

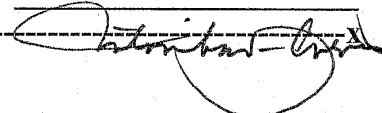
EN BANC

A.M. No. MTJ-25-035 [Formerly JIB FPI No. 21-053-MTJ] – ANONYMOUS, Complainant, v. HON. JULIETO N. BAJAN, Presiding Judge, Branch 2, Municipal Trial Court in Cities, Surigao City, Surigao del Norte, Respondent.

Promulgated:

March 4, 2025

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SEPARATE CONCURRING AND DISSENTING OPINION


LEONEN, J.:

I concur that respondent Retired Judge Juliето N. Bajan (respondent judge), former presiding judge of Branch 2, Municipal Trial Court in Cities, Surigao City, Surigao del Norte, should be held administratively liable for: (a) violation of Supreme Court rules, directives, and circulars for his separate acts of (1) smoking during trial and within court premises and (2) hearing cases from other courts; (b) habitual tardiness for arriving at 11:30 am in his *sala* to hear cases; (c) simple misconduct constituting violation of the New Code of Judicial Conduct for falling asleep during trial; and (d) gross insubordination for failure to file his comment despite repeated directives from the Office of the Court Administrator and the Judiciary Integrity Board.

However, respondent judge's multiple infractions should merit the penalty of dismissal from service, more so when he had been previously found administratively liable thrice and had been warned that a repetition of a similar offense would merit a graver penalty.

Section 21 of A.M. No. 21-08-09-SC (Further Amendments to Rule 140 of the Rules of Court) states the penalties for multiple offenses, thus:

SECTION 21. *Penalty for Multiple Offenses.* — If the respondent is found liable for more than one (1) offense arising from separate acts or omissions in a single administrative proceeding, the Court shall impose separate penalties for each offense. Should the aggregate of the imposed penalties exceed five (5) years of suspension or [PHP] 1,000,000.00 in fines, the respondent may, in the discretion of the Supreme Court, be meted with the penalty of dismissal from service, forfeiture of all or part of the benefits as may be determined, 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.



On the other hand, if a single act/omission constitutes more than one (1) offense, the respondent shall still be found liable for all such offenses, but shall, nonetheless, only be meted with the appropriate penalty for the most serious offense.

In *Boston Finance and Investment Corp. v. Judge Gonzales*,¹ the Court held that the respondent in administrative cases under Rule 140 of the Rules of Court shall be imposed with separate penalties for every offense, and thus, fined respondent PHP 30,000.00 upon finding of guilt for gross ignorance of the law, and PHP 11,000.00 for undue delay in rendering an order. The same respondent was eventually dismissed from service by the Court in *Office of the Court of Administrator v. Judge Gonzales*² upon a finding of guilt for the serious charge of gross misconduct, and he was also separately fined with PHP 35,000.00 each for (1) delay in rendering decisions, and (2) making untruthful statements in his certificates of service and docket inventory.³

In *Office of the Court of Administrator v. Judge Salvador*,⁴ the Court found respondent liable for multiple counts of gross ignorance of the law when he presided over cases and issued orders even after his retirement. The Court thus imposed upon him the penalty of dismissal from service and a fine in the amount of PHP 20,000.00 for violation of Supreme Court rules, directives, and circulars.⁵

In *Judge Maddela III v. Judge Pamintuan*,⁶ the Court imposed separate penalties for each count of administrative liabilities of gross misconduct, undue delay in rendering decisions, and violation of Supreme Court rules, directives, and circulars committed by the respondent,⁷ thus:

For his gross misconduct in attempting to bribe Exec. Judge Paradeza to enter a guilty verdict in the case of *People v. Terrie*, the Court imposes upon respondent the penalty of dismissal from service with forfeiture of all retirement benefits, except his accrued leave credits, and with prejudice to re-employment in the government, including government-owned or controlled corporations.

Considering that the Court has already dismissed respondent, the penalty of suspension from office without salary and other benefits is no longer possible. Hence, the penalty of fine is more appropriate in the case of his three less serious charges. The Court, thus, imposes on respondent a fine of Twelve Thousand Pesos ([PHP] 12,000.00) each for (1) undue delay in rendering a decision in the cases assigned to him, (2) violation of the Supreme Court rules, directives, and circulars due to his act of shirking from

¹ 841 Phil. 701 (2018) [Per J. Perlas-Bernabe, *En Banc*].

