



Republic of the Philippines
Supreme Court
Manila

EN BANC

OFFICE OF THE COURT ADMINISTRATOR, A.M. No. RTJ-10-2219

Complainant,

-versus-

Retired Judge PABLO R. CHAVEZ, Former Presiding Judge, Regional Trial Court, Branch 87, Rosario, Batangas, Atty. TEOFILO A. DIMACULANGAN, JR., Clerk of Court VI, Mr. ARMANDO ERMELITO M. MARQUEZ, Court Interpreter III, Ms. EDITHA E. BAGSIC, Court Interpreter III, and Mr. DAVID CAGUIMBAL, Process Server, all of Regional Trial Court, Branch 87, Rosario, Batangas,

Respondents.

Re: Undated Anonymous Letter-Complaint Against the Presiding Judge, Clerk of Court and Court Stenographer of the Regional Trial Court, Branch 87, Rosario, Batangas.

A.M. No. 12-7-130-RTC

Present:

SERENO, *C.J.*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN,
JARDELEZA, and
CAGUIOA, *JJ.*

Amendo

Promulgated:

March 7, 2017

X-----X

DECISION***PER CURIAM:***

This administrative matter arose from the judicial audit conducted in the Regional Trial Court (RTC), Branch 87, Rosario, Batangas on March 2 to 4, 2009 in view of the then pending compulsory retirement of Judge Pablo R. Chavez (Judge Chavez) on August 17, 2009 and pursuant to Travel Order No. 09-A-2009.

I

Respondent Judge Chavez previously presided over Branch 87 of the RTC of Rosario, Batangas. In a Memorandum¹ dated October 30, 2009, the judicial audit team reported that as of audit date, Branch 87 had a total caseload of 602 active cases consisting of 409 criminal cases and 193 civil cases. The report was based on the records actually presented to and examined by the team which are classified according to the status/stages of the proceedings:

STATUS/STAGES OF PROCEEDINGS	CRIMINAL	CIVIL	TOTAL
Warrants/Summons	18	1	19
Arraignment	23	0	23
Preliminary Conference, Pre-Trial, Mediation	22	24	46
Trial	278	87	365
For Compliance	4	13	17
No action Taken	0	2	2
No Further Action/Setting	21	21	42
Submitted for Resolution	11	10	21
Submitted for Decision	27	24	51
Suspended proceedings	4	7	11
Newly Filed	1	4	5
TOTAL	409	193	602²

The audit team highlighted the items in the court's caseload and identified the case number, parties, nature of the case and latest court action. There were 17 criminal cases without further action or setting for a considerable length of time, four criminal cases where the accused had not been arraigned despite the lapse of a considerable length of time from the date the cases were filed, 11 criminal cases with pending incidents submitted

¹ *Rollo* (A.M. No. RTJ-10-2219), pp. 1-60.

² *Id.* at 1.

for resolution and 27 criminal cases submitted for decision.³ Meanwhile, there were two civil cases where the court failed to take action from the time of their filing, 21 civil cases without further action or setting for a considerable length of time, 10 civil cases with unresolved motion or incident submitted for resolution and 24 civil cases submitted for decision.⁴

The following are the audit team's general adverse findings: (1) case records are not well kept as they are not chronologically arranged and not paginated; there were typographical errors in several issued orders; (2) legal fees form are not attached to the records and the amounts of legal fees allegedly paid are merely enumerated on the pleadings while there were cases without even the breakdown of the fees paid; (3) there was no information as to whether the amount of sheriff's fees for the service of summons were cash advanced or subject to reimbursement as there were no documents available to support them; (4) the civil and criminal docket books were not updated and the civil docket book contained erasures as to the status of cases for nullity of marriage; (5) the court's semestral docket inventory for June to December 2008 was not accurate; (6) records in some criminal cases had no certificates of arraignment; (7) a cash count disclosed that the court had in its possession the amount of ₱29,240 as of March 4, 2009; (8) during the audit, a certain Ms. Rene Frane Arillano from Biga, Labo, Batangas, approached the team inquiring about correction of entry in the birth certificate as her name was misspelled and that her gender was typed "male" instead of "female." Asked why she was waiting outside, she said that she was waiting for Mr. Armando Ermelito M. Marquez (Marquez)⁵ who prepared for her the necessary documents needed for their filing. Asked to comment, Mr. Marquez stated that he merely referred Ms. Arillano to Atty. Jose Calingasan; (9) archiving of cases was resorted to even if the inaction was attributable to the non-compliance of government officers, bureaus and agencies to the directives of the court and the court's failure to set the cases for hearing; and (10) the court staff does not observe the mandatory flag ceremonies under Republic Act No. 8491⁶ and reiterated in Supreme Court (SC) Circular No. 37-98⁷ dated June 22, 1998 and SC Circular No. 62-2001⁸ dated September 27, 2001.⁹

On the court's active cases, Judge Chavez was found to have failed to: (1) take any action on Civil Cases Nos. LRC 09-006, CC 09-013 from the time of their filing; (2) take further action on identified criminal and civil cases; (3) resolve the pending incidents and motions submitted for resolution on identified criminal and civil cases; (4) decide identified criminal and civil cases which were submitted for decision as early as 2007 and 2008; (5) resolve on time identified criminal cases; and (6) present to the audit team

³ *Id.* at 2-6.

⁴ *Id.* at 6-11.

⁵ Also referred to as Mr. Ernie Marquez in some parts of the records.

⁶ Flag and Heraldic Code of the Philippines (1998).

⁷ Implementation of Republic Act No. 8491.

⁸ Conduct of Flag Raising and Flag Lowering Ceremony.

