



Republic of the Philippines
Supreme Court
Manila

EN BANC

COURT OF APPEALS,
Complainant,

A.M. No. CA-24-002-P
(Formerly JIB FPI No. 22-016-
CA-P)

Present:

- versus -

ROMMEL P. LABITORIA,
CLERK II, JUDICIAL
RECORDS DIVISION, COURT
OF APPEALS,

Respondent.

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

Promulgated:

October 10, 2023

X-----X

RESOLUTION

SINGH, J.:

This case stemmed from a Judicial Integrity Board (JIB) Report,¹ dated June 8, 2023, pertaining to the Letter,² dated October 20, 2022 of Court of

* On official business.

¹ Rollo, pp. 27-31.

² Id. at 3.

Appeals (CA) Presiding Justice Remedios A. Salazar-Fernando, referring the October 14, 2022 Report and Recommendation (**Report**),³ that recommended Rommel P. Labitoria (**Labitoria**), Clerk II, Judicial Records Division, CA Manila, to be charged with Grave Misconduct for using illegal drugs and/or substances.

The Facts

On July 7, 2022, the CA conducted a random drug test facilitated by the Kaiser Medical Center at the CA Auditorium. The drug test was conducted through Gas Chromatography-Mass Spectrometer.⁴

Labitoria's drug test report⁵ revealed the presence of methamphetamine (or *shabu*), which was confirmed by the Labtox Analytical Laboratory, Inc.:

Drug/Metabolite	Result	Remarks
METHAMPHETAMINE	POSITIVE	CONFIRMED
TETRAHYDROCANNABINOL	NEGATIVE	PASSED

On August 4, 2022, a Notice of Result of Random Drug Test⁶ was sent to Labitoria to challenge the same within fifteen (15) days from notice. Labitoria, however, did not respond.⁷

On September 5, 2022, Labitoria, with two other employees, were referred to the Manila Health Department for a drug dependency examination and for further intervention, following Item No. VI of Civil Service Memorandum Circular No. 13, s.2017.⁸

On October 5, 2022, a Memorandum⁹ was issued directing Labitoria to show cause why no disciplinary action should be taken against him for Grave Misconduct for having been found positive for the use of dangerous drugs in violation of Section 50 (A) (3), Rule 10 of the 2017 Rules on Administrative Cases in Civil Service. However, Labitoria, despite receipt, did not submit a response.¹⁰

³ *Id.* at 4-6. Prepared by Atty. Arnel D. Macapagal, Assistant Clerk of Court, CA Manila.

⁴ *Id.* at 4.

⁵ *Id.* at 12.

⁶ *Id.* at 13.

⁷ *Id.*

⁸ *Id.*; Entitled "GUIDELINES IN THE MANDATORY RANDOM DRUG TEST FOR PUBLIC OFFICIALS AND EMPLOYEES AND FOR OTHER PURPOSES," dated April 19, 2017.

⁹ *Rollo*, p. 18.

¹⁰ *Id.* at 5.

In his Report and Recommendation,¹¹ dated October 14, 2022, Atty. Arnel Macapagal recommended that Labitoria be formally charged with Grave Misconduct, albeit his first offense, for being found positive for the use of dangerous drugs, and for the case to be indorsed to the JIB. The Report stated that the confirmatory Drug Test Report became final when he failed to prepare a challenge test and his silence on the show cause memorandum constituted more than *prima facie* evidence for the charge.¹²

The JIB, in a 1st Indorsement dated December 5, 2022, directed Labitoria to comment on the charges against him.¹³

Labitoria, in his Comment,¹⁴ dated December 12, 2022, admitted using illegal drugs sometime in May 2022 when he attended a birthday celebration in Nueva Vizcaya. He averred that he was convinced to try the illegal substance to keep him alert on the drive back to Manila. He expressed deep remorse and promised not to engage in said act again. He likewise stated that he had been undergoing the required rehabilitation and has yielded two (2) consecutive negative results since. He appealed to the Court stating that he has been in government service since 1994, as a Clerk II at the First Level Court, an Emergency Laborer at the Commission on Elections since 2007, and Clerk II at the Judicial Records Division of the Court of Appeals since 2012, and prayed that these be considered as mitigating circumstances together with his candid admission of fault and sincere promise to improve his ways.¹⁵

The Report and Recommendation of the JIB

In his Report and Recommendation,¹⁶ JIB Acting Executive Director Atty. James D.V. Navarette recommended, among others, that Labitoria be found guilty of Grave Misconduct and be dismissed from the service. The JIB adopted and approved the factual findings of the Acting Executive Director with modification, as follows:

- A. The instant administrative case be re-docketed as a regular administrative matter against respondent Rommel P. Labitoria, Clerk II, Judicial Records Division, Court of Appeals, Manila; and
- B. Respondent Rommel P. Labitoria be found guilty of Use of Illegal Drugs or Substances and **be dismissed from the service** with prejudice to re-employment in any government agency, including government-

¹¹ *Id.* at 4-6.

