and security. Here, it is apparent that when Atty. Guerrero threatened Orlando, Aristotle, and Karina, he intended to intimidate and coerce them to retract their testimonies against him. In pure retaliation and bad faith, when it was apparent that his threats were ineffective, he proceeded to file administrative cases against these affiants, which now form part of these consolidated cases.

In this regard, Atty. Guerrero must be found liable for another count of gross misconduct

Sixth. Atty. Guerrero is likewise liable for partisan political activity under Section 14(k) of Rule 140 of the Rules of Court for recruiting Aristotle and Orlando as paralegals for Joseph's campaign during the 2010 Elections, albeit Aristotle and Orlando declined to be engaged as such.[204] More, Leilany attested that Atty. Guerrero briefed her and her co-paralegals on the specific duties they ought to perform during the campaign and election itself for the purpose of protecting the votes of the aforenamed candidate.[205]

Section 14(k) of Rule 140[206] of the Rules of Court which enumerates the offenses considered as serious charges provides:

> SECTION 14. Serious Charges. — Serious charges include: x x x
>
> (k) Partisan political activities x x x

---

200 *Id.*
201 *Id.*
202 *Id.*
203 *Id.*
204 *Id.* at 863 and 866.
205 *Id.* at 866-867.
206 A.M. No. 21-08-09-SC, which further amended Rule 140 of the Rules of Court.

The testimony of Barceta that he did not witness Atty. Guerrero recruit Aristotle and Orlando does not foreclose the possibility that Atty. Guerrero indeed recruited Aristotle, Orlando, and Leilany as paralegals. Too, Liberty's testimony that Atty. Guerrero was not involved in Joseph's election campaign must be accorded little weight because as Atty. Guerrero's spouse, she would easily perjure herself if only to save her husband from administrative liability.[207] More damning is her admission that Atty. Guerrero asked her if Barceta could accommodate Leilany and Jonmark as paralegals.[208] It was an indirect solicitation of support for Santiago.[209]

The Proper Penalties

We first discuss Atty. Guerrero's liability under A.M. No. 21-08-09-SC. Here, Atty. Guerrero is liable for five counts of gross misconduct.

Discourtesy, by itself, may be considered vulgar and unbecoming conduct, a light charge, under A.M. No. 21-08-09-SC, Section 16 (a). This is distinguished from simple misconduct under Section 15 (a) of the same rule, in that the latter requires a violation of the Code of Judicial Conduct or the CCCP.[210] Notably, however, the CCCP has an incorporation clause,[211] *viz.*:

> SECTION 1. All provisions of law, Civil Service rules, and issuances of the Supreme Court governing or regulating the conduct of public officers and employees applicable to the Judiciary are deemed incorporated into this Code.

In this light, Atty. Guerrero's infractions of Rule 1.01,[212] Canon 1,[213] Rule 7.03,[214] Canon 7[215] and Rule 11.03,[216] Canon 11[217] of the CPR—an

---

207 *See People v. Nelmida*, 694 Phil.529, 564 (2012) [Per J. Perez, *En Banc*].
208 OCA IPI No. 11-3696-P, *Rollo*, p. 875.
209 *Id.* at 866a-867.
210 *See Osorio v. Sumbilla*, A.M. No. P-22-060, August 31, 2022.
211 See A.M. No. 03-06-13-SC dated May 15, 2004.
212 Rule 1.01 of the CPR. A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.
213 Canon 1 of the CPR. A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.
214 Rule 7.03 of the CPR. A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.
215 Canon 7 of the CPR. A lawyer shall at all times uphold the integrity and dignity of the legal profession, and support the activities of the integrated bar.
216 Rule 11.03 of the CPR. A lawyer shall abstain from scandalous, offensive or menacing language or behavior before the Courts.
217 Canon 11 of the CPR. A lawyer shall observe and maintain the respect due to the Courts and to judicial officers and should insist on similar conduct by others.