⁹ *Rollo* (A.M. No. RTJ-10-2219), pp. 45-46.



the records of a criminal case. He was also reported to have irregularly issued an order of inhibition dated August 28, 2008 after the case had been submitted for decision on September 12, 2007. The audit team noted that except for three cases, in all the cases it identified, Judge Chavez failed to seek an extension to resolve or decide them. Even in the three cases where Judge Chavez sought an extension, he still incurred delay in deciding them.¹⁰

The audit team further observed the following in the sampling of 85 decided and 27 archived annulment of marriage cases for the period 2004 to 2008: (1) the mandatory requirements to effect a valid substituted service of summons pursuant to *Manotoc v. Court of Appeals*¹¹ were not strictly observed. Most of the summons issued and served by Process Server David Caguimbal were not personally served on the respondent. There was improper resort to substituted service of summons as the Return of Service does not indicate if there were several attempts made to personally serve summons within a reasonable period to respondent; (2) there were no liquidation reports on the amount withdrawn from the sheriffs' fees by the branch's process server for the service of summons; (3) in all cases, no order was issued by the court for the petitioner to furnish the Office of the Solicitor General (OSG) a copy of the petition and its annexes; (4) several cases proceeded even without the investigation report of the public prosecutor; (5) no notice of appearance was filed by the OSG in several cases and in some cases, the notices of appearance of the OSG appear to be mere photocopies; (6) in a considerable number of cases, the parties, counsel/s, the public prosecutor and the OSG were not duly furnished with copies of the notice of pre-trial conference and court orders. The records also show that no pre-trial briefs were filed in court; (7) petitions, affidavits, and the special power of attorney attached to the records of some cases were not duly notarized; (8) a motion in the records of a particular case was signed only by the petitioner; (9) there were dubious blank documents attached to the records of particular cases which contain the signatures of the psychologist and the petitioner; (10) the exhibits allegedly marked as mentioned in some decisions show that the documents were not actually marked and at times bear different or erroneous markings; (11) there were case records containing only three court orders; (12) most of the records have no minutes and/or transcript of stenographic notes (TSN) of the proceedings conducted; (13) most of the records show that the OSG and the respondent were not duly furnished copies of the decisions rendered; (14) a case was decided on January 24, 2009, a Saturday; (15) several pre-trial briefs in the records were undated and unsigned; (16) several psychological reports attached to the records were undated, unsigned and mere photocopies—the original copies were never presented in court; (17) on March 4, 2009, a Friday, Atty. Teofilo A. Dimaculangan (Atty. Dimaculangan), Branch Clerk of Court, conducted the marking of exhibits in Civil Case No. 08-020 entitled *Singson v. Singson* for annulment of marriage

¹⁰ *Id.* at 46.

¹¹ G.R. No. 130974, August 16, 2006, 499 SCRA 21.



with Atty. Pamela P. Mercado, counsel for petitioner, without the presence of the prosecutor and without asking the assistance of any other staff of the court; (18) the *ex parte* motion for leave of court to allow service of summons by publication in SP No. 04-078 was notarized by Atty. Dimaculangan; (19) cases were archived even if the inaction was due to the failure of the process server to make a return of service of summons, failure of the prosecutor to submit the report on collusion and the court's failure to set the cases for hearing; (20) in several cases, the counsel who prepared the petition was not the one who handled the pre-trial and trial of the case; and (21) decisions were rendered despite the absence of a formal offer of exhibits for the petitioner or in some cases, no action was taken by the court relative to the formal offer of exhibits submitted.¹²

The Court in a Resolution¹³ dated February 1, 2010 resolved to:

1. **RE-DOCKET** the Judicial Audit report as an administrative complaint against:

a. Retired Judge Pablo R. Chavez, Presiding Judge, Regional Trial Court, Br. 87, Rosario, Batangas, for gross dereliction of duty, gross inefficiency, gross incompetence, serious misconduct, corruption and deliberate violation of the law on marriage;

b. Atty. Teofilo A. Dimaculangan, Jr., Clerk of Court VI, same court, for gross dereliction of duty, gross inefficiency, gross incompetence, serious misconduct, corruption, deliberate violation of the law on marriage and violation of Administrative Circular No. 3-2000 dated June 15, 2000 as amended by Administrative Circular No. 35-2004 dated August 20, 2004 which requires that daily collections shall be deposited every day with the nearest branch of the Land Bank of the Philippines and for violation of Supreme Court Circular No. 1-90;

c. Mr. Armando Ermelito M. Marquez, Court Interpreter III, same court, for gross inefficiency in his failure to make the minutes of the proceedings and for violation of Section 5, Canon IV of the Code of Conduct for Court Personnel for acting as a broker or agent for Atty. Jose Calingasan as declared by Ms. Rene Frane Arillano from Biga, Lobo, Batangas;

d. Ms. Editha E. Bagsic, Court Stenographer III, same court, for gross inefficiency and incompetence in the performance of official duties for violation of Administrative Circular No. 24-90 and corruption in connection with annulment of marriages cases; and

¹² *Rollo* (A.M. No. RTJ-10-2219), pp. 47-49.

¹³ *Id.* at 504-509.

e. Mr. David Caguimbal, Process Server, this court, for gross irregularity in the service of summons on annulment of marriages cases.