¹² *Id.* at 6.

¹³ *Id.* at 28.

¹⁴ *Id.* at 21-24.

¹⁵ *Id.* at 21-23.

¹⁶ *Id.* at 27-31.



owned or controlled corporations, and with forfeiture of retirement benefits, except accrued leave credits.¹⁷

The Issue

Should Labitoria be administratively charged for possession and/or use of illegal drugs or substances?

The Ruling of the Court

The Court adopts and approves the recommendation of the JIB with modification.

Misconduct is the transgression of some established or definite rule of action, a forbidden act, a déreliction of duty, unlawful behavior, willful in character, improper or wrong behavior.¹⁸ The misconduct, however, becomes a grave offense if it involves any of the additional elements of corruption, clear intent to violate the law, or flagrant disregard of established rules, which must be established by substantial evidence.¹⁹

In *In Re: Administrative Charge of Misconduct Relative to the Alleged Use of Prohibited Drug of Reynard B. Castor*,²⁰ the Court ruled that a flagrant violation of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002, satisfies the requisites of corruption, clear intent to violate the law, and/or wanton disregard of established rules in order to categorize such misconduct as grave in nature and warrant the erring employee's dismissal from the service.²¹

Rule 140, Section 14 (o) of the Rules of Court (**Rule 140**),²² as amended, provides possession and/or use of illegal drugs or substances as a serious charge. Serious charges are sanctioned under Section 17 of Rule 140:

Section 17. Sanctions. –

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

¹⁷ *Id.* at 30–31.

¹⁸ *In Re: Administrative Charge of Misconduct Relative to the Alleged Use of Prohibited Drug of Reynard B. Castor*, 719 Phil 96, 100 (2013) [*Per Curiam, En Banc*], citing *Judge Dalmacio-Joaquin v. Dela Cruz*, 604 Phil. 256, 261 (2009). [Per J. Velasco Jr., First Division]

¹⁹ *Id.* at 100-101.

²⁰ 719 Phil. 96 (2013).

²¹ *Id.* at 100-101.

²² A.M. No. 21-08-09-SC, FURTHER AMENDMENTS TO RULE 140 OF THE RULES OF COURT, dated February 22, 2022.



- (a) Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. *Provided, however*, that the forfeiture of benefits shall in no case include accrued leave credits.
- (b) Suspension from office without salary and other benefits for more than six (6) months but not exceeding one (1) year; or
- (c) A fine of more than ₱100,000.00 but not exceeding ₱200,000.00.²³

Labitoria, who stubbornly ignored previous directives to respond to the notice to challenge and show cause order from the CA, eventually admitted to using illegal drugs in May 2022. That he was “convinced” to take these to stay awake as he drove back home does not absolve him from administrative liability.

Jurisprudence stresses that the image of a court of justice is mirrored in the conduct, official, and otherwise, of the personnel who work thereat. Court personnel have been enjoined to adhere to the exacting standards of morality and decency in their professional and private conduct in order to preserve the good name and integrity of the courts of justice.²⁴ In *In Re: Special Report on the Arrest of Rogelio M. Salazar, Jr., Sheriff IV, Regional Trial Court – Office of the Clerk of Court, Boac, Marinduque, for violation of Republic Act No. 9165*,²⁵ the Court reminded that “all members and employees of the Judiciary are expected to adhere strictly to the laws of the land, one of which is [R.A. No. 9165] which prohibits the use of dangerous drugs. . . .”²⁶

[T]he conduct of a person serving the judiciary must, at all times, be characterized by propriety and decorum and above all else, be above suspicion so as to earn and keep the respect of the public for the judiciary. The Court would never countenance any conduct, act or omission on the part of all those in the administration of justice, which will violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the judiciary.²⁷

The Court has, in previous cases, dismissed court employees for testing positive for taking prohibited drugs, and whose benefits were forfeited.²⁸

In the 2021 case of *Re: Alleged Smoking and Possible Drug Use of Louie Mark U. De Guzman (De Guzman)*,²⁹ the Court dismissed the respondent from the service after he tested positive for the use of marijuana

²³ *Id.*

²⁴ *Bucatcat v. Bucatcat* 380 Phil. 555, 567 (2000). [*Per Curiam, En Banc*]

²⁵ 844 Phil. 369 (2018). [*Per Curiam, En Banc*]

²⁶ *Id.* at 402.

