



Republic of the Philippines
Supreme Court
Manila

EN BANC

LITA G. ONG-THOMAS,
Complainant,

A.M. No. SCC-23-002-J
[Formerly OCA IPI No. 20-44-SCC-J]

- versus -

Present:

HON. MONTANO K. KALIMPO, PRESIDING JUDGE (NOW RETIRED), *SHARI'AH* CIRCUIT COURT, COTABATO CITY, SULTAN KUDARAT, MAGUINDANAO, and **MOHAMMAD A. ABDULRAHMAN,** CLERK OF COURT II, SAME COURT,
Respondents.

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

Promulgated:
November 14, 2023

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DECISION

KHO, JR., J.:

* On official leave.

** No part.

*** On official business but left a vote per Letter dated November 13, 2023.

For the Court's Resolution is the Affidavit-Complaint¹ dated February 17, 2020, and received by the Court on February 19, 2020, filed by complainant Lita G. Ong-Thomas (Ong-Thomas) accusing respondents Hon. Montano K. Kalimpo (Judge Kalimpo) and Mohammad A. Abdulrahman (Abdulrahman), Presiding Judge and Clerk of Court II, respectively, of the *Shari'ah* Circuit Court, Cotabato City, Sultan Kudarat, Maguindanao of gross ignorance of the law, incompetence, gross negligence, and conduct prejudicial to the best administration of justice, relative to SHCC Civil Case No. 2013-879, entitled "In Re: Petition for Confirmation and Registration of Pronounced Talaq (Divorce) against Lita Gatchalian Ong-Thomas; Howard Edward Thomas, Petitioner."

The Facts

Ong-Thomas alleged that she and Howard Edward Thomas (Thomas) were married on December 11, 2002, and their marriage was registered with the Civil Registrar's Office in Olongapo City.² Sometime 11 years later, or on September 3, 2013, Thomas, supposedly having already converted to Islam, filed a Notice of *Talaq* (Divorce)³ with the Clerk of Court of the 1st *Shari'ah* Circuit Court, 5th *Shari'ah* District, Cotabato City, and a copy of which was furnished Ong-Thomas.⁴ The said Notice states, among others, that: (a) Thomas had converted to Islam and had adopted the name "Alsharidz"; and (b) as proof of conversion, he presented a Certificate of Conversion to Islam⁵ with Registry No. 2013-50000204, registered by *Shari'ah* Circuit Registrar Clerk of Court II Amiluden P. Hassan (Hassan) on October 21, 2013.⁶

Following the filing of the Notice of *Talaq*, Thomas filed on October 30, 2013 a Petition⁷ for confirmation and registration of pronounced *Talaq* (*divorce*) against Ong-Thomas, docketed as SHCC Civil Case No. 2013-879. The case was raffled to the *sala* where respondents were stationed. In an Order⁸ dated November 19, 2013, or a mere 20 days after the filing of Thomas's Petition, Judge Kalimpo granted said Petition, and accordingly, severed the marital ties between Ong-Thomas and Thomas. Then on December 5, 2013, Abdulrahman already issued a Certificate of Finality⁹ of SHCC Civil Case No. 2013-879.¹⁰

¹ *Rollo*, pp. 3-11.

² See Certificate of Marriage, *id.* at 13.

³ *Id.* at 49.

⁴ *Id.* at 185-186.

⁵ *Id.* at 47.

⁶ See *id.* at 186.

⁷ *Id.* at 43-46.

⁸ *Id.* at 65-72.

⁹ *Id.* at 73.

¹⁰ *Id.* at 187-189.

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Notwithstanding the foregoing, Ong-Thomas still filed her Opposition¹¹ to Thomas's Petition, essentially arguing that her husband's conversion to Islam was a mere ploy to evade his obligations to her and their adopted child.¹² She also pointed out the following irregularities:

First, Thomas's Certificate of Conversion to Islam with Registry No. 2013-50000204 was only registered on October 21, 2013, while the Notice of *Talaq* was already signed as early as September 3, 2013 when his conversion to Islam was yet to be registered.¹³

Second, she received the summons relative to SHCC Civil Case No. 2013-879 only on November 25, 2013 and yet Judge Kalimpo already granted the same on November 19, 2013.¹⁴

Third, Thomas submitted with his Petition his Certificate of Conversion to Islam with Registry No. 2013-50000204 dated October 21, 2013, and yet in Judge Kalimpo's Order dated November 19, 2013, he stated therein that Thomas's Certificate of Conversion to Islam is with Registry No. 2013-50000138 dated July 12, 2013.¹⁵

In light of the foregoing, Judge Kalimpo issued an Order¹⁶ dated June 19, 2014, which: (a) set aside his earlier Order dated November 19, 2013; and (b) required Ong-Thomas to file her answer within the reglementary period under the provisions of *Ijra-At-Al Mahakim Al Shari'ah* (Special Rules of Procedure in *Shari'ah* Courts). Pursuant to the said Order, Ong-Thomas filed her Answer¹⁷ on July 17, 2014, essentially stating that her marriage with Thomas is not covered by Muslim Law, and hence, they cannot be divorced.¹⁸

More than three years later, or on May 2, 2018, Ong-Thomas filed a Motion to Dismiss¹⁹ SHCC Civil Case No. 2013-879 on the ground that the last hearing of the case was on April 27, 2015, and that the case was no longer set for hearing thereafter. She added that Thomas's failure to have it set for hearing showed that he was no longer interested in pursuing the case.²⁰ However, Judge Kalimpo denied the said Motion through an Order²¹ dated June 26, 2018, holding that: (a) Ong-Thomas failed to file her Answer

¹¹ *Id.* at 50–53.

