

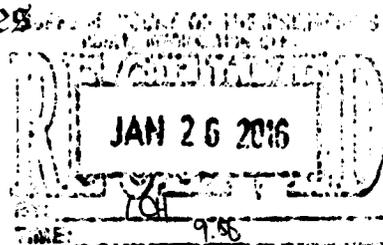


Republic of the Philippines

Supreme Court

Manila

EN BANC



COMMITTEE ON SECURITY and SAFETY, COURT OF APPEALS, Complainant,

A.M. No. CA-15-31-P (formerly OCA I.P.I. No. 13-218-CA-P)

Present:

SERENO, C.J., CARPIO, VELASCO, JR.,* LEONARDO-DE CASTRO, BRION, PERALTA, BERSAMIN, DEL CASTILLO, VILLARAMA, JR., PEREZ, MENDOZA, REYES, PERLAS-BERNABE, LEONEN, and JARDELEZA, JJ.

- versus -

REYNALDO V. DIANCO – Chief Security, JOVEN O. SORIANOSOS – Security Guard 3, and ABELARDO P. CATBAGAN – Security Guard 3,

Promulgated:

Respondents.

January 12, 2016

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RESOLUTION

BRION, J.:

For resolution are the motions for reconsideration filed by respondents Reynaldo V. Dianco, Joven O. Sorianosos, and Abelardo P. Catbagan of our decision dated June 16, 2015 in Administrative Matter (A.M.) No. CA-15-31-P.¹

* No Part.

¹ Formerly OCA I.P.I. No. 13-218-CA-P, entitled "Committee on Security and Safety, Court of Appeals, complainant, v. Reynaldo V. Dianco –Chief Security, Joven O. Sorianosos – Security Guard 3, and Abelardo P. Catbagan – Security Guard 3."

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The Court *en banc* adjudged respondent Dianco guilty of **serious dishonesty and grave misconduct**, respondent Sorianosos guilty of **less serious dishonesty and simple misconduct**, and respondent Catbagan guilty of **simple neglect of duty**. In determining the proper penalties, the Court considered the applicable extenuating, mitigating, aggravating, and/or alternative circumstances and imposed the following: (a) upon respondent Catbagan, **suspension of one (1) month and one (1) day** with stern warning; (b) upon respondent Sorianosos, **suspension of nine (9) months** with stern warning; and (c) upon respondent Dianco, **dismissal from the service** with accessory penalties of cancellation of eligibility, perpetual disqualification for reemployment in the government service, and forfeiture of retirement benefits except accrued leave credits.

The respondents separately filed their motions for reconsideration on September 2, 2015; September 4, 2015; and September 9, 2015.

The Motions for Reconsideration

Catbagan's Motion for Reconsideration

Respondent Abelardo P. Catbagan maintains that he should not have been administratively sanctioned because he was not aware of and was not privy to the manipulations and intercalations made by Dianco and Sorianosos on the Liquidation Report of the CA Security Guard excursion. Also, he maintains that he did not neglect his only duty as Food Committee Head, *i.e.*, to distribute meal stubs to the participants of the excursion, which he had done with the assistance of his superior Ricky R. Regala, now CA Acting Chief of Security.

Attached to Catbagan's motion for reconsideration is an affidavit² executed by Regala stating that Catbagan's only duty was to distribute the food stubs at the excursion, and that he voluntarily offered his assistance to Catbagan due to the number of participants. Regala also stated in his affidavit that Catbagan had no participation or knowledge of the manipulations made on the Liquidation Report.

Sorianosos's Motion for Judicial Clemency

Respondent Joven O. Sorianosos points out that **he had already been penalized and that he had served the penalty of thirty (30) days suspension without pay**. The penalty was imposed on him by the CA pursuant to a memorandum issued by the CA Executive Clerk of Court. He contends that his 30-day suspension was not merely preventive but was a penalty, and that he would be penalized twice for the same act with the issuance of our June 16, 2015 Decision in this case.

² Dated September 2, 2015; *rollo*, unpagged.

In any event, respondent Sorianosos appeals to this Court to lessen the penalty that we imposed upon him. He alleges that a suspension of nine (9) months, without pay, would take a heavy toll on his family who subsists on his meager salary as CA Security Guard (SG) 3. He adds that, aside from the stroke that he suffered in 2012, he is also diagnosed with diabetes, which alone costs him ₱5,000.00 a month for his maintenance medicines.

Also, that he has two children: one in college, and the other, in high school, and they still depend on him for support; his wife also is soon scheduled to undergo radiation therapy for thirty (30) days because of a growing head tumor.

Dianco's Motion for Reconsideration

Respondent Reynaldo V. Dianco asks for this Court's compassion, understanding, and generosity to reconsider the penalty of dismissal that we imposed upon him.

Dianco humbly requests that the Court extend to him the same understanding and generosity previously afforded the respondents in the following administrative cases: *Rayos v. Hernandez*,³ *Concerned Taxpayer v. Doblada, Jr.*,⁴ *Vidallon-Magtolis v. Salud*,⁵ *In re: Delayed Remittance of Collections of Teresita Lydia Odtuhan*,⁶ *Executive Judge Contreras-Soriano v. Salamanca*,⁷ and *Judge Isidra A. Arganosa-Maniego v. Rogelio T. Salinas*.⁸ He particularly cites *Disposal Committee, Court of Appeals v. Janet Annabelle C. Ramos*⁹ where the Court imposed the penalty of one (1) year-suspension without pay to the respondent who was found guilty of dishonesty and falsification of official document.

Dianco further requests that, as in *Disposal Committee, Court of Appeals*, the Court consider in his favor the mitigating circumstances of: admission of offense, feeling of remorse and sincere apologies, promise not to commit the same or similar offense in the future, willingness to reform, the fact that this is his first offense, his long years of unblemished satisfactory service,¹⁰ and the restitution of the amount involved.

He adds that he is almost fifty-three (53) years of age¹¹ and only seven (7) years shy of retirement; and that, with his old age and failing health due to diabetes, hypertension, and the previous removal of his gall bladder, it

³ G.R. No. 169079, August 28, 2007, 531 SCRA 477.

⁴ A.M. No. P-99-1342, September 20, 2005, 470 SCRA 218.

⁵ A.M. No. CA-05-20-P, September 9, 2005, 469 SCRA 439.

⁶ 445 Phil. 220 (2003).

⁷ A.M. No. P-13-3119, February 10, 2014, 715 SCRA 580.

⁸ A.M. No. P-07-2400 (Formerly OCA IPI No. 07-2589-P), June 23, 2009, 590 SCRA 531.

⁹ A.M. No. CA-14-30-P (Formerly OCA IPI No. 13-214-CA-P), December 10, 2014.

¹⁰ Respondent Dianco started working in the government in December 1984, and with the Court of Appeals in November 1986, as per his Service Record attached to his Motion for Reconsideration.

¹¹ Respondent Dianco's birthdate is November 16, 1962.

would be difficult, if not impossible, for him to find employment in the private sector.

Ultimately, Dianco appeals to the Court's leniency as his family heavily relies on his salary for their medical and daily needs and expenses. Also, he financially supports the education of his seven (7) year-old nephew, and extends financial assistance to his relatives.

In a manifestation¹² dated October 15, 2015, Dianco expressed his willingness to be transferred to another division in the CA, in the event that the Court would favorably act on his motion for reconsideration and orders his reinstatement in the service.

Our Ruling

We RECONSIDER our Decision of June 16, 2015, and GRANT the respondents' motions for reconsideration.

We recall that the institution of the present administrative case resulted from the padding of the food bill and violation on the prohibition of drinking alcohol committed by respondents former CA Chief of Security Reynaldo V. Dianco and Security Guard (SG)3 Joven O. Sorianosos during the CA Security Guards' excursion on March 19, 2011, at the Village East Clubhouse in Cainta, Rizal. SG3 Abelardo P. Catbagan was included as respondent in the case because he allegedly neglected his duties as Food Committee Head of the said excursion, which enabled Dianco and Sorianosos to manipulate the entries on the food concessionaire's receipt.

Dismissal of the case with respect to Catbagan and Sorianosos

After an exhaustive review of the records, **we find that the present administrative case is already closed and terminated with respect to respondents Catbagan and Sorianosos.**

We find that, in two (2) separate memoranda¹³ dated November 5 and 6, 2013, respondents Sorianosos and Catbagan were informed of the Investigation Report of the Committee on Security and Safety on the incidents of the March 19, 2011 CA Security Group excursion.

The memoranda included the **penalty recommendations¹⁴** of CA Assistant Clerk of Court Virginia C. Abella, **which were approved by the CA Committee on Ethics and Special Concerns and CA Presiding Justice Andres B. Reyes, Jr:**

¹² *Rollo*, unpagged.

¹³ *Rollo*, pp. 347-349, and 351-353.

¹⁴ In a Report and Recommendation dated August 8, 2013; *id.* at 2-34.

RECOMMENDATIONS**RE: RESPONDENT SG3 JOVEN O. SORIANOSOS**

Simple Dishonesty is a less grave offense punishable by suspension of one (1) month to six (6) months for the first offense; six (6) months and one (1) day to one (1) year suspension for the second offense; and dismissal from the service for the third offense (Sec. 2C, Resolution No. 060538); while simple misconduct is punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense; and dismissal from the service for the second offense under Sec. 46, D (2) Rule 10, RRACCS).

The following mitigating circumstances are appreciated in his favor, namely: (1) twenty (20) years length of service; (2) admission; (3) apology; (4) first offense; (5) having been a two-time most outstanding guard of the month; and (5) for humanitarian consideration.

In view of all the foregoing considerations, it is most respectfully recommended that a **suspension for thirty (30) days without pay** be imposed on respondent SG3 Joven O. Sorianosos with a stern warning that a commission of a similar offense shall be dealt with more severely.¹⁵ (emphasis supplied)

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RE: RESPONDENT SG3 ABELARDO P. CATBAGAN

Simple neglect of duty is a less grave offense punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense; and dismissal from the service for the second offense under Section 46 D.1., Rule 10, RRACCS.

There being no aggravating circumstances but with the following mitigating circumstances, namely: (1) admission; (2) fifteen (15) years of length of service; (3) first offense; and (4) humanitarian consideration, it is most respectfully recommended that the penalty of **REPRIMAND** be imposed on respondent SG3 Abelardo P. Catbagan with a stern warning that a repetition of similar offense will be dealt with more severely.¹⁶

Subsequently, in a memorandum¹⁷ dated January 6, 2014, the CA, through Executive Clerk of Court Teresita R. Marigomen, **suspended respondent Sorianosos for thirty (30) days suspension without pay**, from December 13, 2013 to January 11, 2014.

Under Section 45, Rule 9 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS), "a decision rendered by the disciplining authority whereby a penalty of **suspension for not more than thirty (30) days** or a fine in an amount not exceeding thirty (30) days' salary

¹⁵ *Id.* at 348.

¹⁶ *Id.* at 353.

¹⁷ *Id.* at 393.

is imposed, **shall be final, executory and not appealable** unless a motion for reconsideration is seasonably filed x x x.”

The records do not show that respondent Sorianosos ever filed a motion for reconsideration to the January 6, 2014 memorandum suspending him for thirty (30) days; thus, the CA’s decision on Sorianosos’ administrative liability (and penalty) had become final, executory, and unappealable. **In fact, the records show that Sorianosos has served his 30-day suspension and reported back to work on January 13, 2014.**¹⁸

The administrative case with respect to respondent Catbagan had also become final, executory, and unappealable, as Catbagan filed no motion for reconsideration to the CA’s memorandum informing him of his penalty of reprimand.

The termination of the administrative case against respondents Sorianosos and Catbagan is confirmed by the 1st Indorsement¹⁹ dated October 31, 2013, of CA Presiding Justice Reyes to the Office of the Court Administrator, which referred, for appropriate action, that part of Assistant Clerk of Court Abella’s August 8, 2013 Report **pertaining only to the finding and recommendation on respondent Reynaldo V. Dianco’s liability**. It is the procedure before the CA to refer to the Court reports on administrative cases involving their employees where the recommended penalty is more than thirty (30) days suspension.

The OCA, however, reviewed the entirety of Assistant Clerk of Court Abella’s August 8, 2013 Report and submitted to this Court, as part of its recommendation the re-docketing of the complaint as a regular administrative matter against all of the three respondents; hence, our June 16, 2015 Decision in this case not only with respect to respondent Dianco, but also included respondents Catbagan and Sorianosos.

Our Ruling on Dianco’s Motion for Reconsideration

In our June 16, 2015 Decision, we found respondent Reynaldo V. Dianco guilty of serious dishonesty and grave misconduct, offenses that are grave in nature and which, under the Revised Rules on Administrative Cases in the Civil Service, warrant the imposition of the penalty of dismissal even for the first offense. Due to the gravity of the offenses charged and the fact

¹⁸ *Id.* at 395.

¹⁹ *Id.* at 1; The 1st Indorsement stated:

Respectfully referred to the Court Administrator, Hon. Jose Midas P. Marquez, Supreme Court, for appropriate action, the enclosed Report and Recommendation dated August 8, 2013 of the Assistant Clerk of Court and the records on Administrative Case No. 05-2011-ABR with the recommendation of the imposition of the penalty of six (6) months suspension without pay on respondent Reynaldo V. Dianco, duly approved by the Committee on Ethics and Special Concerns, which I hereby adopt as my own.

ANDRES B. REYES, JR.
Presiding Justice



that respondent Dianco's infractions do not only carry administrative but also criminal consequences (*i.e.*, falsification of an official document), we imposed on him the penalty of dismissal from the service, a penalty that has no minimum, medium, and maximum period.

In exercising the discretion granted by Section 48, Rule 10 of the RRACSS to the disciplining authority in the imposition of penalties, we reconsider the dismissal of respondent Dianco in view of mitigating circumstances that were not considered and properly appreciated.

We apply to respondent Dianco's case the mitigating circumstances of: admission of infractions, commission of the offense for the first time, almost thirty (30) years of service in the Judiciary, and restitution of the amount involved. Due to his health condition and close to retirement age, we shall also afford him humanitarian consideration so as to mitigate the penalty and remove him from the severe consequences of the penalty of dismissal.

We note that, in previous cases, the Court has imposed lesser penalties in the presence of mitigating factors such as the respondent's length of service, the respondent's acknowledgement of his or her infractions and feeling of remorse, respondent's advanced age, family circumstances, and humanitarian and equitable considerations.

In *Judge Isidra A. Arganosa-Maniego v. Rogelio T. Salinas*,²⁰ we suspended the respondent who was guilty of grave misconduct and dishonesty for a period of one (1) year without pay, taking into account the mitigating circumstances of: first offense, ten (10) years in government service, acknowledgment of infractions and feeling of remorse, and restitution of the amount involved.

In *Alibsar Adoma v. Romeo Gatcheco and Eugenio Taguba*,²¹ we suspended one of the respondents for one (1) year without pay, after finding him guilty of grave misconduct, dishonesty, and conduct prejudicial to the best interests of the service. The respondent was a first-time offender.

And, in *Horacio B. Apuyan, Jr. and Alexander O. Eugenio v. Alfredo G. Sta. Isabel*,²² we imposed the same penalty of one (1) year suspension without pay to the respondent who was a first-time offender of the offenses of grave misconduct, dishonesty, and conduct grossly prejudicial to the best interests of the service.

Notably, in his manifestation before this Court, Dianco admitted that his involvement in the present administrative case had strained his relations with his colleagues in the Security Division. This manifestation is very

²⁰ *Supra* note 8.

²¹ A.M. No. P-05-1942, January 17, 2005, 448 SCRA 299.

²² A. M. No. P-01-1497, May 28, 2004, 430 SCRA 1.

timely as part of the mitigated penalty – aside from his suspension – is his demotion and transfer to another post within the Court of Appeals.

Thus, upon reconsideration of our Decision, we impose upon respondent Reynaldo V. Dianco the lesser penalty of one (1) year suspension without pay and demotion to the position of Information Officer II (Grade Level 15) at the Information and Statistical Division of the Court of Appeals. The demotion and transfer are justified by the nature of his offense (which is incompatible with the responsibilities of his position as Chief of Security) and by his strained relations with the CA Security Division that resulted from the commission of the offenses charged.

WHEREFORE, we **GRANT** the motions for reconsideration filed by respondents Reynaldo V. Dianco, Joven O. Sorianosos, and Abelardo P. Catbagan, and **ORDER** the following:

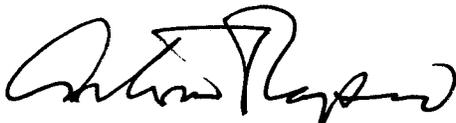
1. The administrative case against respondents Joven O. Sorianosos and Abelardo P. Catbagan is hereby **DISMISSED** and declared **CLOSED and TERMINATED**. Thus, the CA is ordered to reinstate respondents Sorianosos and Catbagan to their former positions, if they have not yet been so reinstated, and to pay them back salaries, including allowances and bonuses they ought to have received, during the period of their suspension by reason of our June 16, 2015 Decision; and
2. The penalty of dismissal of service imposed upon respondent Reynaldo V. Dianco is hereby **REDUCED** to **suspension of one (1) year without pay and demotion**, with stern warning that a repetition of the same or similar acts will warrant a more severe penalty. Upon his return from suspension, he is demoted and permanently ordered to assume the position of Information Officer II (Grade Level 15) at the Information and Statistical Division of the Court of Appeals.

SO ORDERED.

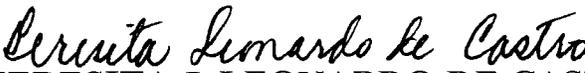

ARTURO D. BRION
Associate Justice

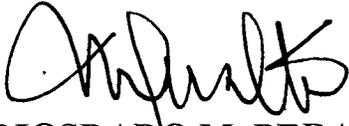
WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice


ANTONIO T. CARPIO
 Associate Justice

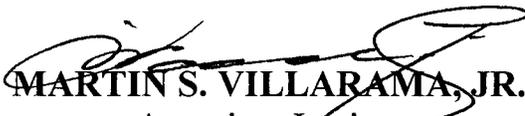
(No Part)
PRESBITERO J. VELASCO, JR.
 Associate Justice


TERESITA J. LEONARDO-DE CASTRO
 Associate Justice


DIOSDADO M. PERALTA
 Associate Justice


LUCAS P. BERSAMIN
 Associate Justice


MARIANO C. DEL CASTILLO
 Associate Justice


MARTIN S. VILLARAMA, JR.
 Associate Justice


JOSE PORTUGAL PEREZ
 Associate Justice


JOSE CATRAL MENDOZA
 Associate Justice


BIENVENIDO L. REYES
 Associate Justice


ESTELA M. PERLAS-BERNABE
 Associate Justice


MARVIC M.V.F. LEONEN
 Associate Justice


FRANCIS H. JARDELEZA
 Associate Justice

CERTIFIED XEROX COPY:


FELIPA B. ANAMA
 CLERK OF COURT, EN BANC
 SUPREME COURT