EN BANC

[A.M. No. P-25-272 [Formerly OCA IPI No. 20-5045-P]. September 30, 2025]

ANONYMOUS, COMPLAINANT, VS. BERNARD P. ELLAMIL, JR., UTILITY WORKER, BRANCH 2, MUNICIPAL TRIAL COURT IN CITIES BAGUIO CITY, RESPONDENT.

D E C I S I O N

DIMAAMPAO, J.:

The instant administrative case has its provenance in an anonymous complaint[1] for gross dishonesty and acts prejudicial to the best interest of the judicial service filed by the employees of the Municipal Trial Court in Cities (MTCC) of Baguio City against:

1) Executive Judge Glenda Ortiz-Soriano (Judge Ortiz-Soriano), Presiding Judge, Branch 2, MTCC, Baguio City;
2) Michael de Guzman (De Guzman), Acting Branch Clerk of Court/Supply Officer, Legal Researcher, Branch 2, MTCC, Baguio City; and
3) Bernard Ellamil, Jr. (Ellamil), Utility Worker, Branch 2, MTCC, Baguio City.

The complaint asseverated that around 7:00 a.m. on February 25, 2017, Ellamil hauled 120 reams of bond paper from MTC Branch 2 to a taxi and transported them to Judge Ortiz-Soriano's residence. At the time, the guards stationed at the hall of justice recorded Ellamil's actions in their logbook and took photographs. However, they were unable to halt the act after they were informed that Judge Ortiz-Soriano ordered the taking.[2]

The complaint likewise stated that de Guzman, as the Acting Branch Clerk of Court and Supply Officer, could not have missed the occurrence of the reams of bond paper being prepared by Ellamil a day before of the taking.[3]

The Office of the Court Administrator (OCA) referred the matter to Hon. Ma. Ligaya Itliong-Rivera (Judge Itliong-Rivera), Executive Judge, Branch 5, Regional Trial Court (RTC), Baguio City, for discreet investigation.[4]

In the interim, the OCA received a letter[5] from Judge Itliong-Rivera attaching therein the Investigation Report[6] made by Judge Ortiz-Soriano. Judge Itliong-Rivera relayed that the report was a reply to the instruction of Hon. Emmanuel Cacho Rasing (Judge

Rasing), Executive Judge, RTC, Baguio City, to investigate the taking of office supplies reported by Head Guard Security Guard Eduardo Estrada (SG Estrada).[7]

The Investigating Report summarized that on February 11, 2017, Manny Genove (Genove) who performed work for the Public Attorney's Office (PAO) took out 20 bundles of office supplies from MTCC Branch 2. They consisted of reams of onion skin, bond paper, and mimeographing paper. This prompted SG Estrada to approach Genove to ask what the items were and whether the activity was authorized by a certain Engineer Kes-ing (Engr. Kes-ing). Genove answered that he was removing scraps and disposable materials. He then left to hail a taxi.[8]

Alarmed due to the number of office supplies being taken that seemed to be in good condition, SG Estrada apprised Engr. Kes-ing about the ongoing activity. Subsequently, Engr. Kes-ing directed him to record the incident. Thus, SG Estrada made an entry in their logbook and photographed the items. Genove was loading the items in the cab when Ellamil arrived to confirm with the guards that the items were disposable.[9]

Judge Ortiz-Soriano required De Guzman, Ellamil, and Genove to explain the incident. De Guzman denied authorizing the disposal of office supplies. He also disclosed that Ellamil did not request his permission to take them out from the premises. Further, De Guzman recalled that he inquired the whereabouts of the boxes of supplies originally placed in their office, but Ellamil explained that he had moved them to another corner. De Guzman no longer demanded details since he and other court staff were cleaning the office after the untimely death of their former Branch Clerk of Court.[10]

On the other hand, Ellamil asserted that the papers were mutilated and gnawed by rodents. Hence, he requested Genove's assistance to discard them. Genove then asked for the papers for his personal use. Likewise, Ellamil confirmed that he did not seek the approval of De Guzman and Judge Ortiz-Soriano to dispose of the materials. Finally, Genove admitted that the discarded supplies were given to him by Ellamil. He then hauled them in small batches. Thereafter, he sold them to vegetable vendors to be used as wrapping paper.[11]