¹² *Id.* at 189.

¹³ *Id.* at 190.

¹⁴ *Id.*

¹⁵ *Id.* at 191. See also Supplement to the Motion for Reconsideration, *id.* at 80–83.

¹⁶ *Id.* at 86.

¹⁷ *Id.* at 87–92.

¹⁸ *Id.* at 88.

¹⁹ *Id.* at 93–95.

²⁰ *Id.* at 93.

²¹ *Id.* at 96–97.

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within the reglementary period as provided for under the Special Rules of Procedure in *Shari'ah* Courts; and (b) a motion to dismiss is prohibited under the said Special Rules. Moreover, Judge Kalimpo reinstated his earlier Order dated November 19, 2013 which granted Thomas's Petition.²²

Ong-Thomas moved for reconsideration²³ but the same was denied in an Order²⁴ dated September 5, 2018. Hence, she filed a Notice of Appeal.²⁵ However, five months after the filing of the Notice of Appeal, Ong-Thomas's counsel, the Public Attorney's Office (PAO), wrote a letter addressed to Abdulrahman inquiring, *inter alia*, the status of the Appeal.²⁶

In light of the foregoing, Ong-Thomas instituted the instant administrative disciplinary case against respondents, where she: (a) reiterated the glaring disparity between the two Certificates of Conversion to Islam submitted by Thomas, i.e., one with Registry No. 2013-50000204 dated October 21, 2013 and the other with Registry No. 2013-50000138 dated July 12, 2013; (b) assailed the questionable haste in granting her husband's Petition despite her not being given proper opportunity to oppose the same; and (c) questioned Judge Kalimpo's inordinate delay in the resolution of her Answer, and Abdulrahman's inaction on the Notice of Appeal. Ong-Thomas claims that these circumstances showed that there is a conspiracy between respondents and Thomas to favor the latter in the resolution of SHCC Civil Case No. 2013-879.²⁷

A few months after the administrative disciplinary complaint was filed, Judge Kalimpo mandatorily retired from service on July 4, 2020.²⁸

In their joint Comments²⁹ dated July 15, 2020, respondents denied the allegations against them as follows:

As regards Thomas's Certificates of Conversion to Islam, respondents claimed that it was the one with Registry No. 2013-50000138 dated July 12, 2013 that they considered in the Order dated November 19, 2013. As for the other with Registry No. 2013-50000204 dated October 21, 2013, respondents denied any knowledge of its existence and only Ong-Thomas could explain how it came about. Respondents further claimed that as far as the Certificate of Conversion to Islam with Registry No. 2013-50000138 dated July 12, 2013 is concerned, Thomas had already converted to Islam as

²² See *id.* at 97.

²³ See Motion for Reconsideration, *id.* at 98-101.

²⁴ *Id.* at 102-103.

²⁵ *Id.* at 104-105.

²⁶ See *id.* at 194.

²⁷ See *id.* at 194-196.

²⁸ See *id.* at 197.

²⁹ *Id.* at 110-116.

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early as January 20, 2013; hence, his Notice of *Talaq* signed on September 3, 2013 is already effective.³⁰

As regards the propriety of the proceedings in SHCC Civil Case No. 2013-879 is concerned, respondents maintained that: (a) the proceedings are non-adversarial in nature so summons need not be issued; (b) confirmation of the validity of the *Talaq* by the court is required only for registration and records purposes and the wife could not prevent the court from confirming the same should the same is found to be in accordance with the relevant law; and (c) Ong-Thomas was not deprived of her right to contest the validity of the *Talaq*, as in fact, SHCC Civil Case No. 2013-879 is now currently on appeal.³¹

In a Report³² dated January 12, 2021, the Office of the Court Administrator (OCA) recommended that the case be referred to the Executive Judge of the Municipal Trial Court of Cotabato City, for investigation, report, and recommendation, particularly as to the following matters:

First, the existence of the Certificate of Conversion [with] Registry No. 2013-50000204 in the name of [Thomas] and how it came into the possession of complainant Ong-Thomas is indicative of something that is very wrong and illegal, and the mere disavowal of knowledge by respondents does not help their defense ...

Second, why did the case become dormant after the 27 April 2015 hearing which apparently compelled complainant Ong-Thomas to file the motion to dismiss? ...

Third, ... why was there a need for the [PAO (as Ong-Thomas's counsel)] to make a follow up on its Notice of Appeal after five (5) months from its filing.

