



(OMB) docketed as OMB-ADM-1-94-1040, entitled *Carlito I. Nudo v. Jaime Contreras*.

The complaint alleged that when Judge Contreras applied for a position in the judiciary, he failed to disclose in his Personal Data Sheet (PDS) that a previous administrative case was filed against him while he was the 4<sup>th</sup> Assistant Provincial Prosecutor of Libmanan, Camarines Sur wherein he was found guilty by the OMB for simple misconduct and was meted out a penalty of admonition.<sup>3</sup>

On November 21, 2014, the OCA issued its 1<sup>st</sup> Indorsement<sup>4</sup> directing Judge Contreras to file his Comment thereon within ten (10) days from receipt of the Indorsement.

In his Comment<sup>5</sup> dated January 15, 2015, Judge Contreras surmised that the anonymous complaint was filed by a certain Jose Arnel Rubio, a former Sheriff of the RTC of Naga City, whom he dismissed from service before by reason of his shady and anomalous transactions in the implementation of writs of execution and improper conduct.

Moreover, Judge Contreras averred that he cannot categorically deny or affirm the charge against him due to complainant's failure to attach the questioned PDS. Nonetheless, he maintained that during the Judicial and Bar Council's (JBC) interviews, he had been disclosing information relating to the cases filed against him with the OMB.

Also, Judge Contreras claimed that in administrative cases, admonition is not a penalty but merely an advice.

### **Recommendation of OCA**

After evaluation, the OCA recommended the re-docketing of the matter as a regular administrative case and that Judge Contreras be found guilty of dishonesty and be dismissed from service with forfeiture of all retirement benefits, excluding accrued leave credits, with prejudice to reemployment in any government office, including government-owned and controlled corporations.<sup>6</sup>

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<sup>3</sup> Id. at 7-8.

<sup>4</sup> Id. at 1.

<sup>5</sup> Id. at 29-30.

<sup>6</sup> Id. at 95-103.

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### Ruling of the Court

The Court agrees with the recommendation of the OCA finding Judge Contreras guilty of dishonesty in filling out his PDS, but modifies the recommended penalty of dismissal to suspension of one (1) year given the attendant circumstances.

“Civil service rules mandate the accomplishment of the PDS as a requirement for employment in the government.”<sup>7</sup> “It is the repository of all information about any government employee and official regarding his personal background, qualification, and eligibility.”<sup>8</sup> “Considering that truthful completion of [PDS] is a requirement for employment in the Judiciary, the importance of answering the same with candor need not be gainsaid.”<sup>9</sup>

As per the Certification<sup>10</sup> issued by the OMB dated February 12, 2015 and signed by a certain Natividad T. Abenir, Chief Administrative Officer of the Central Records Division, Judge Contreras had four (4) resolved cases filed with the OMB, namely:

- (i) OMB-1-94-2624 [Case dismissed];
- (ii) OMB-ADM-1-94-1040 [Sanctioned];
- (iii) OMB-1-97-1152 [Case dismissed]; and
- (iv) OMB-ADM-1-97-0369 [Case dismissed].

Among the four cases, Judge Contreras, while he was then a Provincial Prosecutor, was admonished for simple misconduct in OMB-ADM-1-94-1040 for exerting undue influence in causing the arrest of a certain Carlito Nudo despite proof that the latter has posted a bail bond duly approved by the court.

Section 12, Article XI of the Constitution provides the power of the Ombudsman to investigate and prosecute any illegal act or omission of any public officials, it states:

Sec. 12. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

<sup>7</sup> *Villordon v. Avila*, 692 Phil. 388, 396 (2012).

<sup>8</sup> *Advincula v. Dicen*, 497 Phil. 979, 990 (2005).

<sup>9</sup> *Acting Judge Bellosillo v. Rivera*, 395 Phil. 180, 191 (2000).

<sup>10</sup> *Rollo*, p. 61.

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In *Office of the Ombudsman v. CA (16<sup>th</sup> Division)*,<sup>11</sup> this Court held that the Ombudsman's authority as defined under the Constitution and Republic Act No. 6770 is broad enough to include the direct imposition of the penalty of removal, suspension, demotion, fine or censure on an erring public official or employee. This Court further held that:

All these provisions in Republic Act No. 6770 taken together reveal the manifest intent of the lawmakers to bestow on the [OMB] *full* administrative disciplinary authority. These provisions cover the entire gamut of administrative adjudication which entails the authority to, *inter alia*, receive complaints, conduct investigations, hold hearings in accordance with its rules of procedure, summon witnesses and require the production of documents, place under preventive suspension public officers and employees pending an investigation, determine the appropriate penalty imposable on erring public officers or employees as warranted by the evidence, and, necessarily, impose the said penalty.<sup>12</sup>

Undoubtedly, the finding of the OMB against Judge Contreras for simple misconduct in OMB-ADM-1-94-1040 is considered an administrative offense, which he should have declared in his PDS when he was asked: "Have you ever been convicted of any administrative offense?"