² A.M. No. RTJ-16-2463, July 27, 2021 [Per *Curiam*, *En Banc*].

³ *Id.*

⁴ 855 Phil. 724 (2019) [Per J. Perlas-Bernabe, *En Banc*].

⁵ *Id.* at 734–745.

⁶ 859 Phil. 148 (2019) [Per *Curiam*, *En Banc*].

⁷ *Id.* at 184–185.

judicial duty, and (3) violation of the New Code of Judicial Conduct for the Philippine Judiciary by engaging in conflict-of-interest activities.⁸ (Citation omitted)

In *Re: Anonymous Complaint against Presiding Judge Aldea-Arocena*,⁹ respondent was likewise separately penalized for each administrative offense she was found liable, such as: (1) dismissal from service with forfeiture of all retirement benefits, except accrued leave credits, and perpetual disqualification from holding public office, for the serious charges of Gross Misconduct constituting violations of the Code of Judicial Conduct and Gross Ignorance of the Law; and (2) fine of PHP 15,000.00 each for violations of Section 1, Rule 137 of the Rules of Court and Paragraphs B (2) and (4) of OCA Circular No. 49-2003, or a total fine of PHP 30,000.00.¹⁰

In *Office of the Court Administrator v. Judge Villarosa*,¹¹ the Court adjudged respondent guilty of four counts of gross ignorance of the law and violation of A.M. No. 03-3-03-SC dated July 8, 2014, and imposed separate penalties for each violation, thus:

In sum, the Court finds Judge Villarosa liable for: (1) violation of A.M. No. 03-3-03-SC dated July 8, 2014 when he deliberately failed to transfer eight commercial cases to Branch 137; and (2) four counts of gross ignorance of the law and procedure when he (a) transferred cases for JDR to Branch 149 without conducting the first stage of judicial proceedings, including JDR, in violation of the Consolidated and Revised Guidelines to Implement the Expanded Coverage of CAM and JDR; (b) ordered the consolidation of Civil Case No. 09-524 pending in his court with Civil Case No. CEB-34790 pending in Branch 10, RTC, Cebu City, in violation of Section 1, Rule 31 of the Rules of Court; (c) issued a TRO that was effective beyond the 20-day period prescribed in Section 5, Rule 58 of the Rules of Court and Administrative Circular No. 20-95 in Civil Case No. 11-1059; and (d) issued a TRO against the DOTC in SP M-7574, in violation of Section 3 of R.A. No. 8975.

....

Accordingly, as penalty for the first count of Gross Ignorance of the Law and in view of his supervening retirement (which obviates the implementation of the penalty of dismissal from service), the Court deems it proper to **forfeit all of Judge Villarosa's retirement benefits except accrued leave credits**, and likewise impose the **accessory penalty of disqualification from reinstatement or appointment to any public office, including government-owned and controlled corporations**.

In addition, the Court imposes the following: (a) for the other three counts of Gross Ignorance of the Law, fines in the amount of [PHP] 40,000.00 each; and (b) for his violation of A.M. No. 03-3-03-SC dated July 8, 2014, a fine in the amount of [PHP] 20,000. **Judge Villarosa is therefore**

⁸ *Id.* at 186–187.

⁹ 861 Phil. 143 (2019) [*Per Curiam, En Banc*].

¹⁰ *Id.* at 166–167.

¹¹ 869 Phil. 600 (2020) [*Per Curiam, En Banc*].

fined a total of [PHP] 140,000.00, which amount is to be deducted from his accrued leave credits. In case his leave credits are insufficient, the OCA is directed to order Judge Villarosa to pay within 10 days from notice, the said amount.¹² (Emphasis in original, citation omitted)

In *Office of the Court Administrator v. Judge Flor*,¹³ the Court considered respondent's repeated infractions of disregarding the rules on bail applications in finding him liable for multiple counts of gross ignorance of the law and thus imposed upon him the supreme penalty of dismissal.¹⁴

In *Office of the Court Administrator v. Judge Reyes*,¹⁵ the Court found respondent guilty of Gross Ignorance of the Law, Gross Misconduct, and violation of Canons 1, 2, and 3 of the New Code of Conduct for the Philippine Judiciary, and held that he should be meted the ultimate penalty of dismissal from service had he not retired from service.¹⁶