Lastly, was the petition for confirmation properly resolved substantially and procedurally? ...³³

In a Resolution³⁴ dated February 17, 2021, the Court approved the OCA's recommendation. In accordance with A.M. No. 18-01-05-SC, the OCA transmitted the records of this case to the Judicial Integrity Board (JIB),³⁵ which in turn, issued a Report³⁶ dated May 25, 2022, reiterating the directive to refer the case to the aforesaid Executive Judge for investigation, report, and recommendation.

³⁰ See *id.* at 196.

³¹ *Id.* at 196–197.

³² *Id.* at 120–127. Signed by Court Administrator Jose Midas P. Marquez (now a Member of the Court) and SC Senior Chief Staff Officer Noe A. Pleños.

³³ *Id.* at 124.

³⁴ *Id.* at 129–130.

³⁵ See letter received by the JIB on April 7, 2022, *id.* at 134–135.

³⁶ *Id.* at 154–159. Signed by Chairperson Justice Romeo J. Callejo, Sr. (Ret.), Vice-Chairperson Justice Angelina Sandoval-Gutierrez (Ret.), First Regular Member Justice Sesinando E. Villon (Ret.), and Second Regular Member Justice Rodolfo A. Ponferrada (Ret.).

In a Report and Recommendation³⁷ dated August 22, 2022, the executive judge offered the following findings in relation to the matters particularized by the OCA:

As regards the first matter, the executive judge pointed out that since Hassan, the clerk of court who registered Thomas's Certificates, had already died, he was only able to interview a certain Dalisay Ulangkaya (Ulangkaya), court stenographer of the *Shari'ah* Court of Shariff Aguak, Maguindanao, who appeared to be the one who prepared the two Certificates. However, Ulangkaya denied preparing the Certificate with Registry No. 2013-50000204 dated October 21, 2013, averring that: (a) the same was already prepared when she received it from Hassan; and (b) she just followed Hassan's instructions to sign her name, register the Certificate, and indicate the registry number. According to Ulangkaya, as soon as she performed what was instructed to her, she returned the document to Hassan and she never saw the document again.³⁸

As regards the second and third matters, the executive judge interviewed court personnel from the *sala* that Judge Kalimpo used to preside in, but no one could give a definite answer on what could have caused the delays.³⁹

On the last matter, the executive judge reiterated the OCA's view that since SHCC Civil Case No. 2013-879 is currently on appeal, all matters relating thereto shall remain *sub judice*.⁴⁰

In light of the foregoing findings, the executive judge concluded that there is no evidence to support Ong-Thomas's theory that respondents conspired with and gave Thomas undue favor insofar as the resolution of SHCC Civil Case No. 2013-879 is concerned. Nonetheless, the executive judge recommended that respondents be fined in the amount of PHP 50,000.00 each for the unexplained inordinate action on the case and the fact that the PAO, Ong-Thomas's counsel, had to follow up on the status of the Notice of Appeal.⁴¹

The JIB's Report and Recommendation

In a Report⁴² dated November 18, 2022, the JIB recommended that both respondents be found administratively liable for "Prejudicial Conduct

³⁷ *Id.* at 160–163. Penned by Executive Judge Kasan K. Abdulrakman.

³⁸ *Id.* at 162.

³⁹ *Id.*

⁴⁰ *Id.* at 163.

⁴¹ *Id.*

⁴² *Id.* at 185–217. Signed by Chairperson Justice Roneo J. Callejo, Sr. (Ret.), Vice-Chairperson Justice Angelina Sandoval-Gutierrez (Ret.), First Regular Member Justice Sesinando E. Villon (Ret.), Second

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that Gravely Besmirches or Taints the Reputation of the Service” and “Violation of Supreme Court Rules, Directives and Circulars that Establish an Internal Policy, Rule of Procedure, or Protocol,” and that they be meted with the following penalties: (a) with respect to Judge Kalimpo, fine of PHP 200,000.00 and PHP 100,000.00, respectively, both of which may be deducted from his retirement benefits; and (b) as regards Abdulrahman, fine of PHP 100,000.00 and PHP 35,000.00, respectively, and both with stern warning that a repetition of the same or similar acts shall be most severely dealt with.⁴³

As regards the charge of “Prejudicial Conduct that Gravely Besmirches or Taints the Reputation of the Service,” the JIB found that while Ong-Thomas may have proven the existence of two Certificates of Conversion to Islam of Thomas with different registry numbers and dates of registration, she nevertheless failed to prove the existence of conspiracy between respondents and Thomas.⁴⁴ This notwithstanding, the JIB opined that respondents’ mere reliance on their bare disavowals of knowledge regarding the existence of the said Certificates tend to cast a shadow of suspicion on their integrity and partiality. According to the JIB, respondents could have easily presented certified true copies of the case records of SHCC Civil Case No. 2013-879 to show that the Certificate of Conversion to Islam with Registry No. 2013-50000138 dated July 12, 2013 was the one that was submitted with Thomas’s Petition, or that they could have requested Ulangkaya to attest to the veracity and truthfulness of this Certificate based on official records. Unfortunately for respondents, instead of disproving the serious allegations against them through evidence, they chose to deny the same through mere allegations. For the JIB, respondents’ acts tended to tarnish the image and integrity of their public offices.⁴⁵

