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considered at all, the rule must be of general application and promulgated after a thorough study and deliberation, certainly far more than what have been said and done in this case. Hearings, where expert opinion is sought and given, should prove to be helpful and of value.

WHEREFORE, I concur but only in the denial with finality of the motion for reconsideration.

EN BANC

[A.M. No. 00-4-188-RTC. September 13, 2001]

RE: REQUEST OF MR. OSCAR T. LLAMAS FOR RE-ASSIGNMENT

OSCAR T. LLAMAS, *complainant, vs.* EMMANUEL LACANDOLA and MANUEL MARQUEZ, *respondents.*

SYNOPSIS

Oscar T. Llamas, Cash Clerk II in the Office of the Clerk of Court, Regional Trial Court (RTC), San Carlos City, Pangasinan wrote to the Chief Justice, requesting for transfer to another court preferably to the Municipal Trial Court in Cities (MTCC), Branch 1, Dagupan City. He stated therein that it is for security reasons considering that there were existing animosities between his brother, Judge Victor T. Llamas, Jr., of the RTC, Branch 56 in San Carlos City, and his immediate supervisor, Atty. Omega C. Lacandola-Moises, Clerk of Court of the RTC in Carlos City, and some of her staff. As a result, Atty. Moises and her staff, especially, Mr. Emmanuel Lacandola, her brother and the Maintenance General Foreman of the Hall of Justice, Process Server Manuel Marquez and Clerk Angelito Dispo had been hostile to him. He further cited that he personally saw how Mr. Emmanuel Lacandola challenged Mr. Gonzales, one of the security guards, to a gunfight and he is

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afraid that the same or similar untoward incident might happen involving him and the above-mentioned persons. This case was referred by the Office of the Court Administrator to Executive Judge Bienvenido Estrada of the RTC, San Carlos City, for investigation. However, upon motion of Llamas, Judge Estrada inhibited himself to try the case. Eventually, the Court designated Judge Luis M. Fontanilla to conduct an investigation. On April 10, 2001, Judge Fontanilla rendered a report finding Emmanuel Lacandola guilty of carrying a firearm to work and recommended that he should be cut down to size by being warned not to carry his firearm anymore in the premises of the Hall of Justice in San Carlos City and not to exercise powers and prerogatives not pertaining to his office as Foreman of the maintenance crew otherwise he should be given proper disciplinary sanction. Mr. Manuel Marquez, on the other hand, should be given the benefit of the doubt.

The Court ruled that credence should be given to the findings of the investigating judge as he had the opportunity to hear the witnesses and observe their demeanor. In this case, the Investigating Judge found the charge that Emmanuel Lacandola had carried his firearm in the Hall of Justice of San Carlos City to be duly proved, and the Court saw no reason to depart from his findings. Thus, the Court found respondent Lacandola guilty of misconduct and oppression. Indeed, if he can be overbearing towards security guards, the Court could only imagine his disposition towards other people who might incur his ire. Respondent Lacandola was ordered to pay a FINE in the amount of TEN THOUSAND PESOS (₱10,000.00) with WARNING that a repetition of the same act will be dealt with more severely. The complaint against Manuel Marquez was DISMISSED for insufficiency of evidence.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; CREDENCE SHOULD BE GIVEN TO THE FINDINGS OF THE INVESTIGATING JUDGE; CASE AT BAR.—** As in the case of the factual findings of trial courts, credence should be given to the findings of the investigating judge as he had the opportunity to hear the witnesses and observe their demeanor. In this case, the Investigating Judge found the charge that Emmanuel Lacandola had carried his firearm in the Hall of Justice of San Carlos City to be duly proved, and the Court sees no reason to depart from his findings.

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2. **ID.; ID.; ID.; ALLEGATION OF FABRICATED CHARGE BELIED BY THE TESTIMONY OF THE EXECUTIVE JUDGE AND THE REASON STATED IN THE LETTER-REQUEST FOR TRANSFER.—** The testimony of Atty. Alejandra Paningbatan that Oscar Llamas merely fabricated the charge to justify his request for transfer is belied by Judge Bienvenido Estrada's testimony that Llamas told him that he was prompted to make a request for transfer because of the bad blood between some of his fellow employees and his brother. In fact, this is also what Llamas said in his letter to the Chief Justice subject of this case. He expressed fear for his safety on account of Emmanuel Lacandola's menacing attitude towards him.

3. **POLITICAL LAW; CONSTITUTIONAL LAW; SUPREME COURT; ADMINISTRATIVE SUPERVISION OVER COURT PERSONNEL; CONSTRUCTION AND MAINTENANCE FOREMAN IN THE HALL OF JUSTICE IS NOT REQUIRED TO HAVE GUN WITH HIM FOR SELF-PROTECTION.—** To be sure, Lacandola had a permit to carry his firearm outside his residence from February 16, 1999 to February 16, 2000. But the question here is not the legality of his carrying his gun but the propriety of his doing so while working in the Hall of Justice, when his duties as construction and maintenance foreman does not require he should have his gun with him. There is no claim, much less showing, that he needs the gun for self-protection.