2. **WITHHOLD the RELEASE** of the retirement benefits, except the Terminal Leave, of Judge Pablo R. Chavez pending the resolution of this administrative matter;

3. **DIRECT** the Fiscal Monitoring Division of the Office of the Court Management Office, Office of the Court Administrator, to conduct a detailed financial audit and to submit report thereon to determine whether the exact amount of legal fees was collected in all civil cases filed from 2002 to the present and if properly remitted to their appropriate accounts;

4. **DIRECT** all the judicial employees of the Hall of Justice, Rosario, Batangas to regularly observe the mandatory Flag ceremonies under RA 8491 and reiterated in Circular No. 37-98 dated June 22, 1998 and Circular No. 62-2001 dated September 27, 2001; and

5. **DIRECT** Acting Presiding Judge Noel M. Lindog, Regional Trial Court, Br. 87, Rosario, Batangas to:

a. **Take appropriate action** in Crim. Case Nos. x x x which remained without action from the time of their filing or without further action for a considerable length of time and in Crim. Case Nos. x x x wherein accused had not been arraigned despite the lapse of a considerable length of time from the date the cases were filed;

b. **RESOLVE with dispatch** the pending incidents in the following cases and submit copy of each resolution to this Court, through this Office, within ten (10) days from their resolution:

x x x

c. **DECIDE with dispatch** the following criminal and civil cases submitted for decision and submit a copy of each decision to this Court, through this Office, within ten (10) days from its rendition:¹⁴

x x x (Emphasis in the original.)

In a Resolution¹⁵ dated April 12, 2010, the Court required respondents to file their respective comments. After the respondents filed their comments, the Court, in a Resolution¹⁶ dated December 15, 2010, referred

¹⁴ *Id.* at 504-507.

¹⁵ *Id.* at 514-515.

¹⁶ *Id.* at 728.



the case to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.

II

In its June 3, 2011 Report,¹⁷ the OCA submitted the following recommendations:

1. The retirement benefits of Judge Pablo R. Chavez, Presiding Judge, Regional Trial Court, Branch 87, Rosario, Batangas, be FORFEITED, except his accrued leave credits, for corruption, gross dereliction of duty, gross inefficiency, gross incompetence, serious misconduct and deliberate violation of the law on marriage;

[2.] Atty. Teofilo A. Dimaculangan, Jr., Clerk of Court VI, of the same court, be DISMISSED from office with forfeiture of all retirement benefits, except his accrued leave credits, and with perpetual and absolute disqualification from re-employment in any branch or instrumentality of government, including government-owned or controlled corporations for gross dereliction of duty, gross inefficiency, gross incompetence, serious misconduct, corruption, deliberate violation of the law on marriage, Section 17, paragraph 1, Rule 136 of the Rules of Court, and violations of Administrative Circular No. 3-2000 dated June 15, 2000 as amended and Supreme Court Circular No. 1-90;

[3.] Ms. Editha E. Bagsic, Court Stenographer III, of the same court, be DISMISSED from office with forfeiture of all retirement benefits, except [her] accrued leave credits, and with perpetual and absolute disqualification from re-employment in any branch or instrumentality of government, including government-owned or controlled corporations for gross dereliction of duty, gross inefficiency, gross incompetence, serious misconduct, corruption, deliberate violation of the law on marriage and violations of Section 17, paragraph 1, Rule 136 of the Rules of Court, Administrative Circular No. 24-90 dated July 12, 1990, Administrative Circular No. 3-2000 dated June 15, 2000 as amended and Supreme Court Circular No. 1-90;

[4.] Mr. Amando Ermelito M. Marquez, Court Interpreter III, in lieu of suspension from office for three (3) months without pay and other benefits, be FINED the amount of TWENTY THOUSAND (₱20,000.00) for gross inefficiency in his failure to prepare the minutes of the proceedings in annulment and nullity of marriage cases and for violation of Section 5, Canon IV of the Code of Conduct for Court Personnel; and

¹⁷ *Id.* at 931-947.



[5.] Mr. David Caguimbal, Process Server, in lieu of suspension from office for three (3) months without pay and other benefits, be FINED the amount of TWENTY THOUSAND (P]20,000.00) for gross inefficiency, gross irregularity in the service of summons on annulment of marriages cases.¹⁸

Meanwhile, on August 4, 2009, the OCA received an undated anonymous letter against the presiding judge, clerk of court, and stenographer of Branch 87. The letter did not identify Judge Chavez as the presiding judge while the clerk of court and stenographer were identified as respondents Atty. Dimaculangan and Editha E. Bagsic (Bagsic), respectively. The letter alleged that: (1) decisions in annulment cases are virtually for sale in Branch 87; (2) parties in annulment cases are not required to attend hearings; (3) notices supposedly sent to the OSG are not reflected in the records; (4) respondent Atty. Dimaculangan is reportedly living a lavish lifestyle out of the money he is making from such illegal activities; (5) respondent Atty. Dimaculangan is engaged in an illicit relationship with respondent Bagsic; (6) respondent Atty. Dimaculangan does not observe office hours, spends court funds without authority, and signs orders without the permission of the court.¹⁹

In a Memorandum²⁰ dated June 25, 2012, the OCA recommended the consolidation of the undated anonymous letter with Administrative Matter No. RTJ-10-2219 since the June 3, 2011 Report included matters raised in the anonymous letter.

III

1. Judge Pablo R. Chavez

a.

On delay in rendering judgement, Section 15(1) and (2), Article VIII of the Constitution provides that all cases and matters must be decided or resolved by the lower courts within three months from the date of submission of the last pleading. Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary²¹ mandates judges to “perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.” Also, Rule 3.05, Canon 3 of the Code of Judicial Conduct exhorts judges to dispose of the court’s business promptly and to decide cases within the required periods.

Judge Chavez’ unexplained and unreasonable delay in deciding cases and resolving incidents and motions, and his failure to decide the remaining

¹⁸ *Id.* at 946-947.

¹⁹ *Rollo* (A.M. No. 12-7-130-RTC), pp. 1-4.

²⁰ *Id.* at 1-2.