With respect to the charge of “Violation of Supreme Court Rules, Directives and Circulars that Establish an Internal Policy, Rule of Procedure, or Protocol,” the JIB pointed out that Section 8 of the Special Rules of Procedure in *Shari’ah* Courts states that “judgment shall be rendered within fifteen (15) days from the termination of the trial, or disposition of the case, should there be no formal trial or hearing.” Thus, Judge Kalimpo should have promptly acted on Ong-Thomas’s Answer in SHCC Civil Case No. 2013-879, regardless of whether it was filed beyond the reglementary period. Instead, Judge Kalimpo allowed the case to be dormant after the last hearing set on April 27, 2015. As such, the JIB opined that Ong-Thomas could not be faulted for filing a Motion to Dismiss even if it was a prohibited

Regular Member Justice Rodolfo A. Ponferrada (Ret.), and Third Regular Member Justice Cielito N. Mindaro-Grulla (Ret.).

⁴³ *Id.* at 216.

⁴⁴ *Id.* at 208.

⁴⁵ *Id.* at 208–209.

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pleading, considering that more than three years had passed since the last court setting.⁴⁶

As for Abdulrahman, the JIB also pointed out that Sections 9 and 10 of the Special Rules of Procedure in *Shari'ah* Courts provide that as soon as an appeal is perfected, it is incumbent upon the clerk of court in charge, i.e., Abdulrahman, to transmit the original records of SHCC Civil Case No. 2013-879 to the appropriate appellate court. However, in this case, Ong-Thomas's Notice of Appeal left unacted for five months, prompting her counsel, the PAO, to write a letter to Abdulrahman to inquire about the status of the Notice of Appeal.⁴⁷

Given that respondents failed to observe the relevant provisions of the Special Rules of Procedure in *Shari'ah* Courts, the JIB concluded that they should be held administratively liable for the charge of "Violation of Supreme Court Rules, Directives and Circulars that Establish an Internal Policy, Rule of Procedure, or Protocol."⁴⁸

The Issue Before the Court

The issue for the Court's resolution is whether or not respondents should be held administratively liable for the acts complained of.

The Court's Ruling

The Court adopts the findings and recommendations of the JIB, with modifications, as will be explained below.

I.

At the outset, it is important to note that on February 22, 2022, the Court *En Banc* unanimously approved A.M. No. 21-08-09-SC, entitled "Further Amendments to Rule 140 of the Rules of Court" (Rule 140). On April 3, 2022, the publication requirement thereof had already been complied with;⁴⁹ hence, Rule 140, as further amended, is already effective.

⁴⁶ *Id.* at 210.

⁴⁷ *Id.* at 210-211.

⁴⁸ *Id.* at 216.

⁴⁹ A.M. No. 21-08-09-SC, sec. 26 reads:

SECTION 26. *Effectivity Clause.* – These Rules shall take effect following their publication in the Official Gazette or in two newspapers of national circulation. (Emphasis and underscoring supplied)

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In this relation, Section 24 of Rule 140, as further amended, explicitly provides that it will apply to all pending and future administrative disciplinary cases involving Members, officials, employees, and personnel of the Judiciary, to wit:

SECTION 24. *Retroactive Effect.* – **All the foregoing provisions shall be applied to all pending and future administrative cases involving the discipline of Members, officials, employees, and personnel of the Judiciary,** without prejudice to the internal rules of the Committee on Ethics and Ethical Standards of the Supreme Court insofar as complaints against Members of the Supreme Court are concerned. (Emphasis and underscoring supplied)

In view of the foregoing, the Court shall resolve this case under the framework of Rule 140, as further amended—as what the JIB did.

II.

At this juncture, the Court points out that a few months after Ong-Thomas instituted the instant administrative disciplinary case in February 2020, Judge Kalimpo mandatorily retired from service on July 4, 2020.⁵⁰ It bears stressing, however, that this development will not preclude the Court from determining his administrative liability, pursuant to Section 2 (2) of Rule 140, as further amended, which provides that “once disciplinary proceedings have already been instituted, the respondent’s supervening retirement or separation from service shall not preclude or affect the continuation of the same” In this regard, case law instructs that:

For the Court to acquire jurisdiction over an administrative proceeding, the complaint must be **filed during the incumbency** of the respondent public official or employee. This is because the filing of an administrative case is predicated on the holding of a position or office in the government service. However, once jurisdiction has attached, the same is not lost by the mere fact that the public official or employee was no longer in office during the pendency of the case.⁵¹

The foregoing preliminary matters having been settled, the Court now determines the administrative liability of both respondents.

III.

At this juncture, the Court notes that as pointed out by the OCA, and later on by the executive judge, SHCC Civil Case No. 2013-879 is still pending appeal. As such, the Court, abiding with the *sub judice* rule, will not

⁵⁰ See *rollo*, p. 171.

⁵¹ See *OCA v. Fuensalida*, 880 Phil. 561, 569–570 (2020) [Per J. Delos Santos, *En Banc*]; emphasis supplied. See also *Baquerfo v. Sanchez*, 495 Phil. 10, 16–18 (2005) [Per *Curiam*, *En Banc*].

touch upon the same. Rather, the Court shall limit its examination of respondents' administrative liability on the points discussed by the JIB in its Report dated November 18, 2022.