issuance governing the conduct of all lawyers, including those in the Judiciary—constitute violations of the CCCP. Hence, his offense is either simple misconduct, a less serious charge; or gross misconduct, a serious charge. Misconduct is gross if it involves any of the additional elements of corruption, willful intent to violate the law, or to disregard established rules, which must be manifest and proved by substantial evidence.[218]

Here, there is no question that Atty. Guerrero *willfully and repeatedly* violated Rule 1.01, Canon 1, Rule 7.03, Canon 7, and Rule 11.03, Canon 11 of the CPR by maligning his superior officer, Judge Gapas-Agbada, before other court staff and members of the general public. It bears stress that his use of disrespectful speech is not confined to one occasion but was repeated in several other instances. Each time, he would come up with new colorful language to call her, such as **liar**, **traitor**, "***sulsultant,***" or a **cripple**.

Indeed, this Court cannot, in weighing the gravity of his infraction, do so with a telescopic view. We cannot simply ignore the undisputed fact that not only did Atty. Guerrero use improper language against Judge Gapas-Agbada *multiple* times but he did so while violating several provisions of law, some of which are penal in nature, without even any scintilla of remorse in sight. Verily, his diminishing, cruel, and insulting language cannot, in any degree, amount merely to plain and simple discourtesy, but certainly constitutes gross misconduct, a serious charge. His discourteous conduct is vulgar and gross. The words he used were discriminatory on their face. These words have no redeeming value whatsoever.

Prior to the effectivity of A.M. No. 21-08-09-SC, violation of the Anti-Wiretapping Law was considered gross misconduct punishable by dismissal from the service even for the first offense.[219] Notably, gross misconduct under civil service laws is different from that under A.M. No. 21-08-09-SC, which expressly refers to "violations of the Code of Judicial Conduct or of the CCCP."[220] Since the CPR is deemed incorporated in the CCCP, we find that Atty. Guerrero's unauthorized recording of his conversation with Judge Gapas-Agbada—an apparent violation of law and thus a violation of Canon 1, Rule 1.01—constitutes gross misconduct.

---

[218] *Alano v. Delicana*, A.M. No. P-20-4050 & OCA IPI No. 16-4578-RTJ, June 14, 2022, citing *Civil Service Commission v. Ledesma*, 508 Phil. 569, 579 (2005) [Per J. Carpio, *En Banc*].

[219] *Atty. Capuchino v. Apolonio*, 672 Phil. 287, 298 (2011) [Per J. Brion, Second Division].

[220] *Office of the Court Administrator v. Sarabia*, A.M. No. P-15-3398, July 12, 2022 [Per Curiam, *En Banc*].

In the same vein, Atty. Guerrero's separate acts of covertly taking photos and videos of Judge Gapas-Agbada to portray her in a bad light, and threatening court staff Orlando, Aristotle, and Karina with filing of administrative cases against them for executing affidavits supporting Judge Gapas-Agbada also constitute gross misconduct under A.M. No. 21-08-09-SC for these acts constitute separate violations of Canon 1, Rule 1.01 of the CPR.

Too, we consider Atty. Guerrero's participation in the "*sosyodad*" as another count of gross misconduct, because it is a flagrant violation of the CCCP. Atty. Guerrero even admitted that he and the security guards would drink together on Saturdays. This habituality reveals that Atty. Guerrero had the intent to willfully violate Canon III of the provisions of the CCCP.

Finally, Section 14 of A.M. No. 21-08-09-SC classifies partisan political activity as a serious charge.

Section 17 of A.M. No. 21-08-09-SC provides the following sanctions which may be imposed for a serious charge:

> SECTION 17. *Sanctions.* -
>
> (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 more than six (6) months but not exceeding one (1) year; or
>
> (c) A fine of more than ₱100,000.00 but not exceeding ₱200,000.00. xxx

To reiterate, Atty. Guerrero committed **six** separate offenses in this case all classified as serious charges, *i.e.*, five counts of gross misconduct and one count of partisan political activity. As such, the proper penalty considering the gravity of his multiple infractions is dismissal from service. We, however,

note his Manifestation[221] that he has already been separated from service in the Judiciary and has been appointed as Associate City Prosecutor at the Office of the City Prosecutor in Legazpi City, Albay under the Department of Justice National Prosecution Service on March 6, 2014. On March 18, 2015, he has been promoted as Assistant Provincial Prosecutor in Virac, Catanduanes.