²¹ A.M. No. 03-05-01-SC, June 1, 2004.



cases before his compulsory retirement constitute gross inefficiency which cannot be tolerated. Inexcusable failure to decide cases within the reglementary period constitutes gross inefficiency, warranting the imposition of an administrative sanction on the defaulting judge.²²

In his Comment, Judge Chavez admits incurring delay in resolving pending incidents and deciding cases. He attributes his delays to his court being a single-sala court. He likewise blames the clerk of court and legal researcher for their failure to remind him of the due dates and assist him in drafting decisions and orders.²³

Judge Chavez' excuses are not sufficient to absolve him of disciplinary action. Judges and clerks of court should personally conduct a physical inventory of the pending cases in their courts and personally examine the records of each case at the time of their assumption to office, and every semester thereafter. Judges should know which cases are submitted for decision and are expected to keep their own record of cases so that they may act on them promptly.²⁴ We thus find him guilty of undue delay in rendering a decision.

Undue delay in rendering a decision or order is classified as a less serious charge under Section 9, Rule 140 of the Rules of Court. It is punishable by (1) suspension from office without salary and other benefits for not less than 1 month nor more than 3 months, or (2) a fine of more than ₱10,000 but not exceeding ₱20,000.²⁵

b.

On the anomalies found in Judge Chavez' court, the Code of Judicial Conduct provides:

Rule 3.08. – A judge should diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of other judges and court personnel.

Rule 3.09. – A judge should organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity.

Rule 3.10. – A judge should take or initiate appropriate disciplinary measures against lawyers or court personnel

²² *Office of the Court Administrator v. Soriano*, A.M. No. MTJ-07-1683, September 11, 2013, 705 SCRA 362, 373.

²³ *Rollo* (A.M. No. RTJ-10-2219), p. 647.

²⁴ *Office of the Court Administrator v. Trocino*, A.M. No. RTJ-05-1936, May 29, 2007, 523 SCRA 262, 272.

²⁵ RULES OF COURT, Rule 140, Sec. 9(1) and Sec. 11(B).



for unprofessional conduct of which the judge may have become aware.

Judge Chavez failed to adhere to these standards. He was inefficient in managing his caseload and grossly negligent in running the affairs of his court. This is evidenced by the following anomalies discovered by the judicial audit team: (1) case records were not well kept since they were not chronologically arranged and had no pagination; (2) legal fees forms were not attached to the records although the amount allegedly paid were enumerated in the pleadings while there were cases without the breakdown of the fees paid; (3) no documents supporting the amount of sheriff's fees for the service of summons were available; (4) the civil and criminal docket books were not updated and the civil docket book contained erasures as to the status of cases for nullity of marriage; (5) the court's semestral docket inventory for June to December 2008 was not accurate; (6) records in some criminal cases had no certificates of arraignment; (7) archiving of cases were resorted to even if the inaction were attributable to the non-compliance of government officers, bureaus and agencies to the directives of the court, and the court's failure to set the cases for hearing; and (8) the court staff in the RTC do not observe the mandatory flag ceremonies under Republic Act No. 8491 and reiterated in Circular No. 37-98 dated June 22, 1998 and Circular No. 62-2001 dated September 27, 2001.²⁶

Judges are charged with exercising extra care in ensuring that the records of the cases and official documents in their custody are intact. They must adopt a system of record management and organize their dockets to bolster the prompt and efficient dispatch of business. Further, as administrative officers of the court, judges should organize and supervise court personnel to ensure the prompt and efficient dispatch of business, as well as the observance of high standards of public service and fidelity at all times.²⁷

Acting on the findings of the judicial audit team, we hold that Judge Chavez is liable for gross neglect of duty. Gross neglect of duty refers to negligence that is characterized by a glaring want of care; by acting or omitting to act in a situation where there is a duty to act, not inadvertently, but willfully and intentionally; or by acting with a conscious indifference to consequences with respect to other persons who may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to take on their own property. In cases involving public officials, there is gross negligence when a breach of duty is flagrant and palpable.²⁸

In this case, the totality of the findings of the judicial audit team proves Judge Chavez' reckless and irresponsible attitude towards his duties. He utterly and glaringly lacked the necessary care and organization in

²⁶ *Rollo* (A.M. No. RTJ-10-2219), pp. 45-46.

²⁷ *Office of the Court Administrator v. Alon*, A.M. No. RTJ-06-2022, June 27, 2007, 525 SCRA 786, 791-792.

²⁸ *Lucas v. Dizon*, A.M. No. P-12-3076, November 18, 2014, 740 SCRA 506, 515.



handling and managing his court and personnel. He was completely remiss in his duties to ensure that there is order and inefficiency in his court, to maintain a well-organized system of record-keeping and docket management, and to supervise his personnel and make sure that they are aware of and comply with the exacting standards imposed on all public servants.

Judge Chavez himself admits that he has been overly lenient and lax and that, as Presiding Judge for 11 years, “he overly relied on the representations of his [c]ourt staff, particularly his Clerk of Court that the case records and disposition of cases are proper and in order.” He laments that he is a victim of his court staff’s betrayal and perfidy.²⁹

Unfortunately for Judge Chavez, his defense does not exonerate him from the penalties under the law. Judges cannot be excused by the acts of their subordinates because court employees are not the guardians of a judge’s responsibility. Judges should not merely rely on their court staff for the proper management of the court’s business.³⁰ Being in legal contemplation the head of his branch, he was the master of his own domain who should be ready and willing to take the responsibility for the mistakes of his subjects, as well as to be ultimately responsible for order and efficiency in his court. He could not hide behind the inefficiency or the incompetence of any of his subordinates.³¹

Gross neglect of duty is a grave offense punishable by dismissal.³² The penalty of dismissal carries with it “cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and bar from taking civil service examinations.”³³

c.