²⁷ *Id.* at 384.

²⁸ A.M. No. 2020-10-SC (Resolution), dated March 16, 2021.

²⁹ *Id.*



by a drug test administered by the National Bureau of Investigation, and by his own admission, the Court reiterated the sanctions meted to every government official or employee found positive for the use of dangerous drugs under the Civil Service Commission rules:

Also, it is provided under Civil Service Commission Memorandum Circular No. 13, Series of 2010, that any official or employee found positive for use of dangerous drugs shall be subjected to disciplinary/administrative proceedings with a penalty of dismissal from the service at first offense pursuant to Section 46 (b) (19), Chapter 7, Book V of Executive Order No. 292 and Section 22 (c), Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws.³⁰

The Court nevertheless directed *De Guzman* to be referred to a suitable drug rehabilitation facility where he may be able to undertake programs for his rehabilitation at his own expense.

Here, without a doubt, Labitoria's use of prohibited drugs violated the norms of conduct for public service, committing conduct unbecoming of court personnel, and tarnishing the very image and integrity of the Judiciary.³¹ As correctly found by the JIB, Labitoria is guilty of Use of Illegal Drugs or Substances, sanctioned as a serious charge under Rule 140, Section 14.

However, the Court finds it proper to modify the imposable penalty recommended by the JIB.

The Court notes that Labitoria underwent and completed the mandatory drug rehabilitation, alleging that he has yielded two (2) consecutive negative results since, and has spent thirty-one (31) years in government service. The Court likewise takes note that Labitoria has another administrative case for Habitual Tardiness³² pending before the Court.

On April 18, 2023, the Court *En Banc* approved A.M. No. 23-02-11-SC or the Guidelines for the Implementation of a Drug-Free Policy in the Philippine Judiciary (*Guidelines*), that took effect on September 17, 2023. These *Guidelines* reaffirm R.A. No. 9165, Section 2, which mandates that it is the State's policy to provide effective mechanisms or measures to reintegrate into society individuals who have fallen victim to drug abuse or dependence through sustainable treatment and rehabilitation programs.

³⁰ *Id.* Emphasis supplied, citations omitted.

³¹ A.M. No. 2020-10-SC, *supra* note 28.

³² JIB FPI No. 22-015-CA-P.



Section 6 of the *Guidelines* provides the following administrative liabilities for court employees:

SECTION 6. Administrative Liability.

A. Court Employees

- i. A positive confirmatory result or challenge test result for drug use, except as provided under Section 7, shall constitute as basis for an administrative charge of *Possession and/or Use of Illegal Drugs or Substance*, which is considered a serious charge under Section 14(o) of Rule 140 of the Rules of Court, as amended by A.M. 21-08-09-SC (Rule 140).
- ii. The following acts shall also constitute *Gross Misconduct* under Section 14 (a) of Rule 140:
 1. Tampering with any result of a drug test;
 2. Interfering in the conduct of the drug test or in the release of drug test results; and
 3. Refusing to undergo or complete their treatment or rehabilitation as provided under Section 8 hereof, once found positive for use of dangerous drugs.
- iii. The failure of a court employee, without a valid reason, to undergo mandatory drug testing after being randomly selected under Section 5(D) shall constitute *Gross Insubordination* under Section 14(n) of Rule 140.
- iv. The procedure under Rule 140 of the Rules of Court shall govern the institution of administrative proceedings under these *Guidelines*.

...

SECTION 7. Voluntary Submission. —

The DFWC of the SC, CA, SB, CTA, or OCA, as the case may be, shall provide a mechanism for court employees to willingly submit themselves, of their own volition, for the treatment and rehabilitation of existing drug-taking habits. Voluntary submission for drug testing may be done any time prior to the date of the random drug testing as may be fixed by the DFWC. This notwithstanding, the procedure for the conduct of drug testing under the voluntary submission mechanism shall follow Section 5 (D) and (E) in this *Guidelines*.³³

The Court expresses grave concern for the biopsychosocial effects of drug abuse and acknowledges that drug abuse is a public health challenge best addressed by employing effective practices in implementing a drug-free policy in the Judiciary. Rather than being seen as a mere criminal issue, drug abuse should be as it is now internationally viewed as a complex health

³³ A.M. No. 23-02-11-SC, GUIDELINES FOR THE IMPLEMENTATION OF A DRUG-FREE POLICY IN THE PHILIPPINE JUDICIARY, dated April 18, 2023.



disorder that is preventable and treatable. Thus, the Court must strike a balance between imposing administrative sanctions for the Serious Charge of Using Prohibited Drugs and Substances without diminishing the high standards imposed on all members of the Judiciary, across all ranks.