Respondents are administratively liable for Prejudicial Conduct that Gravely Besmirches or Taints the Reputation of the Service.

Section 14(1) of Rule 140, as further amended, classifies prejudicial conduct that gravely besmirches or taints the reputation of the service as a serious charge. In the Court's own annotations to this provision, it was explained that this charge is, *inter alia*, a reformulation of the administrative offense of "Conduct Prejudicial to the Best Interest of the Service," *viz.*:

NOTES: This charge is added to cover acts or omissions which are not strictly part of the performance of one's official functions, but nonetheless are punished as they diminish or tend to diminish the people's faith in the Judiciary.

This covers *oppression*, as well as *conduct prejudicial to the best interest of the service* under the 2017 RACCS. "Oppression is also known as grave abuse of authority, which is a misdemeanor committed by a public officer, who under color of his office, wrongfully inflict[s] upon any person any bodily harm, imprisonment, or other injury. It is an act of cruelty, severity, or excessive use of authority." (See *Ombudsman v. Caberoy*, G.R. No. 188066, October 22, 2014)

On the other hand, *conduct prejudicial to the best interest of the service* refers to acts that "tarnish the image and integrity of [a] public office" without a "direct relation to or connection with the performance of [one's] official duties." (*Office of the Ombudsman-Visayas v. Castro*, 759 Phil. 68 [2015]) It must be noted, however, that based on existing jurisprudence, "conduct prejudicial to the best interest of the service" tends to become some sort of a blanket offense to cover all other misdeeds not falling under any specific offense already listed in the Rule. To remedy this situation, the offense is reformulated to "prejudicial conduct that gravely besmirches or taints the reputation of the service." (Emphasis and underscoring supplied)

In *Rodil v. Posadas*,⁵² the Court *En Banc*, in a *per curiam* ruling, differentiated Misconduct from "Conduct Prejudicial to the Best Interest of the Service" in the following manner:

Based on the attendant circumstances, there is no doubt about Posadas' culpability, being a party to the commission of corrupt acts. However, it must be emphasized that "to constitute an administrative offense, misconduct **should relate to or be connected with the**

⁵² A.M. No. CA-20-36-P, August 3, 2021 [*Per Curiam, En Banc*].

performance of the official functions and duties of a public officer. Without the nexus between the act complained of and the discharge of duty, the charge of misconduct shall necessarily fail.”

Hence, “case law instructs that where the misconduct committed was not in connection with the performance of duty, the proper designation of the offense should not be Misconduct, but rather, Conduct Prejudicial to the Best Interest of the Service. While there is no hard and fast rule as to what acts or omissions constitute the latter offense, jurisprudence provides that the same ‘deals with [the] demeanor of a public officer which tarnishe[s] the image and integrity of his/her public office.’”⁵³ (Emphasis and underscoring in the original; citations omitted)

Here, the Court agrees with the JIB’s findings that while Ong-Thomas was able to prove the existence of two Certificates of Conversion to Islam of Thomas, she was unable to prove the existence of any conspiracy among respondents and Thomas. Nevertheless, and as aptly pointed out by the JIB, respondents’ heavy reliance on their mere uncorroborated disavowals, without any documentary support—such as certified true copies of the case records of SHCC Civil Case No. 2013-879 to show that the Certificate of Conversion to Islam with Registry No. 2013-50000138 dated July 12, 2013 was the one that was submitted with Thomas’s Petition, or an attestation coming from Hassan or Ulangkaya to attest to the veracity and truthfulness of this Certificate based on official records—does not inspire confidence in the Members and personnel of the Judiciary. On the contrary, this tends to cast a shadow of doubt or uncertainty as to their impartiality and integrity.

Time and again, the Court has reminded every employee, personnel, and Member of the Judiciary to be “exemplar[s] of integrity, uprightness, and honesty, considering that the sacrosanct image of a Court dispensing justice is mirrored in its very own personnel.”⁵⁴ In *OCA v. Capistrano*,⁵⁵ the Court, speaking through Associate Justice (and eventual Senior Associate Justice) Estela M. Perlas-Bernabe, echoed this clarion call to all those belonging in the Judiciary:

[N]o other office in the government service exacts a greater demand for moral righteousness and uprightness from an employee than in the Judiciary. [The Court has] repeatedly emphasized that the conduct of court personnel, from the presiding judge to the lowliest clerk, must always be beyond reproach and must be circumscribed with the heavy burden of responsibility as to let them be free from any suspicion that may taint the judiciary. The Court condemns and would never countenance any conduct, act or omission on the part of all those involved in the administration of justice, which would

⁵³ *Id.*

⁵⁴ *Office of the Court Administrator v. Capistrano*, A.M. No. P-13-3147, 738 Phil. 1, 6 (2014) [Per J. Perlas-Bernabe, Second Division].

⁵⁵ *Id.*

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violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the Judiciary.⁵⁶

Unfortunately, respondents clearly fell short in this regard. Thus, and considering that there appears to be no nexus between these acts and their official functions and duties, the Court agrees with the JIB that they should be held administratively liable for prejudicial conduct that gravely besmirches or taints the reputation of the service” under Section 14(l) of Rule 140, as further amended.