In lieu of dismissal, we thus deem it proper to fine him: (a) PHP 100,000.00 for his discourtesy against Judge Gapas-Agbada; (b) PHP 100,000.00 for his unauthorized recording of his private conversation with Judge Gapas-Agbada; (c) PHP 100,000.00 for covertly taking photos and video of Judge Gapas-Agbada to portray her in bad light; (d) PHP 100,000.00 for participating in the *sosyodad*; (e) PHP 100,000.00 for threatening court staff who executed affidavits against him; and (f) PHP 100,000.00 for engaging in partisan political activity. More, his benefits shall be forfeited, except for accrued leave credits, and he shall be disqualified from reinstatement or appointment to any position in the Judiciary.[222]

In the same Manifestation,[223] Atty. Guerrero claimed that the parties herein had long reconciled and had once again nurtured amicable relations with each other. He thus prayed for the dismissal of the cases. Notably though, among the parties, only he came forward with such a claim. We thus find his statements self-serving and hence, undeserving of the Court's consideration. At any rate, reconciliation among the parties is not a ground for dismissal of administrative charges. For it is settled that the purpose of administrative cases against public officials is to exact accountability for the wrongful act that they have committed in the performance of their official functions in order to protect public service, which is a public trust.[224]

On his disciplinary liability as a lawyer, we consider Atty. Guerrero's flagrant, arrogant, and repeated violations of the CPR. He committed **six** separate acts which constitute serious charges, *i.e.*, five counts of gross misconduct for: discourtesy, unauthorized recording of his private conversation with Judge Gapas-Agbada, covertly taking photos and video of Judge Gapas-Agbada to portray her in a bad light, threatening court staff who executed affidavits against him, and participating in the *sosyodad*. He likewise engaged in partisan political activity. Relevantly, Section 27, Rule 138 of the

---

221 A.M. OCA IPI No. 11-3696-P, *rollo*, pp. 932-934.
222 A.M. No. 21-08-09-SC, Sections 17 and 18.
223 A.M. OCA IPI No. 11-3696-P, *rollo*, pp. 932-934.
224 See *Ferrer, Jr. v. Sandiganbayan*, 572 Phil. 244, 254 (2008) [Per J. Austria-Martinez, Third Division].

Rules of Court provides that gross misconduct is a ground for disbarment from the practice of law, *viz.*:

> Section 27. Attorneys removed or suspended by Supreme Court on what grounds. — **A member of the bar may be removed or suspended from his office as attorney by the Supreme Court for any** deceit, malpractice, or **other gross misconduct in such office,** grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before the admission to practice, or for a wilfull disobedience of any lawful order of a superior court, or for corruptly or willful appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice. (Emphases supplied)

Too, the attitude that Atty. Guerrero has repeatedly displayed is so reprehensible and unbecoming of a member of the bar. This is magnified by his statement, *viz.*:

> ***Kaya ako ipadagos ko ang paglaban sa inya maski pa matanggal ako dyan sa opisina o madisbar ako basta matanggal man siya dai ako sa inya matakot. Tumang ako*** (I will continue my fight against Judge Gapas-Agbada even to the point of being disbarred for as long as she will be removed from the office, I am not afraid of her. I'm going to fight.) (Emphasis supplied)

Atty. Guerrero's contempt for Judge Gapas-Agbada is so deep, he would not mind foregoing being a lawyer. There is no place for such a vile and hateful disposition in the legal profession. *Re: Former Judge Evelyn Arcaya-Chua*[225] is in point:

> Possession of good moral character is not only a prerequisite to admission to the bar but also a continuing requirement to the practice of law. If the practice of law is to remain an honorable profession and attain its basic ideals, those counted within its ranks should not only master its tenets and principles but should also accord continuing fidelity to them. The requirement of good moral character is of much greater import, as far as the general public is concerned, than the possession of legal learning.