Section 17, Rule XIV of the Civil Service Commission Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws³⁴ provides that when the respondent is guilty of two or more charges, the penalty for the most serious charge should be imposed and the other charges may be considered as aggravating circumstances. In this case, Judge Chavez is guilty of the grave offense of gross neglect of duty, and the less serious charge of undue delay in rendering decisions. Since Judge Chavez is already retired, the Court imposes a penalty of forfeiture of Judge Chavez’ retirement benefits.

²⁹ *Rollo* (A.M. No. RTJ-10-2219), p. 649.

³⁰ *Office of the Court Administrator v. Trocino*, *supra* note 24.

³¹ *In Re: Report on the Judicial Audit Conducted in the Regional Trial Court, Br. 45, Urdaneta City, Pangasinan*, A.M. No. 08-4-253-RTC, January 12, 2011, 639 SCRA 254, 271.

³² Revised Rules on Administrative Cases in the Civil Service, Rule 10, Sec. 46(A)(2).

³³ Revised Rules on Administrative Cases in the Civil Service, Rule 10, Sec. 52(A).

³⁴ CSC Resolution No. 91-1631 (1991).

2. Atty. Teofilo A. Dimaculangan, Jr.

The undated anonymous letter alleged that: (1) respondent Dimaculangan led the sale of decisions in annulment cases in Branch 87; (2) parties in annulment cases were not required to attend hearings; (3) notices supposedly sent to the OSG were not reflected in the records; (4) in one case, the court issued an order of dismissal without notifying the private complainant; (5) some decisions or orders of the court were signed by respondent Dimaculangan instead of the presiding judge; (6) respondent Dimaculangan would ask the court's process server to sign returns of summons in annulment cases even if no pleading was actually served; and (7) respondent Dimaculangan used court funds for personal expenses and only returned the money at a later date.³⁵

Some of the allegations in the undated anonymous letter are consistent with the judicial audit's findings, to wit: (1) Judge Chavez himself admitted in his Comment that a number of the decisions and orders in the annulment cases were not decided by him since the signatures appearing on them were not his;³⁶ (2) return of summons or registry receipts were signed by the process server, as instructed by his "superior" though no summons or pleadings were served;³⁷ (3) a number of cases did not have TSNs or minutes in the records; (4) forms for legal fees were not attached to the records of the cases; (5) summons were improperly served or not served at all to the OSG or the respondent; (6) there was no notice of appearance of the OSG in a number of cases; (7) there were no pre-trial briefs in a number of cases; (8) some psychological reports were undated, unsigned or mere photocopies; and (9) there was no proof that a copy of the decision was furnished the OSG and/or respondent in a number of cases.³⁸

In his Comment,³⁹ respondent Dimaculangan blames the clerks-in-charge having physical custody of the court's folders for the failure to: (1) chronologically arrange and paginate the case records; (2) update the court's docket books; and (3) attach the forms for legal fees in civil case folders. Meanwhile, he blames respondent Marquez for the failure to attach the certificates of arraignment in cases where the accused had entered their plea. He also makes a sweeping statement that erasures in the general docket books were for the purpose of correcting erroneous entries.

We stress that clerks of court are the chief administrative officers of their respective courts. Their administrative functions are vital to the prompt and proper administration of justice, to wit:

³⁵ *Rollo* (A.M. No. 12-7-130-RTC), pp. 3-4.

³⁶ *Rollo* (A.M. No. RTJ-10-2219), p. 648.

³⁷ *Id.* at 945.

³⁸ *Id.* at 45-49.

³⁹ *Id.* at 545-552.



They must show competence, honesty and probity since they are charged with safeguarding the integrity of the court and its proceedings x x x.

x x x x

x x x They are charged with the efficient recording, filing and management of court records, besides having administrative supervision over court personnel. They play a key role in the complement of the court and cannot be permitted to slacken on their jobs under one pretext or another. They must be assiduous in performing their official duties and in supervising and managing court dockets and records. x x x⁴⁰ (Citations omitted.)

We find that the following circumstances raise the suspicion that respondent Dimaculangan was indeed involved in the anomalies related to annulment cases: (1) the allegations in the anonymous letter; (2) the admission of Judge Chavez that his signatures in some of the decisions in the annulment cases were forged and that he mostly relied on his clerk of court; and (3) the admission of the process server that he merely signed some of the returns of summons and registry receipts as instructed by his “superior.”

a.

Regarding the pre-marking of exhibits without the presence of the prosecutor in *Singson v. Singson* for annulment of marriage, respondent Dimaculangan alleged that he obtained the consent of the prosecutor. There was, however, no evidence proving this claim. As branch clerk of court, respondent Dimaculangan is the administrative assistant of the presiding judge. The presiding judge may, before the start of the pre-trial conference, refer the case to the branch clerk of court for a preliminary conference to assist the parties in reaching a settlement, to mark documents or exhibits to be presented by the parties and copies thereof to be attached to the records after comparison and to consider such other matters as may aid in the prompt disposition of the case.⁴¹ The rules require the presence of *both* parties to the case. Thus, it was highly irregular for respondent Dimaculangan to conduct the pre-marking in the prosecutor’s absence.

b.

As to respondent Dimaculangan’s act of notarizing the *ex parte* motion for leave of court to serve summons by publication in SP No. 04-078, he asserts that it was an exercise of his official functions as an *ex-officio*

⁴⁰ *Office of the Court Administrator v. Lopez*, A.M. No. MTJ-11-1790, December 11, 2013, 712 SCRA 153, 170-173.