Judge Kalimpo and Abdulrahman are administratively liable for Gross Neglect of Duty and Simple Neglect of Duty, respectively.

To recall, the JIB opined that Judge Kalimpo and Abdulrahman should be held administratively liable for “Violation of Supreme Court Rules, Directives and Circulars that Establish an Internal Policy, Rule of Procedure, or Protocol,” considering that: (a) Section 8 (1)⁵⁷ of the Special Rules of Procedure in *Shari’ah* Courts mandates that “judgment shall be rendered within fifteen (15) days from the termination of the trial, or disposition of the case, should there be no formal trial or hearing,” but Judge Kalimpo did not act on Ong-Thomas’s Answer in SHCC Civil Case No. 2013-879, thereby constraining the latter to file a Motion to Dismiss (even if it was a prohibited pleading) more than three years from the last court setting on April 27, 2015; and (b) Abdulrahman failed to act on Ong-Thomas’s Appeal in SHCC Civil Case No. 2013-879, in violation of Sections 9 and 10⁵⁸ of the Special Rules of Procedure in *Shari’ah* Courts, thereby prompting her counsel, the PAO, to write a letter to Abdulrahman to inquire about the status of Ong-Thomas’s Notice of Appeal.

⁵⁶ *Id.*, citing *Re: Falsification of Daily Time Records of Maria Fe P. Brooks, Court Interpreter, Regional Trial Court, Quezon City, Branch 69, and Andria Forteza-Crisostomo, Clerk III, Regional Trial Court, Manila, Branch 39*, A.M. No. P-05-2086, 510 Phil 262 (2005) [Per J. Callejo, Sr., Second Division].

⁵⁷ The pertinent portion of the Special Rules of Procedure in *Shari’ah* Courts, sec. 8 reads:

(1) The judgment shall be rendered within fifteen (15) days from the termination of the trial, or disposition of the case, should there be no formal trial or hearing.

⁵⁸ The Special Rules of Procedure in *Shari’ah* Courts, secs. 9 and 10 read:

Section 9. Appeal

An appeal shall be made by filing a notice of appeal addressed to the court and by paying the docket fee within fifteen (15) days from receipt of the judgment.

Section 10. Appeal to the [*Shari’ah*] District Court

Within five (5) days from the perfection of the appeal, the clerk of court shall transmit the original record to the appropriate appellate court.

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While the JIB's recommendation that respondents should be held administratively liable for the abovementioned acts is well-taken, the Court modifies the same insofar as the proper charge to which they should be held administratively liable.

Section 15(e) of Rule 140, as further amended, classifies violation of Supreme Court rules, directives, and circulars that establish an internal policy, rule of procedure, or protocol as a less serious charge. To further understand the nature of this offense, the Court's annotation to this provision is illuminating, to wit:

NOTES: The phrase "that establish an internal policy, rule of procedure, or protocol" is added to this provision, considering that the charge "Violation of Supreme Court Rules, Directives, and Circulars" should not indiscriminately apply to any and all Supreme Court issuances, lest mere restatements of general ethical principles, without more, be superfluously considered as a separate charge. It is discerned that only those rules, directives, and circulars **which establish a distinct internal policy, rule of procedure, or protocol should result into a separate offense on its own.** (Emphasis and underscoring in the original)

Here, as aptly pointed out by the JIB, the Supreme Court rule of procedure violated by respondents is the Special Rules of Procedure in *Shari'ah* Courts. However, a closer scrutiny of the provisions they violated reveals that they do not establish "a distinct internal policy, rule of procedure, or protocol"; rather, they relate to already established principles on the prompt disposition of cases and/or matters pending before the courts. Thus, the Court finds it improper to find respondents administratively liable for violation of Supreme Court rules, directives, and circulars that establish an internal policy, rule of procedure, or protocol. As will be explained hereunder, respondents should be held liable for neglect of duty, albeit in different degrees.

As regards Judge Kalimpo, it bears reiterating that he not only failed to act on Ong-Thomas's Answer in SHCC Civil Case No. 2013-879, he also allowed the case to remain dormant after the last hearing set on April 27, 2015. As the Court sees it, Judge Kalimpo's acts constitute undue delay in rendering a decision or order, or in transmitting the records of the case—which under the current framework of Rule 140, as further amended, is already subsumed either under gross neglect of duty in the performance or non-performance of official functions under Section 14(d) of Rule 140, as further amended, or simple neglect of duty in the performance or non-performance of official functions under Section 15(b) of the same Rule,

depending on the seriousness of the act committed, pursuant to case law on gross and simple neglect of duty.⁵⁹

Relatedly, jurisprudence holds that “[s]imple neglect of duty is defined as ‘the failure to give proper attention to a task expected of an employee resulting from either carelessness or indifference.’ However, when an employee’s negligence displays want of even the slightest care or conscious indifference to the consequences or by flagrant and palpable breach of duty, the omission is regarded as gross neglect of duty. More precisely, there is gross neglect of duty when a public official or employee’s negligence is characterized by the glaring want of care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently, but willfully and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected.”⁶⁰

Here, Judge Kalimpo’s collective acts of failing to promptly act on Ong-Thomas’s Answer in SHCC Civil Case No. 2013-879 and allowing the case to remain dormant after the last hearing set on April 27, 2015 constitute gross neglect of duty.