In sum, the penalty of disbarment is in order.

OCA IPI No. 12-4000-RTJ

Atty. Guerrero's charges against

---

225 A.C. No. 8616, March 7, 2023 [Per Curiam, *En Banc*].

Judge Gapas-Agbada must be dismissed for lack of substantial evidence

For the charge that Judge Gapas-Agbada directed Atty. Guerrero to draft decisions, orders, and resolutions as well as compute the applicable penalties, we find that the evidence on record, *i.e.*, copies of decisions which he allegedly drafted, do not clearly and convincingly establish that Judge Gapas-Agbada relinquished her responsibility to personally draft the necessary dispositions in cases pending before her court. To be sure, Judge Gapas-Agbada enjoys the presumption of regularity in the performance of her official duty.[226] Such presumption can only be defeated by clear and convincing evidence, which is absent here.[227]

Atty. Guerrero likewise failed to substantiate his claim that Judge Gapas-Agbada committed the following acts unbecoming of a judge, namely: (a) requiring Reymond to drive for her or her relatives during office hours; (b) engaging in drinking sessions or committing acts which caused her dishonor such as smoking inside her chambers; and (c) fraternizing with Atty. Borja, Chief of the PAO in Catanduanes.[228]

First. Atty. Guerrero offered the testimony of Karen to prove that Judge Gapas-Agbada, Judge Ubalde and Philip smoked inside Judge Gapas-Agbada's chambers. But the Court notes that Karen is not a disinterested witness. She had already filed a case against Judge Gapas-Agbada because the latter did not recommend her for a permanent appointment as Stenographer III in her court.[229] Thus, her testimony cannot be relied upon as she had an axe to grind against Judge Gapas-Agbada.[230]

Second. The testimony of Reymond who claimed that he drove for Judge Gapas-Agbada's parents and relatives during office hours, cannot likewise be given any weight as he is the brother of Karen. Hence, for corroboration to be credible, the same must be offered by a disinterested witness.[231] Reymond's testimony is rendered suspect because as Kareen's brother, it is likely that he would freely perjure himself[232] if only to vindicate or exact revenge for his sister.

---

226 See *In Re: Parreño, et al.*, 756 Phil. 53 (2015) [Per J. Bersamin, *En Banc*].
227 *Spouses Madrigal v. Court of Appeals*, 377 Phil. 345, 352 (1999) [Per J. Purisima, Third Division].
228 OCA IPI No. 12-4000-RTJ, *rollo*, p. 408.
229 *See Magtagñob v. Judge Gapas-Agbada*, 701 Phil. 522 (2013) [Per J. Perez, Second Division].
230 *See People v. Narvasa*, G.R. No. 249942, May 5, 2021 [Notice, First Division].
231 *People v. Moreno*, G.R. No. 191759, March 2, 2020 [Per J. Hernando, Second Division].
232 *Id.*

More telling, the affidavits of the witnesses offered by Atty. Guerrero were all similarly worded, which militates against their credibility. In fact, Lester and Vallejo readily admitted that they did not personally prepare their affidavits. It was actually Atty. Ordinario who crafted the questions and answers by herself without even asking them the questions reflected therein.[233] All told, these pieces of evidence deserve no consideration from the Court.

Third. The photographs presented by Atty. Guerrero to prove Judge Gapas-Agbada's supposed drinking sprees only show Judge Gapas-Agbada holding a glass half-filled with indistinguishable liquid.[234] Such cannot be construed as proof of a drinking session, especially because Judge Gapas-Agbada explained that the photographs of her were taken during social events, i.e., the baptism of Aristotle's son, as well as the birthday of Atty. Guerrero's son.[235]