⁴¹ A.M. No. 03-1-09-SC, Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-Trial and Use of Deposition-Discovery Measures, July 13, 2004.



notary public. OCA Circular No. 156-2006⁴² authorized clerks of court of the RTCs to notarize documents subject to the following conditions:

(i) all notarial fees charged in accordance with Section 7(o) of Rule 141 of the Rules of Court, and, with respect to private documents, in accordance with the notarial fee that the Supreme Court may prescribe in compliance with Section 1, Rule V of the 2004 Rules on Notarial Practice, shall be for the account of the Judiciary; and (ii) they certify in the notarized documents that there are no notaries public within the territorial jurisdiction of the Regional Trial Court[.]

There was no evidence that respondent Dimaculangan complied with these requirements.

c.

The Financial Audit Team also found the following: (1) there was a cash shortage of ₱18,000 in the Fiduciary Fund; (2) respondent Dimaculangan did not deposit his collections within the prescribed period; (3) no legal fees were paid in the petition for annulment of marriage filed by Bagsic against Edilberto L. Rivera; (3) no collection of the amount to defray travel expenses needed for service of summons, subpoena and other court processes were made in 54 petitions for declaration of nullity of marriage/annulment of marriage cases.⁴³

SC Administrative Circular No. 3-2000⁴⁴ dated June 15, 2000 requires that the collections for the Judiciary Development Fund (JDF) be deposited daily with the nearest Land Bank branch through a designated account number. If a daily deposit is not possible, it should be made at the end of every month, provided that if the JDF collection reaches ₱500, the money shall be deposited immediately.

These guidelines emphasize the importance and seriousness of the duty imposed upon clerks of courts who manage and secure the funds of the Court. Mere delay in remitting the funds collected has, in fact, been considered gross neglect of duty or grave misconduct.⁴⁵

Clerks of court are the custodians of the courts' funds and revenues, records, properties, and premises. They are liable for any loss, shortage, destruction or impairment of those entrusted to them. Any shortages in the amounts to be remitted and the delay in the actual remittance constitute

⁴² Authority to Notarize Documents, November 16, 2006.

⁴³ *Rollo* (A.M. No. RTJ-10-2219), pp. 898-909.

⁴⁴ Re: Guidelines in the Allocation of the Legal Fees Collected Under Rule 141 of the Rules of Court, as Amended, Between the General Fund and Judiciary Development Fund.

⁴⁵ *Office of the Court Administrator v. Zerrudo*, A.M. No. P-11-3006, October 23, 2013, 708 SCRA 348, 353.



gross neglect of duty for which the clerk of court shall be held administratively liable.⁴⁶

The OCA's findings show that respondent Dimaculangan incurred a cash shortage of ₱18,000 in the Fiduciary Fund and failed to deposit the court's collections as required under SC Administrative Circular No. 3-2000. Thus, we find that respondent Dimaculangan has been remiss in his duty to promptly remit cash collections and account for the shortages of court funds under his care.

d.

Given respondent Dimaculangan's numerous and grave infractions, we find that he was not only remiss in his duties; he took advantage of his position as clerk of court to circumvent and disregard the rules. His acts do not only point to gross neglect of duty but also grave misconduct. Misconduct is grave if corruption, clear intent to violate the law or flagrant disregard of an established rule is present; otherwise, the misconduct is only simple.⁴⁷

In this case, the facts show that respondent Dimaculangan disregarded established rules of the Court. Gross neglect of duty and grave misconduct incur the penalty of dismissal. As respondent Dimaculangan has already resigned,⁴⁸ all the benefits to which he may have been entitled, except earned leave credits, are forfeited. He is also disqualified from holding public office in the future, including in government-owned and controlled corporations.

3. David Caguimbal

Respondent Caguimbal, in his Comment⁴⁹ dated June 28, 2010, denies the charges against him and states that he performed his duties with utmost good faith and honesty. Further, he alleges that in cases where summons were served to persons other than the respondent or defendant, he made sure that the summons were received by persons of suitable age and discretion. Respondent Caguimbal claims that he is unsure whether he issued and signed some of the returns of summons concerning annulment of marriages. In his Supplemental Comment⁵⁰ dated September 30, 2010, he admits that, in some annulment cases, he never served the summons yet he signed the process server returns upon his superior's instructions.

We have said that the duty of a process server is vital to the administration of justice. A process server's primary duty is to serve court

⁴⁶ *Office of the Court Administrator v. Acampado*, A.M. Nos. P-13-3116 & P-13-3112, November 12, 2013, 709 SCRA 254, 270-271.

⁴⁷ *Re: Melchor Tiongson, Head Watcher, During the 2011 Bar Examinations*, B.M. No. 2482, April 1, 2014, 720 SCRA 294, 299.

⁴⁸ *Rollo* (A.M. No. RTJ-10-2219), p. 521.

⁴⁹ *Id.* at 529-531.

⁵⁰ *Id.* at 723-724.



notices which precisely requires utmost care on his part to ensure that all notices assigned to him are duly served on the parties.⁵¹ It is through the process server that defendants learn of the action brought against them by the complainant. Significantly, it is also through the service of summons by the process server that the trial court acquires jurisdiction over the defendant. It is therefore important that summonses, other writs and court processes be served expeditiously.⁵²

Respondent Caguimbal committed grave misconduct and serious dishonesty when he signed process server returns without actually serving any such summons or court process. Misconduct is an unacceptable behavior that transgresses the established rules of conduct for public officers. To be considered as grave and to warrant dismissal from the service, the misconduct must be serious, important, weighty, momentous and not trifling. It must imply wrongful intention and not a mere error of judgment and it must have a direct relation to, and be connected with, the performance of his official duties amounting either to maladministration, willful, intentional neglect or failure to discharge the duties of the office. On the other hand, dishonesty is the disposition to lie, cheat, deceive, or defraud; unworthiness; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.⁵³

Here, there is evidence to show that respondent Caguimbal intentionally neglected the discharge of his duty and, as a consequence, deceived both the court and the litigants. Assuming that he was merely instructed by his superior to falsify the return, he knew or ought to have known that such instruction is illegal. Respondent Caguimbal should not have tolerated such illegal act. Instead, he should have taken measures to stop it.