4. **ID.; ID.; ID.; ID.; COURT EMPLOYEE CARRYING A GUN AND USING IT TO INTIMIDATE THE EMPLOYEES IN THE HALL OF JUSTICE IS GUILTY OF MISCONDUCT AND OPPRESSION.—** [A]s Oscar Llamas and security guard Victoriano Gonzales testified, respondent Lacandola used his gun to intimidate employees in the Hall of Justice who happen to cross his path. Gonzales in particular testified that Lacandola often throws his weight around and orders the security guards as though he is their boss. It is true witnesses were presented who denied that Emmanuel Lacandola carried his gun in the Hall of Justice. However, as the Investigating Judge observed, these witnesses were biased in favor of respondent. These witnesses are under the supervision of respondent's sister, Atty. Omega Lacandola-Moises, who is the Clerk of Court of the RTC of San Carlos City. Two of the witnesses, Myrna de la Cruz and Angelito Dispo, were appointed to their positions upon the recommendation of Atty. Lacandola-Moises. On the other hand, there is no reason to doubt the veracity

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of Gonzales' testimony regarding the altercation between him and Emmanuel Lacandola wherein the latter challenged him to a gun duel. Indeed, Gonzales has not been shown to have any motive to testify falsely against Lacandola. As the Investigating Judge well observed, both Victoriano Gonzales and Benedicto Muñoz consider Emmanuel Lacandola their boss and naturally would not think of making false charges against him. For these reasons, we find respondent Emmanuel Lacandola guilty of misconduct and oppression. Indeed, if he can be overbearing towards security guards, the Court could only imagine his disposition towards other people who might incur his ire.

5. **ID.; ID.; ID.; ID.; ID.; PENALTY; FINE OF ₱10,000.00.—** As the Investigating Judge recommends in his report, Lacandola should be "cut down to size." In *Fonacier-Abaño v. Ancheta*, a judge who, among other things, threatened a female employee with a gun was found guilty of serious misconduct and was ordered dismissed from the service. In *Romero v. Valle, Jr.*, another case, a judge who, after a heated discussion with a lawyer, left the courtroom and returned with a gun was similarly found guilty of serious misconduct. In dismissing the said judge, the Court held: "One who lives by the uncivilized precept of 'might is right' is unworthy of an office entrusted with the duty to uphold the rule of law." Respondent Emmanuel Lacandola should be similarly held liable for misconduct, although a lesser penalty should be imposed under the circumstances of this case. x x x [R]espondent Emmanuel Lacandola is found GUILTY of misconduct and oppression and is hereby ordered to pay a FINE in the amount of TEN THOUSAND PESOS (₱10,000.00) with WARNING that a repetition of the same act will be dealt with more severely.

6. **ID.; ID.; ID.; ID.; ADMINISTRATIVE COMPLAINT AGAINST A COURT EMPLOYEE WAS DISMISSED FOR INSUFFICIENCY OF EVIDENCE.—** [T]he evidence is insufficient to hold respondent Manuel Marquez liable for carrying a firearm in the Hall of Justice. While Oscar Llamas testified that both respondents practice fast draws inside the Office of the Clerk of Court, his own witness Victoriano Gonzales testified that he had never seen respondent Marquez carry a firearm in the Hall of Justice. x x x The complaint against Manuel Marquez is DISMISSED for insufficiency of evidence.

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DECISION

MENDOZA, *J.*:

This case has its origin in a letter[1] of Oscar Llamas, Cash Clerk II in the Office of the Clerk of Court, Regional Trial Court, San Carlos City, Pangasinan, to the Chief Justice, requesting transfer to another court, preferably to the Municipal Trial Court in Cities (MTCC), Branch 1, Dagupan City. In his letter, dated November 18, 1999, Llamas justified his request on the following grounds:

> For security reasons, I would like to request Your Honor's approval for my immediate detail [to] another court and [to] another area, preferably [to] the Municipal Trial Court in Cities (MTCC), Branch 1, in Dagupan City.
>
> The existing animosities between my brother, Judge Victor T. Llamas, Jr., of the RTC, Branch 56 in San Carlos City, and my immediate supervisor, Atty. Omega C. Lacandola-Moises, Clerk of Court, Office of the Clerk of Court, Regional Trial Court in San Carlos City, and some of her staff ha[ve] exacerbated to a point that is very disturbing. Atty. Moises and her staff (specially Mr. Emmanuel Lacandola, her brother, and who is the maintenance general foreman of the Hall of Justice; Mr. Manuel Marquez, process server; and Mr. Angelito Dispo, clerk) have been hostile to me and have in fact did and still do the following:
>
> 1) repeatedly spit on my desk and placed my chair on top of my desk turned upside down;
>
> 2) Messrs. Emmanuel Lacandola and Manuel Marquez, who both carry firearms even inside the office, purposely make threatening remarks intended for me, like assuming the role of "secret marshals" to eliminate enemies;
>
> 3) give me a stare meant to provoke a fight; and
>
> 4) slam doors or desk drawers while I am around.
>
> And having personally seen how Mr. Emmanuel Lacandola challenged Mr. Gonzales, one of the security guards, to a gunfight, I am afraid the same or similar untoward incident[s] might happen involving me and the above-mentioned persons.[2]

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[1] Exh. C; *Rollo*, p. 86.

[2] *Id.*

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It appears that as a result of the "animosities" referred to in the letter, Judge Victor Llamas and some of complainant's co-employees in the Office of the Clerk of Court, RTC, San Carlos City filed charges and counter-charges against each other. Four cases were filed against Judge Llamas, to wit: OCA IPI No. 98-550, filed by Mrs. Cynthia Marquez, interpreter in the RTC, Branch 56, San Carlos City and wife of Manuel Marquez, process server in the Office of the Clerk of Court, RTC, San Carlos City; OCA IPI Nos. 98-593 and 99-877, filed by Atty. Omega Lacandola-Moises, Clerk of Court, RTC, San Carlos City; and OCA IPI No. 98-594, filed by Emmanuel Lacandola, Atty. Moises' brother and the Construction and Maintenance Foreman in the Hall of Justice, RTC, San Carlos City. With the exception of OCA IPI No. 99-877, all the cases were dismissed for lack of merit in a resolution, dated November 22, 2000, of the Third Division of this Court upon the recommendation of the investigator, Court of Appeals Associate Justice Romeo A. Brawner.[3] For his part, Judge Victor Llamas filed a complaint (OCA IPI No. P-99-1352) against Atty. Lacandola-Moises.

To prevent an escalation of the hostilities between him and the complainants in the cases, Judge Llamas was detailed to the RTC, Branch 32, Agoo, La Union,[4] while Oscar Llamas was detailed to the MTCC, Branch 1, Dagupan City.[5]

On December 9, 1999, the Office of the Court Administrator referred Llamas' letter to Executive Judge Bienvenido Estrada of the RTC, San Carlos City for investigation. However, Llamas sought Judge Estrada's inhibition on the ground that the latter was a witness against his brother, Judge Llamas, in the cases filed against the latter.[6] (It appears that Judge Llamas also filed a complaint (OCA IPI No. 98-560) against Judge Estrada.[7]) In a

[3] Exh. F; *Rollo*, p. 90.

[4] *See* OCA Memorandum to the Chief Justice, dated March 22, 2000, p. 1; *Rollo*, p. 1.

[5] Resolution of May 3, 2000; *id.*, p. 36.

[6] Per letter, dated January 19, 2000, to Executive Judge Estrada; *id.*, p. 6; TSN, pp. 2-3, Jan. 19, 2000; *Rollo*, p. 20.

[7] *See* OCA Memorandum, dated March 22, 2000, p. 1; *Rollo*, p. 1.

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letter[8] to the OCA, dated January 24, 2000, Llamas reiterated his objection to the designation of Judge Estrada as investigator, alleging that Judge Estrada had allowed Atty. Lacandola-Moises and Cynthia Marquez to lambast him at the hearing on January 19, 2000 and that Judge Estrada was preparing to detail him without his consent to the MTC of Malasiqui, Pangasinan.

Eventually Judge Estrada recused himself.[9] For this reason, in its resolution of May 3, 2000, the Court designated Judge Luis M. Fontanilla of the RTC, Dagupan City, Pangasinan to conduct the investigation.[10]

Oscar Llamas testified and presented Remegio de los Santos and Benedicto Muñoz in support of his complaint.

Remegio de los Santos, 41 years old and a farmer/laborer by occupation, said that he often went to the SM Canteen near the Hall of Justice, owned by one Gaudencio Sabangan, to play a game locally known as "*tong-its*." He said that one morning, in September 1999, at around 10 o'clock, he played "*tong-its*" with Gaudencio Sabangan and Emmanuel Lacandola. Manuel Marquez was present, although he merely watched. As the game progressed, Lacandola began losing. Finally, Lacandola stood up and put his gun on the table, saying that he was betting the gun because he had no more money. The game was stopped as Manuel Marquez also placed his gun on the table, telling Emmanuel Lacandola, "This is the kind of gun. Your gun is not a good gun " to which Lacandola allegedly replied, "I already have my gun, why do I have to look for another?"

