

EN BANC

**A.C. No. 3405 – JULIETA B. NARAG, Complainant, v. ATTY.
DOMINADOR M. NARAG, Respondent.**

Promulgated:

March 18, 2014

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ppb/jg/xdm

DISSENTING OPINION

LEONEN, J.:

*“But mercy is above this sceptred sway;
It is enthroned in the hearts of kings,
It is an attribute to God himself;
And earthly power doth then show likest God's
When mercy seasons justice.”*

- William Shakespeare, *The Merchant of Venice* (Act IV, Scene I)

Mercy tempers justice. It is mercy that assures that our institutions are cloaked with humane compassion strengthening courts with a mantle of respect and legitimacy.

I disagree with my esteemed colleagues that Dominador M. Narag's plea for judicial clemency (in the form of a petition for readmission to the practice of law) should be denied. He has been disbarred and unable to practice his chosen profession for 15 years. He presents an affidavit to support his claim that his wife and children have forgiven him. He alleges that during the time that he was unable to practice, he volunteered his time and services to the community especially those who were affected by disasters.

Dominador M. Narag is also already 80 years old.

He has suffered enough. I vote to grant his petition and, thus, allow him judicial clemency.

Clemency is not unprecedented.

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In *Bernardo v. Atty. Mejia*,¹ this court disbarred Atty. Ismael F. Mejia for misappropriating and converting funds, falsifying documents, and issuing insufficiently funded checks. Fifteen years after his disbarment, then 71-year-old Atty. Mejia filed a petition for readmission to the practice of law, “begging for [this court’s] forgiveness.”² According to Atty. Mejia, “he ha[d] long repented and x x x ha[d] suffered enough”³ and that readmission to the practice of law would “redeem the indignity that [his children had] suffered due to his disbarment.”⁴

This court readmitted Atty. Mejia to the practice of law, taking into account Atty. Mejia’s rehabilitation and that he was “already of advanced years.”⁵ This court said:

x x x While the age of the petitioner and the length of time during which he has endured the ignominy of disbarment are not the sole measure in allowing a petition for reinstatement, the Court takes cognizance of the rehabilitation of Mejia. Since his disbarment in 1992, no other transgression has been attributed to him, and he has shown remorse. Obviously, he has learned his lesson from this experience, and his punishment has lasted long enough. Thus, while the Court is ever mindful of its duty to discipline its erring officers, it also knows how to show compassion when the penalty imposed has already served its purpose. After all, penalties, such as disbarment, are imposed not to punish but to correct offenders.⁶

In *In Re: Quinciano D. Vailoces*,⁷ this court disbarred Atty. Vailoces for acknowledging the execution of a forged last will and testament. Twenty-one years after his disbarment, then 69-year-old Atty. Vailoces filed a petition for readmission to the practice of law, “[pledging] with all his honor x x x [that] he will surely and consistently conduct himself honestly, uprightly and worthily.”⁸ With favorable endorsements from the Integrated Bar of the Philippines, testimonials from the provincial governor of Negros Oriental, and municipal and barrio officials of Bindoy, Negros Oriental of his “active participation in civic and social undertakings in [his] community,”⁹ this court readmitted Atty. Vailoces to the practice of law.

In *In Re: Atty. Tranquilino Rovero*,¹⁰ this court disbarred Atty. Rovero after he had been found guilty of smuggling under Section 2703 of the Revised Administrative Code.¹¹ Twenty-eight years after his disbarment,

¹ 558 Phil. 398 (2007) [Per J. Nachura, En Banc].

² Id. at 401.

³ Id.

⁴ Id. at 402.

⁵ Id.

⁶ Id.

⁷ 202 Phil. 322 (1982) [Per J. Escolin, En Banc].

⁸ Id. at 328.

⁹ Id.

¹⁰ 189 Phil. 605 (1980) [Per J. Concepcion, Jr., En Banc].

¹¹ REVISED ADMINISTRATIVE CODE (1917), sec. 2703 states:

then 71-year-old Atty. Rovero filed a petition for readmission to the practice of law, “[asking] humbly and earnestly of the Court to [reinstate him] in the Roll of Attorneys ‘before crossing the bar to the great beyond.’”¹² To prove his “moral rehabilitation and reformation,”¹³ he involved himself in civic and educational organizations and “held high positions of trust in commercial establishments.”¹⁴ With testimonials of his good conduct from members of his community and an absolute and unconditional pardon for his crime granted by President Ramon Magsaysay,¹⁵ this court readmitted Atty. Rovero to the practice of law. According to this court, Atty. Rovero “ha[d] been sufficiently punished and disciplined.”¹⁶

In this case, 80-year-old Dominador M. Narag filed his petition for readmission to the practice of law 15 years after his disbarment. In his petition for readmission, he expressed remorse and asked for complainant Julieta’s and their children’s forgiveness. He annexed to his petition a copy of an affidavit executed by his son, Dominador, Jr., attesting that complainant Julieta and their children had forgiven him. He also executed a holographic will in favor of complainant Julieta and their children.

Dominador M. Narag enlisted in the Philippine Air Force Reserve Command and joined in its rescue, relief, recovery, and other humanitarian missions. He also submitted to this court favorable recommendations, testimonials, and affidavits attesting to his moral reformation. Among the testimonials given was one from Archbishop Emeritus Diosdado A. Talamayan of Tuguegarao. In his letter dated November 30, 2011, he testified that:

Due to my closeness to the couple, I had the opportunity to watch closely their married life. They both worked for the education of their children. All were happy. Dr. Narag was a concerned father and a loving husband. He would bring his wife along to all important religious, civic, cultural and social events. He made it a point to go with her, regularly on vacations to other parts of the country.

But an indiscretion on his part led to a broken family. Many times I was called to negotiate, as their spiritual father, in their family disputes. The misdeed of Dr. Narag led Mrs. Julieta Narag to file disbarment from

Sec. 2703. Various fraudulent practices against customs revenues. – Any person who makes or attempts to make any entry of imported or dutiable exported merchandise by means of any false or fraudulent invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice whatever, or shall be guilty of any willful act or omission by means whereof the Government of the (Philippine Islands) Commonwealth of the Philippines might be deprived of the lawful duties, or any portion thereof, accruing from the merchandise or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission, shall, for each offense, be punished by a fine not exceeding five thousand pesos or by imprisonment for not more than two years, or both.

¹² *In Re: Atty. Tranquilino Rovero*, 189 Phil. 605, 606 (1980) [Per J. Concepcion, Jr., En Banc].

¹³ Id. at 607.

¹⁴ Id.

¹⁵ Id. at 608.

¹⁶ Id.

Law Practice. On June 29, 1998, in an administrative case No. 3405, Dr. Narag was disbarred.

For the past thirteen years, I have been a witness to the remorse, repentance of Dr. Narag.

To my joy, on June 10, 2010, acting on the gesture of Dr. Narag to bequeath to Mrs. Julieta Narag and children, all properties personal or real, all belongings and realizing the sincerity of repentance, Mrs. Narag and children totally forgave Dr. Dominador Narag.

I sincerely believe Dr. Narag has paid enough for his indiscretion; meantime, for the past thirteen years of disbarment, he helped the University of Perpetual Help System grow and develop.

As he is in the twilight of his life, now being 78 years and feeling he can still be of service to people, I fully endorse his humble petition for readmission to the Philippine Bar and the restoration of his name in the Roll of Attorneys with the Supreme Court.¹⁷

I disagree with the majority that these manifestations are hollow. I also disagree that the affidavit of Dominador M. Narag's son and the holographic will he presents are not sufficient to prove the forgiveness that has been bestowed upon him by his family. They are the parties that have been wronged and in so far as the State is concerned, he has already suffered enough.

This case does not deal with the question of whether we can impose disciplinary action on acts of immorality by members of the profession. Had it been at issue, I would think that the forgiveness given by the parties that have been wronged should have great bearing on our determination. After all, there are limits to the government's interference into arrangements of intimacies among couples. I fail to grasp the alleged continuing gross immorality and reprehensiveness committed by a remorseful 80-year-old man who has been forgiven by those he has emotionally wronged. I do not believe that the law should be read as being too callous and inflexible so as to be unable to accommodate the unique realities in this case.

What is at issue in this case is whether Dominador M. Narag has suffered enough from his acts. This court showed them compassion and reinstated them as members of the legal profession in many instances where those disbarred are of old age who suffered "the ignominy of disbarment"¹⁸ long enough, showed remorse, and conducted themselves beyond reproach after their disbarment.

¹⁷ *Rollo*, petition for readmission, Annex "E".

¹⁸ *Bernardo v. Atty. Mejia*, 558 Phil. 398, 402 (2007) [Per J. Nachura, En Banc].

The legal order has had its pound of flesh from Dominador M. Narag. He has committed a transgression, but we have exacted enough retribution. The purpose of the penalty has already been achieved. He is in the twilight of his years when he is at his best to reflect on what his life has been. He is armed by the forgiveness of his family, and he is visited by remorse. In my view, not granting him the mitigation he asks for is a failure of human compassion.

For these reasons, I vote to grant him his plea and to reinstate him as a lawyer in good standing.



MARVIC MARIO VICTOR F. LEONEN
Associate Justice