Both grave misconduct and dishonesty are grave offenses which are punishable by dismissal even for the first offense.⁵⁴ Considering respondent Caguimbal's retirement from service in 2013, all the benefits to which he may have been entitled, except earned leave credits, will be forfeited.⁵⁵

4. Editha E. Bagsic

The main charge against respondent Bagsic involves her failure to transcribe TSNs in nullity and annulment of marriage cases. The OCA also found that the TSNs were not attached to their proper case records.

Stenographers should comply faithfully with paragraph 1, Section 17, Rule 136, of the Rules of Court:

⁵¹ *Dalmacio-Joaquin v. Dela Cruz*, A.M. No. P-06-2241, July 10, 2012, 676 SCRA 55, 61.

⁵² *Musni v. Morales*, A.M. No. P-99-1340, September 23, 1999, 315 SCRA 85, 90-91.

⁵³ *Aguilar v. Valino*, A.M. No. P-07-2392, February 25, 2009, 580 SCRA 242, 256-257.

⁵⁴ Revised Rules on Administrative Cases in the Civil Service, Rule 10, Sec. 46(A)(1) & (3).

⁵⁵ Respondent Caguimbal's compulsory retirement was in December 2013 but he has not yet submitted application.



Sec. 17. *Stenographer*. – It shall be the duty of the stenographer who has attended a session of a court either in the morning or in the afternoon, to deliver to the clerk of court, immediately at the close of such morning or afternoon session, all the notes he has taken, to be attached to the record of the case; and it shall likewise be the duty of the clerk to demand that the stenographer comply with said duty. The clerk of court shall stamp the date on which such notes are received by him. When such notes are transcribed, the transcript shall be delivered to the clerk, duly initialed on each page thereof, to be attached to the record of the case.

Further, SC Administrative Circular No. 24-90⁵⁶ requires all stenographers to transcribe all stenographic notes and attach the transcripts to the record of the case not later than 20 days from the time the notes were taken. Stenographers shall also accomplish a verified monthly certification to monitor their compliance with this directive. The stenographer's salary shall be withheld in case of failure or refusal to submit the required certification.

Respondent Bagsic explained that it is their practice to keep TSNs in their cabinets. If there were stenographic notes that were not transcribed, she claims that this was due to lack of time. These excuses, however, are not acceptable. Clearly, respondent Bagsic was remiss in her duties as stenographer and should be held liable for simple neglect of duty.

Simple neglect of duty is the failure to give attention to a task, or the disregard of a duty due to carelessness or indifference.⁵⁷ Under Rule 10, Section 46(D)(1) of the Revised Rules on Administrative Cases in the Civil Service, simple neglect of duty, classified as a less grave offense, is punishable by suspension of 1 month and 1 day to 6 months for the first offense. Under Section 19, Rule XIV of the Civil Service Commission Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws, a fine may be imposed in the alternative.

Since respondent Bagsic resigned from the RTC in December 2009, we find the penalty of a fine in the amount of ₱5,000 reasonable in line with the Court's rulings in similar cases.⁵⁸

5. Armando Ermelito M. Marquez

a.

⁵⁶ Revised Rules on Transcription of Stenographic Notes and Their Transmission to Appellate Courts (1990).

⁵⁷ *Dajao v. Lluch*, A.M. OCA No. P-02-1570, April 3, 2002, 380 SCRA 104, 108-109.

⁵⁸ *Ruste v. Selma*, A.M. No. P-09-2625, October 9, 2009, 603 SCRA 104; *Ang Kek Chen v. Javalera-Sulit*, A.M. No. MTJ-06-1649, September 12, 2007, 533 SCRA 11.

In his Comment⁵⁹ dated September 17, 2010, respondent Marquez claims that his failure to prepare the minutes of the proceedings was due to lack of sufficient time. He further claims that he prioritized criminal cases over civil cases. His excuses, however, do not persuade.

As court interpreter, respondent Marquez is duty-bound to prepare and sign the minutes of court sessions. In *Reyes v. Pabilane*,⁶⁰ we discussed the importance of the minutes:

[F]or it gives a brief summary of the events that take place thereat including a statement of the date and time of the session; the name of the judge, clerk of court, court stenographer, and court interpreter who are present; the names of the counsel for the parties who appear; the parties presenting evidence; the names of the witnesses who testified; the documentary evidence marked; and the date of the next hearing.⁶¹ (Citation and underscoring omitted.)

Respondent Marquez' failure to prepare and sign the minutes of the court proceedings constitutes simple neglect of duty.⁶²

b.

Respondent Marquez also denies that he acted as an agent for Atty. Jose Calingasan when he referred said counsel to Ms. Rene Frane Arillano for possible lawyer-client relationship. He claims that he merely provided the names of counsels within the vicinity of the Hall of Justice.

Section 5, Canon IV of the Code of Conduct for Court Personnel⁶³ enjoins all court personnel from recommending private attorneys to litigants, prospective litigants or anyone dealing with the judiciary. As an employee of the judiciary, respondent Marquez must maintain a neutral attitude in dealing with party-litigants. All court personnel should be reminded that they have no business getting personally involved in matters directly emanating from court proceedings, unless expressly so provided by law. Since the image of the courts of justice is reflected in the conduct, official or otherwise, of even its minor employees, it is the imperative duty of everyone involved in the dispensation of justice to maintain the courts' integrity and standing as true temples of justice and avoid any impression or impropriety, misdeed or negligence. While court employees are not totally prohibited from rendering aid to others, they should see to it that the assistance, albeit involving acts unrelated to their official functions, does not in any way compromise the public's trust in the justice system.⁶⁴

⁵⁹ *Rollo* (A.M. No. RTJ-10-2219), pp. 719-721.