Remegio said Lacandola's gun was a short firearm with small bullets, of 9 mm. caliber, while that of Marquez was a .45 caliber gun. He said he knew what a .45 caliber gun looked like from watching movies of Fernando Poe, Jr. He knew Lacandola's gun to be a 9 mm. gun because of the inscription on the side of its

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[8] *Rollo*, pp. 17-18.

[9] TSN, pp. 2-3, Jan. 19, 2000; *Rollo*, p. 20.

[10] *Rollo*, p. 36.

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barrel.[11] He said that the group broke up after the incident, the court employees trooping to the Hall of Justice. He added that he used to see Lacandola and Marquez carry their guns with them whenever they ate at the SM Canteen.

On cross-examination, Remegio testified that he used to go to the SM Canteen to play "*tong-its*" with Gaudencio Sabangan and Emmanuel Lacandola three times a week. He distinctly remembered the gun incident as occurring in the middle part of September 1999 because he went to borrow the mango sprayer of Gaudencio Sabangan three days prior to the incident.[12]

Oscar Llamas' next witness was Benedicto Muñoz, who is also a resident of San Carlos City. Benedicto has been a utility worker at the San Carlos City Hall of Justice since May 2, 1996. His immediate supervisor is Emmanuel Lacandola. His duties include cleaning the premises of the Hall of Justice and painting the building. He knows Oscar Llamas, Atty. Lacandola-Moises, and Manuel Marquez and their positions in the RTC.

Benedicto Muñoz related an incident which allegedly took place at around 11 o'clock in the morning in July 1999. According to him, Emmanuel Lacandola asked Victoriano Gonzales, a security guard, to bring down the flag from the flagpole because it was drizzling. He said Gonzales complied, but Lacandola got angry because he thought Gonzales had slammed the drawer after placing the flag in it. Lacandola allegedly shouted invectives at the guard, cursing him, *"Baon inam. Anggapoy respetom. Siak ne amom."* ("You son of a bitch! You are disrespectful even to your boss.") At the same time, Lacandola placed his hand on his gun, which was tucked in his waist, and thereupon challenged Gonzales to a gun duel. Muñoz said that Victoriano Gonzales just kept quiet as Lacandola let loose his tirade. He further testified that from December 1998 up to 1999, he often saw Lacandola carrying a gun in the Hall of Justice.[13]

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[11] TSN, pp. 2-12, Feb. 5, 2001.

[12] *Id.*, pp. 13-27.

[13] TSN, pp. 2-9, 18, Feb. 6, 2001.

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On cross-examination, Benedicto Muñoz denied that he got his job in the Hall of Justice through the assistance of Judge Victor Llamas, saying that the one who actually helped him was his brother, Andres Muñoz, who is a utility worker under Judge Estrada.[14]

Oscar Llamas testified in his behalf. He claimed he witnessed the incident between Emmanuel Lacandola and Victoriano Gonzales, because he was then coming out of the rest room on the ground floor of the Hall of Justice. Llamas testified that there were other occasions when he saw Emmanuel Lacandola and Manuel Marquez carry their firearms. He recounted how Emmanuel Lacandola and Manuel Marquez would practice fast draws in the Office of the Clerk of Court. Marquez would say, "Draw, *pare,*" to Lacandola. Both would then stand up, remove the magazines of their guns, put the guns back on their waists, give each other a look, and then draw their guns with Lacandola saying, "Bang!" and Marquez saying, "Pop!" He thought Manuel Marquez was faster on the draw. According to Llamas, he witnessed these contests at least twice in the months of August and September 1999.

Sometime in October 1999, when he was about to go out of the Office of the Clerk of Court, Llamas said he saw Emmanuel Lacandola pointing a gun at him. But, he said, he did not report the matter to the police because he knew no one would be willing to testify in his behalf. As a result of the incident, his brother, Judge Llamas, urged him to seek a transfer, which he eventually did after the occurrence of several ugly incidents, during which Lacandola and Marquez allegedly spat on his desk, turned the chairs in front of his desk upside down, or placed them on top of his desk. At the time of these incidents, Judge Llamas was no longer holding court in San Carlos City, having been detailed to the court in Tarlac and, later, to the court in Agoo, La Union.

Llamas presented a certification (Exh. E)[15] from the Philippine National Police (PNP) that Emmanuel Lacandola was licensed to possess a Taurus pistol, caliber 9 mm. with Serial Number TRC 815666, under a temporary license issued on June 26, 1998, but

[14] *Id.*, pp. 12-13.

[15] *Rollo*, p. 89.