On the other hand, as clerk of court who is conferred with the control and supervision of the branch,⁶¹ it was incumbent upon Abdulrahman to promptly forward case records that are appealed by party-litigants, i.e., within the periods prescribed by prevailing rules. Thus, his failure to transmit the original records of SHCC Civil Case No. 2013-879 to the appropriate appellate court within the proper period, which prompted Ong-Thomas’s counsel to write a letter to follow up the status of the Appeal more than five months after the filing thereof, also constitutes undue delay in rendering a decision or order, or in transmitting the records of the case. Under the present framework and given the obtaining circumstances of this case, the Court finds it appropriate to find him administratively liable for simple neglect of duty.

IV.

Since the respective administrative liabilities of respondents have already been established by substantial evidence or “that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion,”⁶² the Court now goes to the proper imposable penalties on them.

⁵⁹ See *Office of the Court Administrator v. Presiding Judge Montero*, A.M. No. RTJ-20-2582, August 16, 2022 [*Per Curiam. En Banc*].

⁶⁰ *Id.*, citing *OCA v. Toledo*, 870 Phil. 160, 175 (2020) [*Per Curiam, En Banc*].

⁶¹ See *id.*, citing *Manual for Clerks of Court*, pp. 26-32.

⁶² See *Tan v. Alvarico*, 888 Phil. 345, 355 (2020) [Per J. Peralta, First Division], citing Section 6, Rule 133 of the 2019 Amendments to the 1989 Revised Rules on Evidence (A.M. No. 19-08-15-SC).

Under Section 17(1) of Rule 140, as further amended, serious charges, such as prejudicial conduct that gravely besmirches or taints the reputation of the service and gross neglect of duty in the performance or non-performance of official functions, may be penalized by any of the following sanctions: “(a) [d]ismissal 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) [s]uspension 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.”

On the other hand, under Section 17(2) of Rule 140, as further amended, less serious charges, such as “simple neglect of duty in the performance or non-performance of official functions,” are punishable by any of the following: “(a) [s]uspension 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.”

Finally, Section 21 of Rule 140, as further amended, provides that “[i]f 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.”

Given the circumstances of this administrative case, the Court finds it appropriate to impose the penalty of fine on each of the administrative offenses committed by respondents, as follows:

As regards Judge Kalimpo, the JIB pointed out that he had been previously found administratively liable in the following cases: (a) in *Goldberg v. Kalimpo* (A.M. No. SCC-18-25-J),⁶³ he was found administratively liable for gross ignorance of the law and was meted the penalty of suspension for one year; and (b) in *Gaspar v. Kalimpo* (A.M. No. SCC-16-23-J),⁶⁴ he was again found administratively liable for the same offense, and was meted with the penalty of suspension for six months.⁶⁵ Under Section 19(2)(a) of Rule 140, as further amended, “[f]inding of previous administrative liability where a penalty is imposed, regardless of nature and/or gravity” is an aggravating circumstance, which according to Section 20 of the same Rule, has the effect of allowing the Court to impose on him a fine for an “amount not exceeding double of the maximum

⁶³ See Notice of Resolution dated August 29, 2018, signed by First Division Acting Division Clerk of Court Librada C. Buena.

⁶⁴ See Notice of Resolution dated February 22, 2017, signed by Third Division Clerk of Court Wilfredo V. Lapitan.

⁶⁵ See *rollo*, p. 187.

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prescribed under [Rule 140].” As such, and in view of: (a) the fact that he could no longer be meted the penalties of dismissal and suspension due to his supervening retirement; and (b) the appreciation of an aggravating circumstance against his favor, the Court deems it appropriate to impose on Judge Kalimpo the following: (i) for prejudicial conduct that gravely besmirches or taints the reputation of the service,” a fine of PHP 210,000.00; and (ii) for “gross neglect of duty in the performance or non-performance of official functions, a fine of PHP 210,000.00.

Anent Abdulrahman, the Court, further considering that no modifying circumstances were appreciated for or against him, imposes on him the following: (i) for prejudicial conduct that gravely besmirches or taints the reputation of the service,” a fine of PHP 110,000.00; and (ii) for “simple neglect of duty in the performance or non-performance of official functions,” a fine of PHP 40,000.00.

Finally, respondents are required to pay these fines in accordance with Section 22 of Rule 140, as further amended, which reads:

Section 22. *Payment of Fines.* — When the penalty imposed is a fine, the respondent shall pay it within a period not exceeding three (3) months from the time the decision or resolution is promulgated. If unpaid, such amount may be deducted from the salaries and benefits, including accrued leave credits, due to the respondent. The deduction of unpaid fines from accrued leave credits, which is considered as a form of compensation, is not tantamount to the imposition of the accessory penalty of forfeiture covered under the provisions of this Rule.