[T]his Court finds respondent Judge administratively liable for gross ignorance of the law, gross misconduct and violations of Canons 1, 2, and 3 of the New Code of Judicial Conduct, as such, respondent Judge should be meted the ultimate penalty of dismissal from service. However, during the pendency of the administrative complaint, respondent Judge compulsorily retired on November 20, 2017, thus dismissal from service can no longer be effected. Nevertheless, such compulsory retirement cannot render this case moot, since it is still proper to order the forfeiture of all his benefits, except accrued leave credits, with perpetual disqualification from employment to any public office, including government- owned and controlled corporations.¹⁷

In *Berso, Jr. v. Judge Rabe*,¹⁸ the Court held that respondent judge was guilty of two counts of gross ignorance of the law, gross misconduct and undue delay in rendering a decision, and was penalized with: (1) dismissal from service with forfeiture of retirement benefits, except accrued leave credits, and with prejudice to re-employment in the government for his gross ignorance of the law; and (2) payment of fine in the amount of PHP 100,000.00 each, or a total of PHP 200,000.00, to be deducted from his accrued leave credits, for his gross misconduct and undue delay in rendering an order.¹⁹

In *Judge Santiago v. Fernando*,²⁰ this Court ruled that the respondent court personnel was guilty of: (a) two counts of gross insubordination for "first, as correctly pointed out by OCA, with respect to respondent's conduct

¹² *Id.* at 614–618.

¹³ 878 Phil. 47 (2020) [*Per Curiam, En Banc*].

¹⁴ *Id.* at 58.

¹⁵ 889 Phil. 622 (2020) [*Per Curiam, En Banc*].

¹⁶ *Id.* at 639.

¹⁷ *Id.*

¹⁸ 916 Phil. 231 (2021) [*Per Curiam, En Banc*].

¹⁹ *Id.* at 249.

²⁰ A.M. No. P-22-053 (formerly OCA IPI No. 15-4466-P), January 17, 2023 [*Per J. Rosario, En Banc*].

towards complainant judge, his superior and second, for failure to submit Comment despite repeated notice";²¹ and (b) one count of gross misconduct constituting a violation of the Code of Conduct of Court Personnel, and then he was meted the penalty of: (a) forfeiture of all benefits, except accrued leave credits, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations because respondent has been dropped from the rolls for being absent without leave; and (b) payment of a fine in the aggregate amount of PHP 300,000.00.²²

Here, the *ponencia* found respondent judge administrative liable for: (a) violation of Supreme Court rules, directives, and circulars for his separate acts of (1) smoking during trial and within court premises and (2) hearing cases from other courts; (b) habitual tardiness for arriving at 11:30 a.m. in his *sala* to hear cases; (c) simple misconduct constituting violation of the New Code of Judicial Conduct for falling asleep during trial; and (d) gross insubordination for failure to file his comment despite repeated directives from the Office of the Court Administrator and the Judiciary Integrity Board.

Thereafter, he was meted the penalties of: (a) payment of the fine of PHP 50,000.00 for his two separate acts of violation of Supreme Court rules, directives, and circulars; (b) payment of the fine of PHP 100,000.00 for habitual tardiness; (c) payment of the fine of PHP 50,000.00 for simple misconduct constituting violation of the New Code of Judicial Conduct; and (d) payment of the fine of PHP 300,000.00 for gross insubordination. He was further directed to pay the fines in the aggregate amount of PHP 550,000.00 within three months from promulgation of the Resolution pursuant to Section 22 of A.M. No. 21-08-09-SC.

However, I submit that respondent judge's multiple infractions should merit the penalty of dismissal from service, more so when he had been previously found administratively liable thrice and had been warned that a repetition of a similar offense would merit a graver penalty.

Under A.M. No. 21-08-09-SC, the charges of gross insubordination is a serious charge²³ punishable by dismissal from service, while (1) simple misconduct constituting violations of the Code of Judicial Conduct, (2) habitual tardiness and (3) violation of Supreme Court rules, directives, and circulars that establish an internal policy, rule of procedure, or protocol are all less serious charges,²⁴ which merit the following penalty:

²¹ *Id.*

²² *Id.*

²³ A.M. No. 21-08-09-SC, sec. 14 (c), (d), (n).

²⁴ A.M. No. 21-08-09-SC, sec. 15.

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 [PHP] 100,000.00 but not exceeding [PHP] 200,000.00.