Fourth. Judge Gapas-Agbada's supposed fraternization with Atty. Borja was not duly proven. While the photographs presented by Atty. Guerrero show Judge Gapas-Agbada and Atty. Borja at the same location for a social event, the latter's presence there was adequately explained since he was the godfather of Aristotle's son. Too, there were other court staff at the event which belie any undue familiarity between Judge Gapas-Agbada and Atty. Borja.[236]

Finally, we find no reason to delve into the matter of Judge Gapas-Agbada's alleged favoritism in favor of Orlando, as this claim is not supported by evidence.[237]

A.M. No. P-23-086 [Formerly OCA IPI No. 12-2548-MTJ]

The complaint against Isidro must be dismissed in view of his death

Section 2 of A.M. No. 21-08-09-SC expressly states that the supervening death of the respondent during the pendency of the administrative

---

233 OCA IPI No. 12-4000-RTJ, *Rollo*, p. 385.
234 *Id.* at 408.
235 *Id.*
236 *Id.*
237 *See Judge Aldecoa-Delorino v. Abellanosa*, 648 Phil. 32 (2010) [Per Curiam, *En Banc*].

proceedings shall result in the dismissal of the administrative case against him or her. Meanwhile, in *Flores-Concepcion v. Judge Castaneda,*[238] the Court pronounced that when the respondent in a pending administrative case dies, the case must be rendered moot. Proceeding any further would only violate the respondent's fundamental right to due process and, should there be a guilty verdict, any monetary penalty imposed on the estate only works to the detriment of their heirs.

The Court notes the letter[239] dated June 17, 2017 of Isidro's heirs, notifying the Court of his untimely passing. Thus, the Court is left with no other recourse but to dismiss the charges against him. Too, we order the immediate release to his heirs of his survivorship benefits and the money value of his earned leave credits, payment of which has been held in abeyance during the pendency of the case.

The complaint against Judge Ubalde for false promise must be dismissed for utter lack of merit

To reiterate, the quantum of evidence required in administrative cases is substantial evidence.[240] Here, Atty. Guerrero utterly failed to discharge his burden of proof. Apart from mere allegations, no evidence whatsoever was adduced to prove that Judge Ubalde did in fact promise to recommend his wife, Liberty, to the position of Utility Aide or Junior Process Server.

On the contrary, the Investigating Associate Justice and the OCA uniformly found that it was Liberty who badgered Judge Ubalde for a favorable recommendation, even going so far as volunteering her unsolicited services to her.[241] Notably, even the witness she presented to testify to the contrary, Clerk Erlinda Lucero, stated that she never heard Judge Ubalde order Liberty to wash the utensils in the court.[242]

In any case, there is no offense in promising to recommend someone for a post and later breaking that promise by recommending another applicant. A government position is not a commodity to be bought and sold as if in an

---

238 A.M. No. RTJ-15-2438 [Formerly OCA IPI No. 11-3681-RTJ], September 2, 2020 [Per J. Leonen, *En Banc*].
239 OCA IPI No. 12-2548-MTJ, *rollo*, pp. 335-336.
240 See *Sison-Barias v. Judge Rubia*, 736 Phil. 81, 104 (2014) [Per Curiam, *En Banc*].
241 OCA IPI No. 12-4000-RTJ, *rollo*, p. 409.
242 *Id.* at 397.

open market. No proprietary rights arise from positions in the government. Further, during her cross, Liberty admitted that she was duly compensated for her services to cook on occasions hosted by Judge Ubalde.[243] More, she also admitted that she was not backed up by Judge Ubalde to any of the positions she had been vying simply because these were not yet open at the time.[244] In fact, they were only opened when Judge Ubalde was already assigned to a different station. All told, there is no semblance of merit to the allegations against Judge Ubalde.

Aristotle is guilty of dishonesty and meted with a fine; the charge against Orlando must be dismissed in view of the Resolution in A.M No. P-10-2742

In the same vein, Atty. Guerrero also failed to substantiate his allegations that Aristotle and Orlando loafed and slept in the office during office hours. Apart from his bare allegations, he did not bother to present any evidence to corroborate the charges against them. They thus deserve scant consideration from the Court.