ACCORDINGLY, the Court rules as follows:

1. Respondent Judge Montano K. Kalimpo, then Presiding Judge of the *Shari'ah* Circuit Court, Cotabato City, Sultan Kudarat, Maguindanao, is **GUILTY** of prejudicial conduct that gravely besmirches or taints the reputation of the service and gross neglect of duty in the performance or non-performance of official functions. He is meted with the penalties of **FINE** in the amounts of PHP 210,000.00 and PHP 210,000.00, respectively; and

2. Respondent Mohammad A. Abdulrahman, Clerk of Court II of the *Shari'ah* Circuit Court, Cotabato City, Sultan Kudarat, Maguindanao, is **GUILTY** of prejudicial conduct that gravely besmirches or taints the reputation of the service and simple neglect of duty in the performance or non-performance of official functions. He is meted with the penalties of **FINE** in the amounts of PHP 110,000.00 and PHP 40,000.00, respectively.

SO ORDERED.

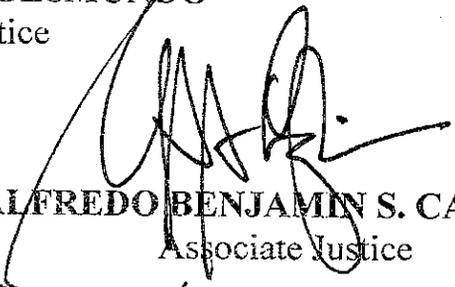


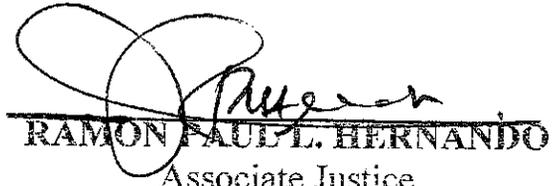

ANTONIO T. KHO, JR.
Associate Justice

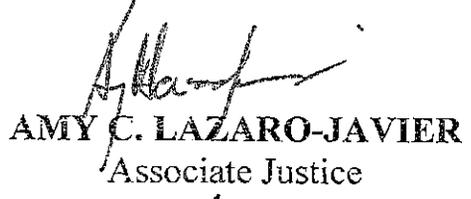
WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice


MARYC M.V.F. LEONEN
Associate Justice

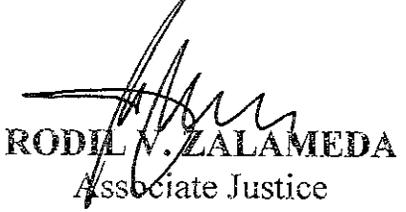

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

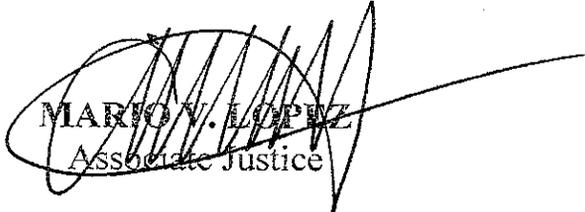

RAMON PAUL L. HERNANDO
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

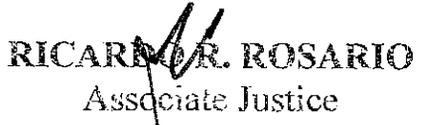
On Official Leave

HENRI JEAN PAUL B. INTING
Associate Justice

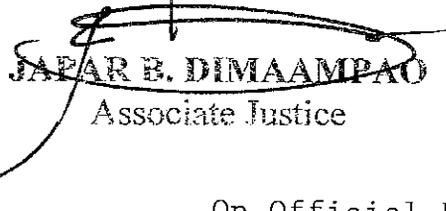

RODIL N. ZALAMEDA
Associate Justice

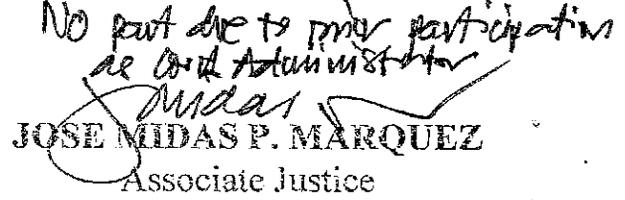

MARIO V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

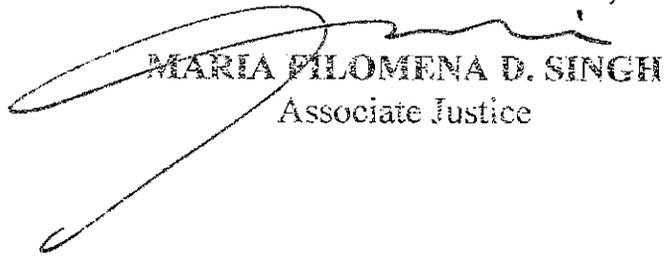

RICARD R. ROSARIO
Associate Justice


JHOSEP N. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

*No part due to prior participation
as Civil Administrator*

JOSE MIDAS P. MARQUEZ
Associate Justice

On Official Business but left a vote
per Letter dated November 13, 2023


MARIA FILOMENA D. SINGH
Associate Justice