In due course, Judge Ortiz-Soriano recommended the filing of charges against Ellamil and Genove. She found that they assisted each other in surreptitiously taking the supplies that were still in their unopened original packaging and in good condition. However, Judge Ortiz-Soriano suggested that De Guzman should not be held administratively liable. Lastly, Judge Ortiz-Soriano determined that the total value of the office supplies pilfered was PHP 23,443.00.[12]

Ensuingly, Judge Ortiz-Soriano informed the OCA, through a letter, that Ellamil resigned[13] from his position. She recommended that any administrative action against him be mooted.[14]

On June 30, 2017, Judge Itliong-Rivera, in response to the indorsement, sent a letter to

OCA stating that other than the abovementioned incident, no other data could be gathered in relation to the complained act.[15]

In time, the OCA discerned that the allegation of conspiracy to take the office supplies against Judge Ortiz-Soriano and De Guzman was uncorroborated. Likewise, De Guzman should be exonerated due to his lack of knowledge in relation to the theft. On the other hand, Ellamil removed the supplies from the court without the permission of Judge Ortiz-Soriano or De Guzman. His intent to conceal such taking was evident as he surreptitiously did it at a time before other court staff arrived for duty. Had it not been for the report of the guard, the act would not have been discovered. Thus, it was recommended that the complaint against Judge Ortiz-Soriano and De Guzman be closed and terminated for lack of merit. Meanwhile, it was proposed that Ellamil should file his comment.[16]

Consequently, Ellamil was directed to file his comment thrice, which remained unheeded.[17]

Report and Recommendation of the Office of the Executive Director of the Judicial Integrity Board

Despite Ellamil's separation from service, the Office of the Executive Director (OED), in its Report and Recommendation,[18] found him liable for serious dishonesty and prejudicial conduct that gravely besmirches or taints the reputation of the service. The OED expounded that Ellamil's disposition to deceive manifested when he concealed the act by telling SG Estrada that the office supplies taken were mere scrap papers. Moreover, the supplies were removed on a Saturday or when fewer people would have seen the incident. The OED also explained that since the removal of the office supplies was not connected to Ellamil's performance of official duties, it is tantamount to prejudicial conduct that gravely besmirches or taints the reputation of the service.[19] Thus, the OED's recommendation reads:

> **IN VIEW OF THE FOREGOING,** it is respectfully submitted for the consideration of the Honorable Board that the instant matter be **RE-DOCKETED** and the following recommendations be made to the Supreme Court:
>
> 1) respondent **Bernard P. Ellamil, Jr.,** Utility Worker, Branch 2, Municipal Trial Court in Cities, Baguio City, be found **GUILTY** of serious dishonesty and prejudicial conduct that gravely besmirches or taints the reputation of the service; and
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> 2) considering that respondent's dismissal from the service is no longer feasible due to his resignation from the service, the benefits due him, except accrued leave credits, be **FORFEITED** and that he be disqualified from reinstatement or appointment to public office,

including government-owned or -controlled corporations.[20] (Emphasis in the original)

Report and Recommendation of the Judicial Integrity Board

On April 15, 2025, the Judicial Integrity Board (JIB) found the OED's Report and Recommendation to be well-taken and adopted the same *in toto*.[21]

The Court's Ruling

The Court modifies the recommendation of the JIB.

Incipiently, it is entrenched in the Constitution that public office is public trust.[22] Every public officer, from the highest official to the lowest rank employee, must live up to the strictest norms of probity and integrity in the public service.[23] With the approval of A.M. No. 21-08-09-SC or Further Amendments to Rule 140, judiciary officials and personnel were brought under one umbrella for uniformity of charges and imposition of penalties.[24]

Effect of non-filing of comment

Rule 140, Section 3(3) of A.M. No. 21-08-09-SC decrees that failure of the respondent to file his or her verified answer or comment shall, unless otherwise justified, result in his or her waiver to participate in the proceedings, and the investigation may proceed based on the available evidence on record.