⁶⁰ A.M. No. P-09-2696, January 12, 2011, 639 SCRA 287.

⁶¹ *Id.* at 291.

⁶² *Id.*

⁶³ A.M. No. 03-06-13-SC, June 1, 2004.

⁶⁴ *Holasca v. Pagunsan, Jr.*, A.M. No. P-14-3198, July 23, 2014, 730 SCRA 357, 374.

In this case, respondent Marquez transgressed the strict norm of conduct required from court employees by referring a prospective litigant to a private lawyer. His act gave the impression that the court is indorsing a particular lawyer, thereby undermining the public's faith in the impartiality of the courts.

We thus hold that respondent Marquez is guilty of simple misconduct. Simple misconduct has been defined as an unacceptable behavior which transgresses the established rules of conduct for public officers, work-related or not.⁶⁵

Consistent with the rulings involving simple neglect of duty⁶⁶ and simple misconduct committed by court employees,⁶⁷ we impose the fine of ₱5,000 on respondent Marquez.

IV

In *Leave Division, Office of Administrative Services, Office of the Court Administrator v. De Lemos*,⁶⁸ we reminded court employees:

[A]ll court employees must exercise at all times a high degree of professionalism and responsibility, as service in the Judiciary is not only a duty but also a mission. The Court has repeatedly emphasized that everyone in the judiciary, from the presiding judge to the clerk, must always be beyond reproach, free of any suspicion that may taint the judiciary. Public service requires utmost integrity and discipline. A public servant must exhibit at all times the highest sense of honesty and integrity, for no less than the Constitution mandates the principle that "a public office is a public trust and all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency." As the administration of justice is a sacred task, the persons involved in it ought to live up to the strictest standards of honesty and integrity. Their conduct, at all times, must not only be characterized by propriety and decorum, but must also be above suspicion. Thus, every employee of the judiciary should be an example of integrity, uprightness, and honesty.⁶⁹

WHEREFORE, Judge Pablo R. Chavez is found GUILTY of gross neglect of duty and undue delay of rendering decisions. Atty. Teofilo A. Dimaculangan, Jr. is found GUILTY of gross neglect of duty and grave misconduct. David Caguimbal is found GUILTY of grave misconduct and serious dishonesty. In lieu of dismissal from service which may no longer be

⁶⁵ *Abulencia v. Hermosisima*, A.M. SB-13-20-P, June 26, 2013, 699 SCRA 576, 579.

⁶⁶ *Tudtud v. Caayon*, A.M. No. P-02-1567, March 28, 2005, 454 SCRA 10.

⁶⁷ *Reas v. Relacion*, A.M. No. P-05-2095, February 9, 2011, 642 SCRA 266.

⁶⁸ A.M. No. P-11-2953, September 7, 2011, 657 SCRA 1.

⁶⁹ *Id.* at 8, citing *Office of the Court Administrator v. Isip*, A.M. No. P-07-2390, August 19, 2009, 596 SCRA 407, 413-414.



imposed due to their respective retirements and resignation, as a penalty for their offense, all their benefits, except accrued leave credits, are hereby **FORFEITED**. They are further disqualified from any reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations and financial institutions.

Editha E. Bagsic is found **GUILTY** of simple neglect of duty and is **FINED** in the amount of ₱5,000. This amount may be deducted from whatever benefits respondent Bagsic may still be entitled to after her voluntary resignation.

Armando Ermelito M. Marquez is found **GUILTY** of simple neglect of duty and simple misconduct and **FINED** in the amount of ₱5,000. He is warned that a repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.



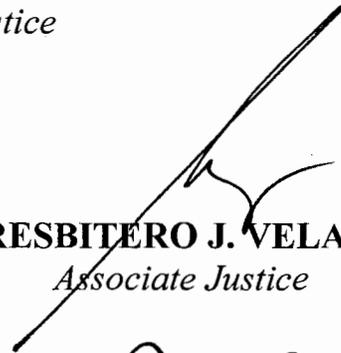
MARIA LOURDES P. A. SERENO

Chief Justice



ANTONIO T. CARPIO

Associate Justice



PRESBITERO J. VELASCO, JR.

Associate Justice



TERESITA J. LEONARDO-DE CASTRO

Associate Justice



DIOSDADO M. PERALTA

Associate Justice



LUCAS P. BERSAMIN

Associate Justice



MARIANO C. DEL CASTILLO

Associate Justice



JOSE CATRAL MENDOZA

Associate Justice



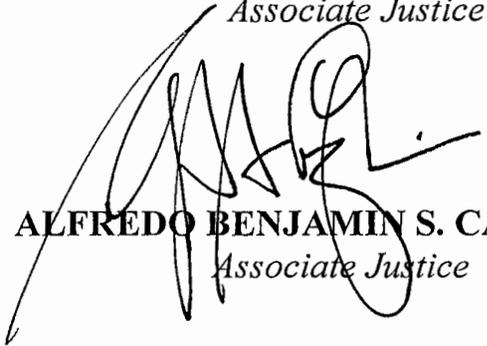
BIENVENIDO L. REYES

Associate Justice

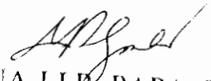

ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M. V. F. LEONEN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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ANNA-LI R. PAPA-GOMBIO
Deputy Clerk of Court En Banc
OCC En Banc, Supreme Court