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that Manuel Marquez was not a licensed/registered firearm holder of any kind. Llamas also presented a certification (Exh. E-1) that Lacandola had been permitted to carry a firearm outside his residence from February 16, 1999 to February 16, 2000. Llamas testified he often saw Lacandola and Marquez with their guns in the San Carlos City Hall of Justice.[16]

On cross-examination, Llamas said he had no quarrel with Manuel Marquez. He admitted having incurred numerous absences which he claimed were due to his father's hospitalization, but he denied that he sought transfer to another court because his supervisor, Atty. Lacandola-Moises, was getting strict with him on account of such absences. He said he feared for his physical safety because, although Lacandola and Marquez had not verbally threatened him, they often stared at him as though they wanted a fight with him. Llamas said he preferred to stay in Dagupan City, where he is currently assigned.[17]

Respondents testified in their behalf and presented as witnesses Atty. Alejandra Paningbatan, Gemma Adriano, Myrna T. de la Cruz, Angelito Dispo, Fernando de la Cruz, Robert Dee, and Judge Bienvenido R. Estrada, all of the RTC, San Carlos City, Pangasinan. Their testimonies are as follows:

Atty. Alejandra Paningbatan, Clerk of Court V, testified that in the morning of November 17, 1998, after the flag ceremony, Judge Bienvenido Estrada called her, Atty. Lacandola-Moises, the latter's brother, Emmanuel Lacandola, and the spouses Manuel and Cynthia Marquez to his chambers. Oscar Llamas was later called. Judge Estrada showed them the OCA directive for him to investigate the allegations in Llamas' letter against Emmanuel Lacandola and Manuel Marquez. When Judge Estrada asked Llamas why he wrote the letter, the latter allegedly replied that he just wanted to have a reason for seeking transfer.[18]

Gemma F. Adriano, Clerk IV in the Office of the Clerk of Court, testified that her co-workers were sheriff Alfredo Lomibao, social

[16] TSN, pp. 1-15, Feb. 15, 2001.

[17] TSN, pp. 1-18, Feb. 16, 2001.

[18] TSN, pp. 1-5, Feb. 27, 2001.

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worker Jose Cabugao, Clerk III Angelito Dispo, Oscar Llamas, Manuel Marquez, and utility worker Myrna de la Cruz. Their immediate superior is Atty. Omega Lacandola-Moises. Adriano said that while Emmanuel Lacandola did not hold office in the Office of the Clerk of Court, he sometimes prepared his written reports in their office. She said her table was next to that of Oscar Llamas. She claimed that she reported for work regularly but did not see either Emmanuel Lacandola or Manuel Marquez carry any firearm or practice fast draws inside the office nor did she know of any time when someone spat on Oscar Llamas' table or chairs. She said that the staff of the Office of the Clerk of Court used to have harmonious working relationships until enmity arose between Judge Llamas and their superior, Atty. Lacandola-Moises. According to Adriano, Oscar Llamas took his brother's side.[19]

Myrna de la Cruz, utility worker in Office of the Clerk of Court, also said she never saw respondents carrying firearms inside the office. On cross-examination, she admitted that she took care of Atty. Lacandola-Moises' baby before she was appointed utility worker and that it was Atty. Lacandola-Moises who recommended her appointment to her position.[20]

Angelito Dispo, Clerk III in the Office of the Clerk of Court, likewise testified. He said he never saw Emmanuel Lacandola and Oscar Llamas bring firearms or practice fast draws inside the office. He further testified that Judge Llamas once asked him for help in settling the case which Manuel and Cynthia Marquez had filed against the judge and that "when no settlement was reached, cases were filed by the parties against each other."[21]

On cross-examination, Dispo admitted that Atty. Lacandola-Moises recommended him for promotion from utility worker to Clerk III and that he was a witness against Judge Llamas in the investigation conducted by the Court of Appeals Justice Romeo A. Brawner.[22]

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[19] *Id.*, pp. 5-11.

[20] *Id.*, pp. 11-15.

[21] TSN, pp. 2-4, Feb. 28, 2001.

[22] *Id.*, pp. 4-6.

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Fernando de la Cruz is a security guard assigned to the Hall of Justice in San Carlos City since February 2, 1997. He testified that he had never seen Emmanuel Lacandola carry a gun inside the premises of the Hall of Justice. Anent the alleged incident between Lacandola and Victoriano Gonzales in July 1999, he said there was no such incident reported to them and, therefore, none was recorded in his logbook. He said that for that month his shift was from 10:00 p.m. to 6:00 a.m.[23]

Robert Dee, another security guard, presented the exit logbook of the Hall of Justice from July 20, 1999 up to July 31, 1999 (Exh. 1),[24] which contained no record of any incident between Emmanuel Lacandola and Victoriano Gonzales. Dee said that the security guards in the Hall of Justice worked three shifts and that he was assigned to the second shift, which was from 2:00 p.m. to 10:00 p.m., in the last week of July 1999.[25]

Judge Bienvenido Estrada confirmed that he called Oscar Llamas to his chambers to ask why he was seeking transfer to a court outside San Carlos City. According to him, Llamas' reply was "because there is [a] controversy," which Judge Estrada said he understood to refer to the reasons stated in Llamas' letter to him. The letter reads:

10 November 1999

Hon. Bienvenido R. Estrada
Executive Judge
Thru: Atty. Omega L. Moises
Clerk of Court
Regional Trial Court
San Carlos City

Dear Sir:

In view of existing animosities between my brother, the Hon. Victor T. Llamas, Jr. on one hand; and your honor, Atty. Omega L. Moises, and some of your staff, which has exacerbated to a point which is very

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[23] *Id.*, pp. 8-12.

[24] *Rollo*, pp. 119-137.

[25] TSN, pp. 2-9, March 5, 2001.

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disturbing, may I be given permission to request for a detail from the Honorable Court Administrator to another Court in another area to prevent any untoward incident which may happen.

Your immediate action in the premises will be highly appreciated.

Very respectfully,

[Sgd.]
OSCAR T. LLAMAS
Cash Clerk II[26]

Judge Estrada testified that he was never told that Emmanuel Lacandola and Manuel Marquez had been carrying firearms inside the Hall of Justice of San Carlos City.[27]

Emmanuel Lacandola testified that he was first employed at the RTC on April 2, 1996 and that he is at present the construction and maintenance foreman of the court. He denied Remegio de los Santos' testimony and claimed that he did not even know the latter until he testified in the investigation. He said he had no time to play "*tong-its*" because he was busy in his work. As for De los Santos' testimony that he (Lacandola) used to bring his gun whenever he went to the SM canteen, Lacandola said that what he actually had with him was a Nokia 909 cellphone, which he kept by his waist.

Lacandola denied the alleged incident between him and Victoriano Gonzales in July 1999. He said Benedicto Muñoz testified against him because the latter's sister, Lourdes Muñoz Garcia, was involved in an administrative case filed against Judge Llamas. According to Lacandola, Oscar Llamas only made up the charges against him so that he would have a reason to ask for re-assignment.[28]

On cross-examination, Emmanuel Lacandola testified that the security guards are not under his supervision but under the Executive Judge's. He said that since February 1998, he had not

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[26] Exh. B; *Rollo*, p. 85.

[27] *Rollo*, pp. 9-15.

[28] TSN, pp. 2-6, March 8, 2001.

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been to the SM Canteen for lunch because the daughter-in-law of its owner, Gaudencio Sabangan, is the aforementioned Lourdes Muñoz Garcia. Because he had no desk, he did his paperwork either at the office of the Executive Judge or at the Office of the Clerk of Court headed by his sister, Atty. Omega Lacandola-Moises. He admitted owning a 9 mm. automatic pistol, Brazil, Taurus, but claimed he had a permit to carry it outside his residence, which permit was effective until February 2000. After the permit expired, he never brought his gun outside his house. He said he never saw Manuel Marquez carry a gun on his person.[29]

Manuel Marquez, process server in the Office of the Clerk of Court, denied that he was at the SM Canteen in September 1999 and that he allegedly placed his gun on the table. He said that on January 3, 2000, at the conference held in Judge Estrada's chambers, Oscar Llamas told him to disregard the allegations in his letter subject of this case because the same were not true.

Marquez further testified that he and his wife and Judge Llamas had already come to terms regarding his wife's complaint against Judge Llamas, but trouble arose again when Judge Llamas and Lourdes Muñoz Garcia proposed the establishment of a cooperative in the Hall of Justice. Judge Estrada wrote the Supreme Court about the plan and the latter disapproved the same.[30] Marquez claimed that in retaliation, Judge Llamas filed an administrative case against Judge Estrada regarding the gun issued to him by the Chief of Police of San Carlos City. Marquez said that Judge Llamas filed a case against Atty. Lacandola-Moises because the latter and his wife Cynthia refused to testify against Judge Estrada. Atty. Lacandola-Moises in turn filed a case against Judge Llamas. Manuel Marquez said that he somehow got involved in a quarrel with Oscar Llamas which has its roots in the case between Judge Estrada and Judge Llamas.[31]

On cross-examination, Manuel Marquez denied owning a .45 caliber gun, saying he had only been issued an M16 when he was

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[29] *Id.*, pp. 7-13.

[30] Exh. 7; *Rollo*, pp. 146-147.

[31] TSN, pp. 14-25, March 8, 2001.

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still in the military. He said he had never seen Emmanuel Lacandola carry a firearm inside the Hall of Justice. As for himself, Manuel Marquez said that what he carried to work was a cellphone on his right side. He said he threw away his cellphone five months ago because it was unserviceable already.[32]

On rebuttal, Oscar Llamas presented Victoriano Gonzales, the security guard with whom Emmanuel Lacandola allegedly had an altercation. Gonzales confirmed that an incident indeed took place between him and Emmanuel Lacandola in the last week of July 1999, at around 11 o'clock in the morning. He recounted that he placed the flag, which he had hauled down from the flagpole, in the drawer of his desk, but Lacandola forbade him from doing so because the flag was wet. According to Gonzales, Lacandola asked why he (Gonzales) was not following his orders when he was only an employee of a security agency in the Hall of Justice. He said Lacandola placed his hand on something under his shirt, which he (Gonzales) knew was a gun, and challenged him to a gun duel. According to Gonzales, aside from Benedicto Muñoz and Oscar Llamas, the incident was witnessed by many people. He said the incident was not recorded because the logbook "is only for the record of the outgoing security guard and incoming security guard and the turnover of firearms." "Unusual incidents" are recorded on a separate piece of paper. Gonzales testified that while he did not see Manuel Marquez carrying a firearm in the Hall of Justice, he was certain that Lacandola did.[33]

On April 10, 2001, Judge Fontanilla rendered a report finding Emmanuel Lacandola guilty of carrying a firearm to work and recommending that—

> WHEREFORE, premises considered, it is hereby recommended that the detail of Oscar T. Llamas in Branch 1, MTCC, Dagupan City, should be maintained to let things cool down in the meantime. Mr. Emmanuel Lacandola should be cut down to size by being warned not to carry his firearm anymore in the premises of the Justice Hall in San Carlos City and not to exercise powers and prerogatives not pertaining to his office

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[32] *Id.*, pp. 25-29.

[33] TSN, pp. 19-27, March 15, 2001.

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as Foreman of the Maintenance Crew otherwise he should be [given] proper disciplinary sanction. Mr. Manuel Marquez, on the other hand, should be given the benefit of the doubt.[34]

In his report, the Investigating Judge found the facts as follows:

It was admitted by Emmanuel Lacandola himself that he has a 9 mm. pistol and given the penchant of Filipinos in carrying firearms anywhere they would go and brag about it, it was not farfetched for him to have done the same. Had it not been true that he was carrying his firearm, Remegio de los Santos whom he claimed he did not even know [w]ould have [thought] twice before appearing during the investigation to testify, knowing that he (Remegio de los Santos) would give his testimony under oath and could be charged of a criminal offense if he would testify falsely.

Benedicto Muñoz as a utility worker in the Office of the Maintenance Crew of the Justice Hall in San Carlos City [would] not have commanded enough courage to testify against his boss in a manner that he would engage in perjury. His respect [for] his boss and his knowledge that testifying against his boss might [cost him] his job did not deter him from appearing before the Investigating Judge to confirm and affirm that his immediate superior was in fact carrying a firearm even while in the premises of the Justice Hall in San Carlos City. . . .

Like Benedicto Muñoz, Security Guard Victoriano Gonzales should have no reason to testify against Emmanuel Lacandola whom he considered as his boss. He nonetheless testified against his boss Emmanuel Lacandola and he could not have been dictated by any consideration except to tell the truth as it was not shown by the evidence of the respondent Emmanuel Lacandola that he [Gonzales] has a reason to testify in favor of Oscar Llamas.

What could be said of Emmanuel Lacandola could not be said of Manuel Marquez. Although Oscar Llamas testified that Manuel Marquez used to practice fast draws with Emmanuel Lacandola to threaten and harass him, the fact of Manuel Marquez's possession of a .45 caliber firearm was, [to] the mind of the Investigating Judge, not proved with sufficient and convincing evidence. Among the witnesses presented by Oscar Llamas against said respondent, only Remegio de los Santos testified that he saw the gun of Manuel Marquez when the latter put it on the table where he (Remegio de los Santos), Gaudencio Sabangan and Emmanuel Lacandola were playing "*tong-its*." Assuming without

[34] Resolution, dated April 10, 2001, p. 15.

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conceding that Marquez has a gun at the time Gaudencio Sabangan, Remegio de los Santos, and Emmanuel Lacandola were playing *"tong-its"* in September 1999, it would not necessarily mean that he was bringing the said firearm everyday when he would go to his office and seeing him with a firearm on the said occasion would not mean that he was carrying said firearm on some other days. It would be dangerous if the uncorroborated testimony of Oscar Llamas that Manuel Marquez was carrying a firearm on some other dates would be believed considering that the wife of Manuel Marquez, Cynthia Marquez, has filed an immorality case against Judge Victor Llamas not only once but twice.

Useless to point out in this regard that all the witness[es] presented by the respondents were under Atty. Omega Moises. As Clerk of Court, Atty. Moises exercises influence over them, even over Security Guards Fernando de la Cruz and Robert Dee. The said witnesses are therefore not expected to testify without bias in favor of the two respondents. Security Guards Fernando de la Cruz and Robert Dee could not have been in [a] position to witness what Emmanuel Lacandola did in July 1999 as they did not have the same shift as Victoriano Gonzales. Judge Bienvenido Estrada was evasive and what he testified on should be received with caution.[35]

As in the case of the factual findings of trial courts, credence should be given to the findings of the investigating judge as he had the opportunity to hear the witnesses and observe their demeanor. In this case, the Investigating Judge found the charge that Emmanuel Lacandola had carried his firearm in the Hall of Justice of San Carlos City to be duly proved, and the Court sees no reason to depart from his findings.

The testimony of Atty. Alejandra Paningbatan that Oscar Llamas merely fabricated the charge to justify his request for transfer is belied by Judge Bienvenido Estrada's testimony that Llamas told him that he was prompted to make a request for transfer because of the bad blood between some of his fellow employees and his brother. In fact, this is also what Llamas said in his letter to the Chief Justice subject of this case. He expressed fear for his safety on account of Emmanuel Lacandola's menacing attitude towards him.

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[35] *Id.*, pp. 13-15.

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To be sure, Lacandola had a permit to carry his firearm outside his residence from February 16, 1999 to February 16, 2000. But the question here is not the legality of his carrying his gun but the propriety of his doing so while working in the Hall of Justice, when his duties as construction and maintenance foreman does not require he should have his gun with him. There is no claim, much less showing, that he needs the gun for self-protection. Rather, as Oscar Llamas and security guard Victoriano Gonzales testified, respondent Lacandola used his gun to intimidate employees in the Hall of Justice who happen to cross his path. Gonzales in particular testified that Lacandola often throws his weight around and orders the security guards as though he is their boss.

It is true witnesses were presented who denied that Emmanuel Lacandola carried his gun in the Hall of Justice. However, as the Investigating Judge observed, these witnesses were biased in favor of respondent. These witnesses are under the supervision of respondent's sister, Atty. Omega Lacandola-Moises, who is the Clerk of Court of the RTC of San Carlos City. Two of the witnesses, Myrna de la Cruz and Angelito Dispo, were appointed to their positions upon the recommendation of Atty. Lacandola-Moises.

On the other hand, there is no reason to doubt the veracity of Gonzales' testimony regarding the altercation between him and Emmanuel Lacandola wherein the latter challenged him to a gun duel. Indeed, Gonzales has not been shown to have any motive to testify falsely against Lacandola. As the Investigating Judge well observed, both Victoriano Gonzales and Benedicto Muñoz consider Emmanuel Lacandola their boss and naturally would not think of making false charges against him.

For these reasons, we find respondent Emmanuel Lacandola guilty of misconduct and oppression. Indeed, if he can be overbearing towards security guards, the Court could only imagine his disposition towards other people who might incur his ire. As the Investigating Judge recommends in his report, Lacandola should be "cut down to size." In *Fonacier-Abaño v. Ancheta*,[36] a judge

[36] 107 SCRA 538 (1981).

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who, among other things, threatened a female employee with a gun was found guilty of serious misconduct and was ordered dismissed from the service. In *Romero v. Valle, Jr.*,[37] another case, a judge who, after a heated discussion with a lawyer, left the courtroom and returned with a gun was similarly found guilty of serious misconduct. In dismissing the said judge, the Court held: "One who lives by the uncivilized precept of 'might is right' is unworthy of an office entrusted with the duty to uphold the rule of law." Respondent Emmanuel Lacandola should be similarly held liable for misconduct, although a lesser penalty should be imposed under the circumstances of this case.

On the other hand, the evidence is insufficient to hold respondent Manuel Marquez liable for carrying a firearm in the Hall of Justice. While Oscar Llamas testified that both respondents practice fast draws inside the Office of the Clerk of Court, his own witness Victoriano Gonzales testified that he had never seen respondent Marquez carry a firearm in the Hall of Justice.

WHEREFORE, respondent Emmanuel Lacandola is found *GUILTY* of misconduct and oppression and is hereby ordered to pay a FINE in the amount of TEN THOUSAND PESOS (₱10,000.00) with WARNING that a repetition of the same act will be dealt with more severely. The complaint against Manuel Marquez is DISMISSED for insufficiency of evidence.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Vitug, Kapunan, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, De Leon, Jr., and *Sandoval-Gutierrez, JJ.,* concur.

Puno, J., on official leave.

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[37] 147 SCRA 197 (1987).