On three separate occasions, Ellamil was ordered to file his verified comment through: *first*, 1st INDORSEMENT[25] dated December 28, 2020, from the OCA; *second*, 1st INDORSEMENT[26] dated March 29, 2023, from the JIB, and *third*, the Letter[27] dated May 9, 2023, from the JIB. However, Ellamil did not comply with the directives. As such, he has waived his right to present evidence and participate in the proceedings.

On Serious Dishonesty

Dishonesty has been defined as the concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive, or betray and an intent to violate the truth.[28] It may be simple or serious. The Rules ordain that serious dishonesty is determined by the circumstances of the case.[29] Nevertheless, Section 3 of the Revised Rules on the Administrative Offense of Dishonesty[30] issued by the Civil Service Commission (CSC) is instructive:

> **Section 3. Circumstances Constituting the Administrative Offense of Serious Dishonesty. —**
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> The presence of any one of the following attendant circumstances in the

commission of the dishonest act constitutes the administrative offense of Serious Dishonesty:

a. *The dishonest act caused serious damage and grave prejudice to the government such as when the integrity of the office is tarnished, or the operations of the office are affected.*
b. The respondent gravely abused his/her authority in order to commit the dishonest act.
c. Where the respondent is an accountable officer, the dishonest act directly involves property, accountable forms or money for which he/she is directly accountable and the respondent shows an intent to commit material gain, graft and corruption.
d. The dishonest act exhibits moral depravity on the part of the respondent whether or not said act was committed in the performance of his/her duties.
e. The dishonest act involves a civil service examination irregularity or fake civil service eligibility, such as, but not limited to, impersonation, cheating and use of crib sheets.
f. The dishonest act relates to the respondent's employment such as but not limited to misrepresentation on his/her qualifications as to education, experience, training and eligibility in order to qualify for a particular position, and/or the submission of fake and/or spurious credentials.
g. Other analogous circumstances.

Following the standard laid down by the Rules and the CSC issuance, it can be concluded that Ellamil committed serious dishonesty.

In his handwritten explanation,[31] Ellamil asserted that he ordered Genove to dispose of the papers since they were mutilated by rat bites. To facilitate such removal, he told the hall guards that they were mere scrap materials. However, the photographs taken by SG Estrada clearly belied this claim as the supplies taken from MTCC Branch 2 were intact and still in their respective original packaging.[32] Moreover, nowhere in his letter did he explain why he failed to seek permission from De Guzman or Judge Ortiz-Soriano and why such disposal had to be conducted on a Saturday or when Judge Ortiz-Soriano was not on duty. Even more perplexing is that De Guzman was cleaning the office of the previous Branch Clerk of Court on the day of the incident, but Ellamil was still remiss in informing him of the disposal. Instead, he merely stated that the boxes of supplies were moved to another corner of their office.[33] Quite palpably, the combination of these acts shows Ellamil's intent to conceal the removal of the office supplies from MTCC Branch 2.

It bears stressing that the reams of bond paper, onion paper, and mimeographing paper are essential materials in the performance of judicial and administrative tasks of the trial court; therefore, taking them from MTCC Branch 2 affected its daily operations and caused damage to the government. Overall, the JIB is correct in finding Ellamil liable for serious dishonesty.

Moreover, Ellamil's claim that the papers taken by Genove from MTCC Branch 2 were indeed scrap materials could hardly carry the day for him. *In Re: Unauthorized Disposal of Unnecessary and Scrap Materials in the Supreme Court Baguio Compound,*[34] several employees of the Court disposed of unserviceable materials from the Cottages and Administrative Offices in Baguio City, which consisted of pieces of GI pipes, cyclone wires, and one toilet bowl. The said employees then unloaded the items at their respective residences. The Court disregarded their defense that the items taken were declared scrap and held:

> Respondents' claim that what they took were mere scrap materials, which were already deemed unserviceable, it does not exculpate them as the mere act of unauthorized taking, no matter how small the value, is a blatant disregard and violation of Revised Administrative Circular No. 7-2004, entitled "Providing a Program for the Management of Unnecessary Property of the Judiciary," issued on 3 March 2004. Said Circular enumerates the modes of disposal of unnecessary property, thus:
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> > IV. Modes of Disposal
> >
> > Unnecessary property may be disposed by trade-in, transfer to other offices of the Judiciary, sale to personnel, public auction or bidding, sale through negotiation after two (2) unsuccessful public biddings or failure of public auction, transfer without costs to other government agencies, or destruction or condemnation. The Disposal Committee shall undertake that mode of disposal which is most advantageous to the Judiciary.
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> Under the aforequoted Circular, the modes of disposing of court property are by 1) trade-in; 2) transfer to other offices of the Judiciary; 3) sale to personnel; 4) public auction or bidding; 5) sale of unserviceable property; 6) transfer without costs to other government agencies; and 7) destruction or condemnation of the property. The bringing of the scrap materials out of the court premises by respondents and leaving the same at their houses do not fall under any of these recognized modes. Disposal of court property, albeit deemed unserviceable, not in accordance with Revised Administrative Circular No. 7-2004, is an act of impropriety.[35]

Plain as day, claiming that the office supplies were mutilated would not automatically make them available for taking. Likewise, giving the items to Genove does not fall within the recognized modes of disposing of unserviceable court property; hence, it still amounts to inappropriate conduct.

On prejudicial conduct that gravely besmirches or taints the reputation of the service

As to the charge of prejudicial conduct that gravely besmirches or taints the reputation of the service, the Court's annotation in the Rules provides that it covers 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.[36] It exists when the act complained of (a) is without a direct relation or connection with the performance of the respondent-public officer's official duties; and (b) not be covered by any other specific offense already listed in the Rules.[37] In formulating the amendments to Rule 140, the Court likewise added that the offense include "conduct prejudicial to the best interest of the service" under the 2017 RACCS. [38]

A clerk of court is the custodian of the properties and premises of the court where he or she serves.[39] On the other hand, a utility worker has the following duties:

> 9. *Court Aide/Utility Worker.* — The Court Aide/Utility Worker (whenever provided for) *acts as courier of the Court,* keeps in custody and maintains a record book on matters dispatched by the Court; monitors messages and/or delivers mail matters received to Court employees; sews originals of records, pleadings/documents as directed by the Clerk of Court, docket clerk and clerks-in-charge in the strict order of the dates in which received and in the correct expediente, seeing to it that they are sewn straight, and that no letterings or parts thereof are stitched; **maintains cleanliness in and around the Court premises;** and performs such other functions as may be assigned by the Presiding Judge/Clerk of Court.[40] (Emphasis supplied)

Here, Ellamil, as a utility worker, is not the official custodian of the office supplies. While he is responsible for maintaining the cleanliness of MTCC Branch 2, he has no power to determine whether its office supplies are unserviceable or subject to disposal, moreso to give the same to Genove. Worth noting is that without Ellamil's authorization, Genove could have not taken the office supplies and sold them thereafter. Thence, Ellamil's actions ultimately facilitated the pilferage of government property.

The Court emphasized in *Re: Complaints Against Mr. Alexander Blanca*[41] that court supplies are intended for public use; thus, court personnel are charged with the duty and responsibility for safeguarding and protecting court property in whatever condition or state it may be found.[42]

On this score, Ellamil is guilty of prejudicial conduct that gravely besmirches or taints the reputation of the service.

Imposable Penalty

If a single act or omission constitutes more than one offense, the respondent shall still be found liable for all such offenses, but shall, nonetheless, only be meted with the appropriate penalty for the most serious offense.[43]

Ellamil is guilty of serious dishonesty and prejudicial conduct that gravely besmirches or taints the reputation of the service which is classified[44] as serious charges punishable by: (a) dismissal from 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 except accrued leave credits; (b) suspension from office without salary and other benefits for more than six months but not exceeding one year; or (c) a fine of more than PHP 100,000.00 but not exceeding PHP 200,000.00.[45]

The rule notwithstanding, Rule 140, Section 18 provides that when a respondent is found liable for an offense which merits the imposition of the penalty of dismissal from service but the same can no longer be imposed due to his or her supervening resignation, the following penalties may be imposed in lieu of dismissal: (a) 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, except accrued leave credits; and/or (b) the above-mentioned fine.

In determining the appropriate penalty, the existence of mitigating and aggravating circumstances shall likewise be considered. Previously, when an offender is guilty of a grave offense such as dishonesty, the mitigating circumstance of first offense would not be appreciated in his or her favor.[46] Nonetheless, the Court clarified in *Office of the Court Administrator v. Atty. Toledo*[47] that with the approval of A.M. No. 21-08-09-SC or Further Amendments to Rule 140, the Court would no longer distinguish whether the penalty imposed under this amended Rule would be prejudicial to the employee under the Uniform Rules on Administrative Cases in the Civil Service. Therefore, Rule 140, as amended, would be applied uniformly to all pending and future administrative cases.[48]

Rule 140, Section 20 states that if one or more mitigating circumstances and no aggravating circumstances are present, the Court may impose the penalties of suspension or fine for a period or amount not less than half of the minimum prescribed by the Rule.

In this case, the Certification issued by the Office of Administrative Services – Employees' Leave Division indicates that Ellamil resigned effective April 1, 2017.[49] Given the circumstances surrounding the case, he should have been dismissed from service for allowing the pilferage of government property. Nevertheless, since this is Ellamil's first offense and the penalty of suspension could no longer be imposed, the Court deems it proper to penalize him with a fine amounting to PHP 50,001.00. The fine must be paid within a period not exceeding three months from the time the resolution is promulgated. If unpaid, such amount may be deducted from the salaries and benefits, including accrued leave credits, due to Ellamil.[50]

FOR THESE REASONS, the Court finds respondent Bernard P. Ellamil, Jr., former

Utility Worker, Branch 2, Municipal Trial Court in Cities, Baguio City, **GUILTY** of serious dishonesty and prejudicial conduct that besmirches or taints the reputation of the service. However, in view of his subsequent resignation and considering that this is Ellamil's first administrative case, the Court imposes the penalty of **FINE** amounting to PHP 50,001.00.

The fine must be paid within a period not exceeding three months from the time this Decision is promulgated. If unpaid, the amount shall be deducted from the salaries and benefits, including accrued leave credits, due to Bernard P. Ellamil, Jr.

This Decision is **IMMEDIATELY EXECUTORY**.

SO ORDERED.

Leonen, Acting C.J., Hernando, Lazaro-Javier, Inting, Zalameda, Gaerlan, Rosario, J. Lopez, Kho, Jr., Singh, and *Villanueva, JJ.,* concur.

Gesmundo,[*] *C.J.,* on official leave.

Caguioa,[**] *J.,* on official business.

Marquez,[***] *J.,* no part.

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[*] On official leave.

[**] Per Special Order No. 3223 dated September 15, 2025.

[***] On official business.

[****] No part.

[1] *Rollo*, pp. 10-11.

[2] *Id*. at 10-11.

[3] *Id*. at 11.

[4] *Id*. at 16. 1st Indorsement dated April 19, 2017.

[5] *Id*. at 17. Dated March 23, 2017.

[6] *Id*. at 19-22.

[7] *Id*. at 17.

[8] *Id*. at 19.

[9] *Id*.

[10] *Id*. at 20.

[11] *Id*. at 20.

[12] *Id*. at 21-22.

[13] *Id*. at 24. *See* undated handwritten letter.

[14] *Id*. at 23.

[15] *Id*. at 18.

[16] *Id*. at 76. *See* Memorandum for Hon. Jose Midas P. Marquez dated November 17, 2020.