Considering that this is Labitoria's first offense, his thirty-one (31) years in government service, and his completed drug rehabilitation program, testing negative for the use of drugs two consecutive times, the Court finds these mitigating circumstances³⁴ applicable to impose the lower penalty of suspension for one (1) year, in lieu of the recommended dismissal from the service, pursuant to Section 20 Rule 140.³⁵

ACCORDINGLY, the present administrative case is **RE-DOCKETED** as a regular administrative matter against respondent Rommel P. Labitoria, Clerk II, Judicial Records Division, Court of Appeals, Manila.

The Court finds the respondent Rommel P. Labitoria **GUILTY** of Possession and/or Use of Illegal Drugs or Substances, a serious charge under Section 14(o) of Rule 140 of the Rules of Court, as amended by A.M. 21-08-09-SC and orders his **SUSPENSION** from office without salary and other benefits for one (1) year. He is **STERNLY WARNED** that a repetition of a similar violation will be dealt with the penalty of dismissal from service. This Resolution is immediately executory.

The Supreme Court Medical and Dental Services is directed to refer Rommel P. Labitoria to a suitable drug rehabilitation facility where he may be able to undertake programs for his continued rehabilitation during the period of his suspension, at his own expense.

SO ORDERED.

³⁴ Rule 140, sec. 19. Modifying Circumstances. — In determining the appropriate penalty to be imposed, the Court may, in its discretion, appreciate the following mitigating and aggravating circumstances:

(1) Mitigating circumstances:

(a) First offense;

(b) Length of service of at least ten (10) years with no previous disciplinary record where respondent was meted with an administrative penalty;

(c) Exemplary performance;

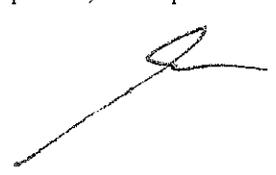
(d) Humanitarian considerations; and

(e) Other analogous circumstances.

³⁵ Rule 140, sec. 20. Manner of Imposition. — If one (1) or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule.

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

If there are both aggravating and mitigating circumstances present, the Supreme Court may offset each other. (underscoring supplied)



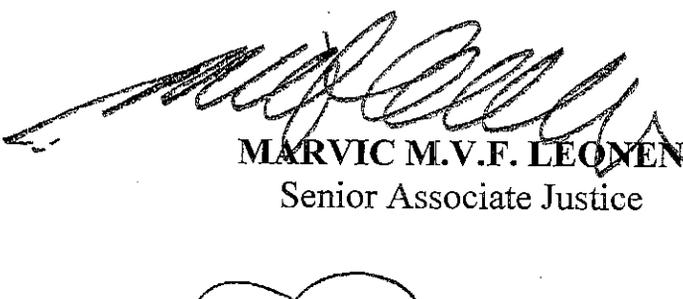

MARIA FILOMENA D. SINGH

Associate Justice

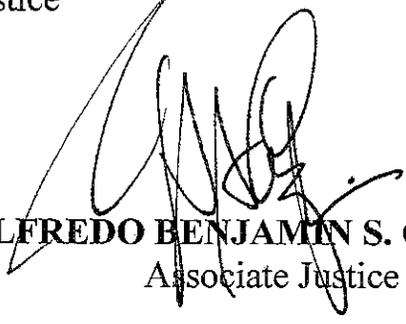
WE CONCUR:


ALEXANDER G. GESMUNDO

Chief Justice


MARVIC M.V.F. LEONEN

Senior Associate Justice


ALFREDO BENJAMIN S. CAGUIOA

Associate Justice


RAMON PAUL L. HERNANDO

Associate Justice


(On official business)
AMY C. LAZARO-JAVIER

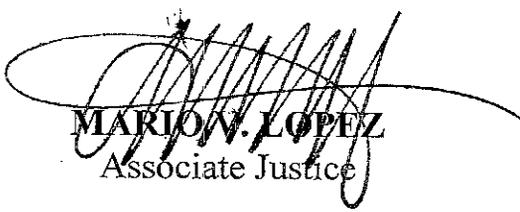
Associate Justice


HENRI JEAN PAUL B. INTING

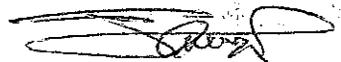
Associate Justice


RODIL V. ZALAMEDA

Associate Justice


MARION N. LOPEZ

Associate Justice


SAMUEL H. GAERLAN

Associate Justice


RICARDO R. ROSARIO

Associate Justice


JHOSEP Y. LOPEZ

Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice