Supreme Court E-Library

FIRST DIVISION

[A.M. No. MTJ-03-1505. November 27, 2013]
(Formerly OCA IPI No. 03-1363-MTJ)

MAMASAW SULTAN ALI, *complainant, vs.* **HON. BAGUINDA-ALI PACALNA, Presiding Judge, HON. PUNDAYA A. BERUA, Acting Presiding Judge, HADJI IBRA DARIMBANG, Clerk of Court and MANDAG U. BATUA-AN, Court Stenographer, all of the Municipal Circuit Trial Court, Municipality of Balindong, Province of Lanao del Sur,** *respondents.*

In the Matter of: Petition for Absolute Judicial Clemency of Former Judge Baguinda-Ali A. Pacalna, MTCC, Marawi City

SYLLABUS

1. JUDICIAL ETHICS; JUDGES; JUDICIAL CLEMENCY; GUIDELINES IN RESOLVING REQUESTS FOR JUDICIAL CLEMENCY.— This Court in *A.M. No. 07-7-17-SC (Re: Letter of Judge Augustus C. Diaz, Metropolitan Trial Court of Quezon City, Branch 37, Appealing for Judicial Clemency)* laid down the following guidelines is resolving requests for judicial clemency, to wit: "1. There must **be proof of remorse and reformation.** These shall include but should not be limited to certifications or testimonials of the officer(s) or chapter(s) of the Integrated Bar of the Philippines, judges or judges associations and prominent members of the community with proven integrity and probity. A subsequent finding of guilt in administrative case for the same or similar misconduct will give rise to a strong presumption of non-reformation. 2. Sufficient time must have lapsed from the imposition of the penalty to ensure a period of reformation. 3. The age of the person asking for clemency must show that he still has productive years ahead of him that can be put to good use by giving him a chance to redeem himself. 4. There must be a showing of promise (such as intellectual aptitude, learning or legal acumen or contribution to legal scholarship and the development of the legal system or administrative and other

Supreme Court E-Library

relevant skills), as well as potential for public service. 5. There must be **other relevant factors and circumstances that may justify clemency**."

2. ID.; ID.; ID.; THE GRANT OF JUDICIAL CLEMENCY REQUIRES PROOF OF REMORSE AND REFORMATION; CASE AT BAR.— Respondent's petition is not supported by any single proof of his professed repentance. x x x Apart from respondent's own declarations, there is no independent evidence or relevant circumstances to justify clemency. Applying the standards set by this Court in *A.M. No. 07-7-17-SC*, respondent's petition for judicial clemency must be denied. x x x Given the gravity of respondent's transgressions, it becomes more imperative to require factual support for respondent's allegations of remorse and reform. As this Court previously declared: "x x x **Clemency, as an act of mercy removing any disqualification, should be balanced with the preservation of public confidence in the courts. The Court will grant it only if there is a showing that it is merited. Proof of reformation and a showing of potential and promise are indispensable**."

R E S O L U T I O N

VILLARAMA, JR., *J.*:

Before the Court is a Petition[1] for judicial clemency filed by Baguinda-Ali A. Pacalna (respondent), former Presiding Judge of the Municipal Circuit Trial Court (MCTC) of Balindong in Lanao del Sur.

In the Decision[2] dated September 25, 2007, respondent was found administratively liable for dishonesty, serious misconduct and gross ignorance of the law or procedure, and also violated the Code of Judicial Conduct which enjoins judges to uphold the integrity of the judiciary, avoid impropriety or the appearance of impropriety in all activities and to perform their official duties honestly and diligently. This Court thus decreed:

---

[1] *Rollo* (A.M. No. MTJ-03-1505), pp. 545-550.

[2] *Sultan Ali v. Judge Pacalna*, 560 Phil. 275 (2007).

Supreme Court E-Library

WHEREFORE, for dishonesty, gross misconduct constituting violation of the Code of Judicial Conduct and gross ignorance of the law, respondent Judge Baguinda Ali Pacalna, Presiding Judge of the Municipal Circuit Trial Court, Municipality of Balindong, Lanao Del Sur, is *ORDERED* to *PAY* a fine of ₱20,000.00, with *WARNING* that a repetition of the same or similar acts shall be dealt with more severely.

Court Stenographer Mandag Batua-an of the same court is hereby *REPRIMANDED* with similar *WARNING* that a repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.[3]

Respondent did not file any motion for reconsideration and paid the ₱20,000.00 fine on December 3, 2007.

Just one week after the decision in this case was rendered, another administrative complaint[4] (*A.M. No. MTJ-11-1791, formerly OCA IPI No. 08-1958-MTJ)* was filed against the respondent by members of the Marawi City Police, namely: PO2 Ricky C. Gogo, PO2 Mamintal B. Osop, PO2 Casan A. Imam, PO1 Agakhan A. Tomawis, PO1 Anowar C. Modasir, PO1 Alano D. Osop, PO1 Alnasser D. Ali, and PO1 Casanali M. Lawi. On August 17, 2011, this Court's First Division resolved to adopt and approve the findings and recommendations of the Office of the Court Administrator (OCA). Respondent was held liable for grave misconduct and meted the penalty of six (6) months suspension, converted to forfeiture of the corresponding amount of his salary which was ordered withheld by Resolution of the Court dated February 16, 2011. Said administrative matter was further indorsed to the OCA Legal Office for the commencement of criminal charges against respondent for violation of P.D. No. 1829 (Obstruction of Justice).[5]

Respondent filed a motion for reconsideration which was denied under Resolution[6] dated January 23, 2013 of this Court's Second

---

[3] *Id*. at 295.

[4] *Rollo* (AM. No. MTJ-11-1791), pp. 1-5.

[5] *Id*. at 156.

[6] *Id*. at 176-177.

Supreme Court E-Library

Division. On September 4, 2013, a criminal complaint for Obstruction of Justice was filed by the OCA with the Office of the Ombudsman for Mindanao. As per Certification dated October 25, 2013 issued by the OCA, the amount of ₱209,810.70 corresponding to six months salary of respondent, was deducted from his terminal leave benefits.

Respondent resigned on December 1, 2009 while he was being investigated by the OCA in his second administrative case *(A.M. No. MTJ-11-1791 formerly A.M. OCA IPI No. 08-1958-MTJ)*. He now seeks to rejoin the judiciary and filed his application for the Regional Trial Court (RTC) of Marawi City, Branch 9. He informs this Court that he was already interviewed by the Judicial and Bar Council (JBC) in Cagayan de Oro City in November 2012 and that the only hindrance to his nomination for the said judicial position was the penalty imposed on him in the present case. Respondent thus pleads for compassion, at the very least for this Court to reduce to ₱10,000.00 the penalty imposed under our September 25, 2007 Decision.

This Court in *A.M. No. 07-7-17-SC* (*Re: Letter of Judge Augustus C. Diaz, Metropolitan Trial Court of Quezon City, Branch 37, Appealing for Judicial Clemency)*[7] laid down the following guidelines in resolving requests for judicial clemency, to wit:

1. There must **be proof of remorse and reformation**. These shall include but should not be limited to certifications or testimonials of the officer(s) or chapter(s) of the Integrated Bar of the Philippines, judges or judges associations and prominent members of the community with proven integrity and probity. A subsequent finding of guilt in an administrative case for the same or similar misconduct will give rise to a strong presumption of non-reformation.
2. Sufficient time must have lapsed from the imposition of the penalty to ensure a period of reformation.
3. The age of the person asking for clemency must show that he still has productive years ahead of him that can

[7] 560 Phil. 1, 5-6 (2007).

Supreme Court E-Library

be put to good use by giving him a chance to redeem himself.

4. There must be a showing of promise (such as intellectual aptitude, learning or legal acumen or contribution to legal scholarship and the development of the legal system or administrative and other relevant skills), as well as potential for public service.

5. There must be **other relevant factors and circumstances that may justify clemency.** (Emphasis supplied.)

Respondent's petition is not supported by any single proof of his professed repentance. His appeal for clemency is solely anchored on his avowed intention to go back to the judiciary on his personal belief that "he can be x x x an effective instrument in the delivery of justice in the Province of Lanao del Sur because of his seventeen (17) years of experience," and on his "promise before the Almighty God and the High Court that he will never repeat the acts or omissions that he had committed as a Judge." He claims having learned "enough lessons" during the three years he became jobless and his family had "suffered so much because of his shortcoming."[8]

Apart from respondent's own declarations, there is no independent evidence or relevant circumstances to justify clemency. Applying the standards set by this Court in *A.M. No. 07-7-17-SC*, respondent's petition for judicial clemency must be denied.

In the present case, the Court held that respondent exhibited gross ignorance of procedure in the conduct of election cases in connection with petitions for inclusion of voters in the *barangay* elections, resulting in delays such that complainant's name was not timely included in the master list and consequently he was not considered a candidate for *barangay* chairman. Such failure to observe fundamental rules relative to the petitions for inclusion cannot be excused. Further, respondent was found to have intentionally fabricated an order which supposedly granted a

[8] *Rollo* (A.M. No. MTJ-03-1505), pp. 549-550.

motion for intervention by the counsel for the incumbent mayor whose re-election complainant and his co-petitioners were allegedly not willing to support. Respondent's act of fabricating an order to cover up his official shortcomings constitutes dishonesty, a reprehensible act that will not be sanctioned by this Court.

In the subsequent administrative case (*A.M. No. MTJ-11-1791*), respondent was found to have misused his authority when he, over the vigorous objection of complainants police officers, took custody of an accused then detained in jail for carnapping charges, by merely issuing a signed handwritten acknowledgment receipt with an undertaking to present the said accused to the court when ordered. Said accused was never returned to jail and while the case against him was dismissed, there was no order for release issued by the court. Respondent endeavored to justify his act in aiding the accused by virtue of his position as Sultan in his hometown, but the Court found him liable for Grave Misconduct, warranting his dismissal from the service. But since the penalty of dismissal can no longer be imposed on account of respondent's resignation, he was meted the penalty of six months suspension converted to forfeiture of the corresponding amount of his salary. This second administrative offense committed by respondent also led to the OCA's filing of a criminal complaint for obstruction of justice against him.

Given the gravity of respondent's transgressions, it becomes more imperative to require factual support for respondent's allegations of remorse and reform. As this Court previously declared:

> Concerned with safeguarding the integrity of the judiciary, this Court has come down hard and wielded the rod of discipline against members of the judiciary who have fallen short of the exacting standards of judicial conduct. This is because a judge is the visible representation of the law and of justice. He must comport himself in a manner that his conduct must be free of a whiff of impropriety, not only with respect to the performance of his official duties but also as to his behavior outside his sala and as a private individual. His character must be able to withstand the most searching public scrutiny because the ethical principles and sense of propriety of a

Supreme Court E-Library

judge are essential to the preservation of the people's faith in the judicial system.

Clemency, as an act of mercy removing any disqualification, should be balanced with the preservation of public confidence in the courts. The Court will grant it only if there is a showing that it is merited. Proof of reformation and a showing of potential and promise are indispensable.[9] (Emphasis supplied.)

WHEREFORE, the Petition for Judicial Clemency filed by respondent Baguinda-Ali A. Pacalna is **DENIED** for lack of merit.

SO ORDERED.

Sereno, C.J. (Chairperson), Leonardo-de Castro, Bersamin, and *Reyes, JJ.,* concur.

FIRST DIVISION

[G.R. Nos. 168951 & 169000. November 27, 2013]

DR. ROGER R. POSADAS and DR. ROLANDO P. DAYCO, *petitioners, vs.* **SANDIGANBAYAN and PEOPLE OF THE PHILIPPINES,** *respondents.*

SYLLABUS

1. CRIMINAL LAW; SECTION 3(e) OF REPUBLIC ACT NO. 3019 (THE ANTI-GRAFT AND CORRUPT PRACTICES ACT); BAD FAITH; IMPUTES A DISHONEST PURPOSE, SOME MORAL OBLIQUITY, AND A CONSCIOUS DOING OF A WRONG.— The bad faith that Section 3(e) of Republic 3019 requires, said this Court, does not simply connote bad judgment or negligence. It imputes a dishonest purpose,

[9] *Id*. at 4-5.