As regards the punching of timecards of other employees, however, Aristotle and Orlando admitted such infraction in their respective Comments. Aristotle, for his part, raises the defense, however, that he had already been punished by Judge Gapas-Agbada for the same in 2008 and he has never repeated the offense.[245] On the other hand, Orlando pointed to this Court's ruling in A.M. No. P-10-2742 dated December 14, 2009, which already disciplined him for such offense.[246]

In *Re: Unauthorized Disposal of Unnecessary and Scrap Materials in the Supreme Court Baguio Compound and the Irregularity on the Bundy Cards of Some Personnel Therein,*[247] the Court identified the act of punching another employee's daily time card as an act of falsification and dishonesty, *viz.*:

> The [Supreme Court Administrative Circular No. 36-2001] clearly provides that every court official and employee must truthfully and

---

243 *Id.*
244 *Id.*
245 *Id.* at 409-410.
246 *Id.* at 394.
247 609 Phil. 482, 493-494 (2009) [Per J. Chico-Nazario, *En Banc*].

> accurately indicate the time of his or her arrival at and departure from the office. Equally important is the fact that this Court has already held that **the punching in of one's daily time record is a personal act of the holder. It cannot and should not be delegated to anyone else.** This is mandated by the word "all" and "their" in the above-quoted Circular.
>
> **Estonilo's act of punching in another employee's daily time card falls within the ambit of falsification.** Worse, he did not do it for only one co-employee, but for two others. He made it appear as though his co-employees personally punched in their daily time cards. Estonilo also made Padilla's daily time card reflect a log-in time different from the latter's actual time of arrival, as well as made Bambilla's daily time card falsely show that the latter was at the Supreme Court premises in Baguio City when he was not there at all. **It is patent dishonesty, which inevitably reflects on Estonilo's fitness as an employee to continue in office and on the level of discipline and morale in the service.** (Emphases supplied)

Thus, in *OCA v. Atty. Domingo*,[248] respondent therein, who falsified her daily time record by making it appear that she was present in the office though she was absent, was adjudged guilty of serious dishonesty through falsification of daily time record and suspended from service for one year without pay. Too, in *Tarroza v. Atty. Caingles*,[249] the respondent was also found guilty of serious dishonesty for making a false and inaccurate entry in her daily time record.

So must it be.

We, however, modify the penalty in view of Section 14 of A.M. No. 21-08-09-SC,[250] which classifies serious dishonesty as a serious charge for which the sanctions under Section 17(3) may be imposed.[251]

Section 19 nonetheless allows the Court, in its discretion, to appreciate modifying circumstances in determining the appropriate penalty to be imposed, such as first offense, length of service, and humanitarian

---

248 A.M. No. P-16-3420, February 10, 2016 [Second Division].
249 A.M. No. P-18-3815, February 28, 2018 [Third Division].
250 Further Amendments to Rule 140 of the Rules of Court issued on February 22, 2022.
251 SECTION 17. *Sanctions* –
(3) 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 more than six (6) months but not exceeding one (1) year; or
(c) A fine of more than ₱100,000.00 but not exceeding ₱200,000.00. xxx

considerations. Here, the Court is inclined to credit Aristotle with the following mitigating circumstances: (1) first offense; (2) lapse of time, *i.e.*, 15 years since the offense was committed and lack of showing that he has repeated the offense; and (3) length of service.

In *Domingo,* the Court aptly stated:

> Although dishonesty through falsification of [daily time records] is a grave offense which is punishable by dismissal, the Court may not impose the extreme penalty where there exist mitigating circumstances which could alleviate her culpability.

In accordance with Section 20[252] of A.M. No. 21-08-09-SC, we thus impose the applicable penalty for a period or amount not less than half of the minimum prescribed under the Rule which is payment of fine. Considering the applicable mitigating circumstances, Aristotle shall pay a fine in the amount of PHP 50,000.00.

As for Orlando, he was already disciplined by the Court with stern warning in A.M. No. P-10-2742. He shall no longer be punished for the exact same offense.

A.M. No. P-23-085 [Formerly OCA IPI No. 12-3996-P]

Karina is also guilty of dishonesty and must also pay a fine; she shall be separately investigated for her travels abroad, sans the required travel authority

We make the same findings as regards Karina who likewise admitted punching the timecards of other employees. Similar to Aristotle, she is ordered to pay a fine in the amount of PHP 50,000.00 since she is also credited with the following mitigating circumstances:(1) first offense; (2) lapse of time, i.e., 15 years since the offense was committed and lack of showing that he has repeated the offense; and (3) length of service are also applicable to her.

---

252 SECTION 20. *Manner of Imposition.* - If one (1) or more mitigating circumstances and no aggravating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not less than half of the minimum prescribed under this Rule. xxx

Anent the allegations, however, that she travelled abroad from October 2007 to November 2010, sans any travel authority from the Supreme Court,[253] these charges were not among those included in the complaint against her. Atty. Guerrero only raised the same for the first time when he testified during the investigation. Karina was thus not afforded an opportunity to contest these allegations and adduce evidence in her defense. As properly recommended by the Investigating Associate Justice, this should be the subject of a separate administrative investigation to afford Karina her right to due process.

All the other charges against her, *i.e.,* that she often went out of the court during office hours and committed falsehood in her affidavit, are dismissed for utter lack of merit. The same were not supported even by a modicum of evidence.

OCA IPI No. 11-3764-RTJ

Liberty's complaint against Judge Gapas-Agbada and Judge Ubalde for conduct unbecoming a judge must be dismissed for lack of merit

The charge of conduct unbecoming of a judge against Judge Gapas-Agbada is unfounded. Liberty did not adduce any evidence that Judge Gapas-Agbada committed falsehood or oppression against Atty. Guerrero. Liberty likewise admitted that she only filed a case against Judge Gapas-Agbada for her husband. Hence, as aptly found by the OCA, Liberty had no cause of action against Judge Gapas-Agbada.[254]

As well, Liberty failed to present any evidence that Judge Ubalde promised her the position of Junior Process Server. Certainly, Liberty's allegations, without more, are not evidence.[255]

ACCORDINGLY, the Court **RESOLVES**:

1. In **A.M. No. P-23-084 [Formerly OCA IPI No. 11-3696-P]**

---

253 *Id.*
254 OCA IPI No. 12-4000-RTJ, *rollo*, p. 412.
255 See *Regio v. COMELEC*, 722 Phil. 664, 675 (2013) [Per J. Velasco, Jr., *En Banc*].

a. Respondent Atty. Louie T. Guerrero is found **GUILTY** of **five counts of gross misconduct** for: (i) his discourtesy towards Judge Genie G. Gapas-Agbada; (ii) unauthorized recording of his private conversation with Judge Genie G. Gapas-Agbada; (iii) covertly taking photos and video of Judge Genie G. Gapas-Agbada to portray her in a bad light; (iv) threatening Aristotle Ramos, Orlando Arcilla, and Karina Tabuzo for executing affidavits against him; and (v) participating in the "*sosyodad.*" He is **FINED** in the amount of **PHP 100,000.00** for **each** offense. He is also found **GUILTY** of partisan political activity and **FINED** in the amount of **PHP 100,000.00.**

The Court further **ORDERS** the **forfeiture** of all his benefits, except accrued leave credits, and **disqualification** from reinstatement or appointment to any position in the Judiciary.

b. For having flagrantly and repeatedly violated the Lawyer's Oath and Rule 1.01, Canon 1, Rule 7.03, Canon 7 and Rule 11.03, Canon 11 of the Code of Professional Responsibility, respondent Atty. Louie Guerrero is **DISBARRED** from the practice of law. His name is **ORDERED STRICKEN** from the Roll of Attorneys, effective immediately.

2. In **A.M. OCA IPI No. 12-4000-RTJ**

a. The administrative complaint against respondent Judge Genie G. Gapas-Agbada, Presiding Judge of Regional Trial Court, Branch 42, Virac, Catanduanes (Assisting Judge, Regional Trial Court, Branch 221, Quezon City) is **DISMISSED** for utter lack of merit.