[17] *Id*. at 51, 68, 69. *See* 1st INDORSEMENT dated December 28, 2020 from the OCA, 1st INDORSEMENT dated March 29, 2023 from the JIB, and Letter dated May 9, 2023 from the JIB.

[18] *Id*. at 56-63.

[19] *Id*. at 59-62.

[20] *Id*. at 62-63. The May 17, 2024 Report and Recommendation was signed by Acting Executive Director Eduardo C. Tolentino of the Office of the Executive Director, Judicial Integrity Board.

[21] *Id*. at 71. The April 15, 2025 Report and Recommendation of the JIB was approved by Justice Angelina Sandoval Gutierrez (ret.) and Justice Cielito N. Mindaro-Grulla (ret.) of the Judicial Integrity Board.

[22] CONST., art. xi, sec. 1.

[23] *See* **Judge Ladaga v. Atty. Salilin, et. al.**, 888 Phil. 413, 432-433 (2020) [*Per Curiam*, *En Banc*].

[24] *See* Resolution, A.M. No. 21-08-09-SC. Approved February 22, 2022.

[25] *Rollo*, p. 51.

[26] *Id*. at 68.

[27] *Id*. at 69.

[28] *See* **Almyda D. Yap v. Nida Gonzales, A.M. No. P-19-4001**, April 2, 2025 [Per J. Inting, *En Banc*] at 4. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[29] *See* Resolution, A.M. No. 21-08-09-SC. Approved February 22, 2022.

[30] CSC Memorandum Circular No. 13, Series of 2021. Approved June 27, 2021.

[31] *Rollo*, p. 44.

[32] *Id*. at 41.

[33] *Id*. at 159.

[34] 609 Phil. 482 (2009) [Per J. Chico-Nazario, *En Banc*].

[35] *Id*. at 496.

[36] *See* Resolution, A.M. No. 21-08-09-SC. Approved February 22, 2022.

[37] *See* **Atty. Alentajan v. De Jesus**, 955 Phil. 24, 35 (2024) [J. Kho, Jr., *En Banc*].

[38] *See* Resolution, A.M. No. 21-08-09-SC. Approved February 22, 2022.

[39] *See* **Office of the Court of Administrator v. Borromeo**, 840 Phil. 231, 232 (2018) [*Per Curiam*, *En Banc*].

[40] *See* **Judge Reyes v. Anosa**, 335 Phil. 188, 192 (1997) [*Per Curiam*, *En Banc*].

[41] 554 Phil. 213 (2007) [Per J. Carpio-Morales, *En Banc*].

[42] *Id*. at 222.

[43] A.M. No. 21-08-09-SC (2022), sec. 21.

[44] A.M. No. 21-08-09-SC (2022), sec. 14

SECTION 14. *Serious Charges*. — Serious charges include:

(a) Gross misconduct constituting violations of the Code of Judicial Conduct or of the Code of Conduct for Court Personnel;
(b) Bribery, direct and indirect, and violations of the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019);
(c) Serious dishonesty;
(d) Gross neglect of duty in the performance or non-performance of official functions;
(e) Knowingly rendering an unjust judgment or order;
(f) Commission of a crime involving moral turpitude;
(g) Falsification of official documents, including making untruthful statements in the certificates of service;
(h) Borrowing money or property from lawyers and/or litigants in a case pending before the court;
(i) Gross immorality;
(j) Gross ignorance of the law or procedure;
(k) Partisan political activities;
(l) Grave abuse of authority, and/or prejudicial conduct that gravely besmirches or taints the reputation of the service;
(m) Sexual harassment;
(n) Gross insubordination; and
(o) Possession and/or use of illegal drugs or substances.

[45] A.M. No. 21-08-09-SC (2022), sec. 17.

[46] *See* **Diaz v. Office of the Ombudsman**, 834 Phil. 735, 747 (2018) [Per J. Tijam, First Division].

[47] 937 Phil. 1 (2023) [Per C. J. Gesmundo, *En Banc*].

[48] *Id*. at 9-10.

[49] *Rollo*, p. 55.

[50] A.M. No. 21-08-09-SC (2022), sec. 22.

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