(2) If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

(a) Suspension from office without salary and other benefits for not less than one (1) month nor more than six (6) months; or

(b) A fine of more than [PHP] 35,000.00 but not exceeding [PHP] 100,000.00.²⁵

Respondent judge had been held administratively liable thrice and sternly warned that a repetition of the same acts—habitual tardiness in A.M. No. MTJ-20-194167 and also, failure to file his comment despite receipt of the Office of the Court Administrator directive to show cause why he should not held in contempt of court in A.M. No. P-17-3707—shall be dealt with more severely, thus:

1. In A.M. No. MTJ-20-1941 – Judge Bajan was fined PHP 21,000.00 for gross ignorance of the Law, PHP 12,000.00 for undue delay in rendering a decision, and PHP 20,000.00 for habitual tardiness. He was sternly warned that a repetition of the same or similar acts shall be dealt with more severely;

2. In A.M. No. MTJ-16-1868–Judge Bajan was fined PHP 30,000.00 for gross ignorance of the law and procedure; and

3. In A.M. No. P-17-3707 (*Re: Order of Judge Bajan suspending Process Server Mercy Canoy for 30 days*)– Judge Bajan was fined PHP 1,000.00 for immediately suspending respondent, which was increased to PHP 2,000.00 when Judge Bajan failed to file his comment despite receipt of the OCA directive to show cause why he should not held in contempt of court.²⁶ (Citations omitted)

²⁵ Further Amendments to Rule 140 of the RULES OF COURT, sec. 17 (1).

²⁶ *Ponencia*, pp. 18–19.

Respondent judge's defiant and stubborn attitude of refusing to follow Court orders, circulars and directives should never be tolerated, and his single letter to the Office of the Court Administrator dismissing one of the complaints as a mere harassment suit and insufficient in form cannot be considered the comment required from him. Furthermore, in the letter, respondent judge even admitted his repeated infraction of habitual tardiness and act of sleeping during trial when he stated that "[t]he work of a judge is mental in nature and as such in making resolution or decision of cases in his *sala*, he brings it into his sleep and dreams; in other words, it [is a] 24/7 work."²⁷ Such flimsy excuses should not be tolerated. Other judges or court personnel may simply do the same, more so if the offense is without a commensurate penalty. The Court has stated that "all employees of the Judiciary, from judges to the most junior clerks, [should] conduct themselves in a manner exemplifying integrity, honesty and uprightness"²⁸ and thus, judges and court personnel shall be treated alike and imposed upon the same penalties for the same violations.

As discussed above, with multiple infractions and considering his previous administrative liabilities where he had been sternly warned that a repetition of a similar offense shall be dealt with more severely, respondent judge should already be meted with a harsher penalty. He should be dismissed from service. Nevertheless, since respondent judge already retired effective May 23, 2023, Section 18 of A.M. No. 21-08-09-SC should apply:

SECTION 18. *Penalty in Lieu of Dismissal on Account of Supervening Resignation, Retirement, or Other Modes of Separation of Service.* — If the respondent is found liable for an offense which merits the imposition of the penalty of dismissal from service but the same can no longer be imposed due to the respondent's supervening resignation, retirement, or other modes of separation from service except for death, he or she may be meted with the following penalties in lieu of dismissal:

(a) 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; and/or

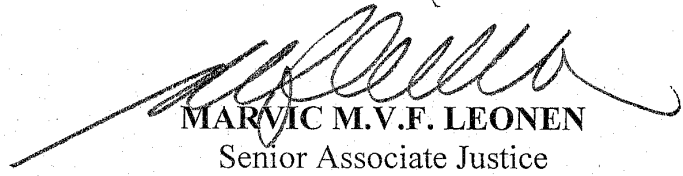
(b) Fine as stated in Section 17 (1) (c) of this Rule.

ACCORDINGLY, I vote that respondent Retired Judge Juliето N. Bajan, former Presiding Judge of Branch 2, Municipal Trial Court in Cities, Surigao City, Surigao del Norte, be held administratively liable for one count of gross insubordination, two counts of violation of Supreme Court rules, directives, and circulars, one count of habitual tardiness, and one count of simple misconduct, and that he be meted with the penalty of **FORFEITURE**

²⁷ *Id.* at 10.

²⁸ *Judge Santiago v. Fernando*, A.M. No. P-22-053 (formerly OCA IPI No. 15-4466-P), January 17, 2023 [Per J. Rosario, *En Banc*]. (Citation omitted)

of retirement benefits, except accrued leave credits, with prejudice to re-employment in any branch or instrumentality of the government.



MARVIC M.V.F. LEONEN
Senior Associate Justice