3. In **A.M. No. P-23-086 [Formerly OCA IPI No. 12-2548-MTJ]:**

a. The administrative complaint against respondent Judge Lorna B. Santiago-Ubalde (now Judge Lorna B. Santiago-Avila), Presiding Judge of Regional Trial Court, Branch 36, General Santos City (formerly Presiding Judge of Municipal Trial Court, Virac, Catanduanes and Acting Presiding Judge of Municipal Trial Court in Cities, General Santos City) is **DISMISSED** for utter lack of merit;

b. The administrative complaint against respondent Isidro Guerrero, Utility Worker of Regional Trial Court, Branch 42, Virac, Catanduanes, is **DISMISSED** in view of his death. His survivorship benefits claim and the money value of his earned leave credits are **ORDERED** to be released to his heirs immediately.

c. Respondent Aristotle Ramos, Legal Researcher of Regional Trial Court, Branch 42, Virac, Catanduanes, is found **GUILTY** of serious dishonesty for falsification of daily time records and **FINED** in the amount of **PHP 50,000.00** with **STERN WARNING** that a repetition of the same infraction will be dealt with more severely. All other charges against him are **DISMISSED** for utter lack of merit; and

d. The administrative complaint against respondent Orlando Arcilla, Process Server of Regional Trial Court, Branch 42, Virac, Catanduanes for punching the time records of other employees is **DISMISSED** in view of the Resolution dated December 14, 2009 in A.M. No. P-10-2742 where he was already issued a stern warning. All other charges against him are **DISMISSED** for utter lack of merit.

4. In **A.M. No. P-23-085 [Formerly OCA IPI No. 12-3996-P]:**

a. Respondent Karina Tabuzo, Clerk of Court, Municipal Trial Court, Branch 69 of Pasig City (former Clerk III, Regional Trial Court, Branch 42, Virac, Catanduanes) is found **GUILTY** of serious dishonesty for falsification of daily time records and **FINED** in the amount of **PHP 50,000.00** with **STERN WARNING** that any repetition of similar acts will be dealt with more severely. All other charges against her are **DISMISSED** for utter lack of merit; and

b. The Office of the Court Administrator is **ORDERED** to investigate the allegations that respondent Karina Tabuzo travelled abroad from October 2007 to November 2010 without permission or clearance to travel from the Supreme Court.

5. In **A.M. OCA IPI No. 11-3764-RTJ**

a. The administrative complaint against respondent Judge Genie Gapas-Agbada, Presiding Judge of Regional Trial Court, Branch 42, Virac, Catanduanes [Assisting Judge, Regional Trial Court, Branch 221, Quezon City] is **DISMISSED** for utter lack of merit; and

b. The administrative complaint against respondent Judge Lorna B. Santiago-Ubalde (now Judge Lorna B. Santiago-Avila), Presiding Judge of Regional Trial Court, Branch 36, General Santos City (formerly Presiding Judge of Municipal Trial Court, Virac, Catanduanes and Acting Presiding Judge of Municipal Trial Court in Cities, General Santos City) is **DISMISSED** for utter lack of merit.

Let copies of this Decision be furnished to: (1) the Office of the Bar Confidant to be appended to the records of Atty. Louie Guerrero; (2) the Integrated Bar of the Philippines for its information and guidance; (3) the Office of the Court Administrator for circulation and dissemination to all courts throughout the country for their information and guidance; and (4) the Secretary of the Department of Justice.

SO ORDERED.

ALEXANDER G. GESMUNDO
Chief Justice

MARVIC M.V.F. LEONEN
Senior Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

(On Leave)
RAMON PAUL L. HERNANDO
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

MARIO V. LOPEZ
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

(On Leave)
RICARDO R. ROSARIO
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

No part due to prior participation as OCA Administrator

JAPAR B. DIMAAMPAO
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

MARIA FILOMENA D. SINGH
Associate Justice