Moreover, as correctly observed by OCA, the following were likewise found in Judge Contreras' PDS forms:

2. In the PDS dated 16 April 2007 submitted before the JBC, respondent Judge Contreras answered "**NO**" to the question "**Have you ever been charged with, found guilty of, or otherwise imposed a sanction for, violation of any law, decree, ordinance, administrative issuance or regulation by any court, tribunal, or any other government office, agency or instrumentality in the Philippines or in any foreign country?**"; x x x
3. In the PDS dated 24 January 2010, also filed with the JBC in connection with respondent Judge Contreras' application for the post of Associate Justice of the Court of Appeals and the Sandiganbayan, he answered "**YES**" to the question "*Have you ever been charged with violation of any law, decree, ordinance, administrative issuance, or regulation by any court, prosecution office, tribunal, or any other government office, agency or instrumentality in the Philippines or in any foreign country?*". In relation to his affirmative answer, respondent Judge Contreras mentioned two (2) cases filed before the [OMB] in 1997, viz:

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<sup>11</sup> 524 Phil. 405 (2006).

<sup>12</sup> Id. at 429-430.

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Case Title/Docket	Type of Complaint	Disposition
Nudo vs. Contreras	Violation of R.A. 3019	Dismissed
Nudo vs. Contreras	Violation of R.A. 6713	Dismissed

4. In a more recent PDS dated 28 September 2013, which was also submitted before the JBC, respondent Judge Contreras answered “YES” to the question “*Have you ever been charged with violation of any law, decree, ordinance, administrative issuance, or regulation by any court, prosecution office, tribunal, or any other government office, agency, or instrumentality in the Philippines or in any foreign country?*”. In relation to his affirmative answer, respondent Judge Contreras again mentioned the two (2) cases which were filed before the [OMB] in 1997, viz:

Case Title/Docket	Type of Complaint	Disposition
Nudo vs. Contreras	Violation of R.A. 3019	Dismissed
Nudo vs. Contreras	Violation of R.A. 6713	Dismissed

x x x<sup>13</sup> (Citations omitted)

A careful perusal of the wording of the question “Have you ever been charged?” would show that it solicits an answer that pertains to either past or present charge, whether it was already dismissed or not. Judge Contreras should have known fully well the consequences of making a false statement in his PDS. Being a former public prosecutor and a judge now, it is his duty to ensure that all the laws and rules of the land are followed to the letter. His being a judge makes the act all the more unacceptable. Clearly, there was an obvious lack of integrity, the most fundamental qualification of a member of the judiciary.<sup>14</sup>

Time and time again, this Court has stressed that “the behavior of all employees and officials involved in the administration of justice, from judges to the most junior clerks, is circumscribed with a heavy responsibility.”<sup>15</sup> “As visible representation of the law, respondent judge should have conducted himself in a manner which would merit the respect of the people to him in particular and to the Judiciary in general.”<sup>16</sup>

Dishonesty is considered a grave offense. It carries the maximum penalty of dismissal from the service with forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification from reemployment in the government service.

<sup>13</sup> Rollo, pp. 98-99.

<sup>14</sup> *Samson v. Judge Caballero*, 612 Phil. 737, 746 (2009).

<sup>15</sup> *Judge Santos, Jr. v. Mangahas*, 685 Phil. 814, 821 (2012).

<sup>16</sup> *Atty. Fernandez v. Judge Vasquez*, 669 Phil. 619, 633 (2011).

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In *OCA v. Judge Aguilar*,<sup>17</sup> however, this Court refrained from imposing the maximum penalty based on several factors attendant to the case. The Court held:

Nonetheless, Rule IV, Section 53 of the Civil Service Rules also provides that in the determination of the penalties to be imposed, extenuating, mitigating, aggravating or alternative circumstances attendant to the commission of the offense shall be considered. Among the circumstances that may be allowed to modify the penalty are (1) length of service in the government, (2) good faith, and (3) other analogous circumstances.

In several jurisprudential precedents, the Court has refrained from imposing the actual administrative penalties prescribed by law or regulation in the presence of mitigating factors. Factors such as the respondent's length of service, the respondent's acknowledgement of his or her infractions and feeling of remorse, family circumstances, humanitarian and equitable considerations, respondent's advanced age, among other things, have had varying significance in the determination by the Court of the imposable penalty. x x x.<sup>18</sup>

In the present case, taking into account Judge Contreras' more than 30 years of government service, and that this is his first offense as a member of the bench, this Court finds the imposition of suspension of one (1) year without pay to be proper under the circumstances.

**WHEREFORE**, Judge Jaime E. Contreras is hereby found **GUILTY** of **DISHONESTY** and is **SUSPENDED** from the service for one (1) year without pay, to take effect upon the finality hereof, with a warning that a repetition of the same or similar act will be dealt with more severely.

**SO ORDERED.**

  
**BIENVENIDO L. REYES**  
Associate Justice

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<sup>17</sup> 666 Phil. 11 (2011).

<sup>18</sup> Id. at 22-23.

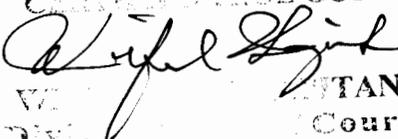
**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
 Associate Justice  
 Chairperson

  
**DIOSDADO M. PERALTA**  
 Associate Justice

  
**JOSE PORTUGAL PEREZ**  
 Associate Justice

  
**FRANCIS H. JARDELEZA**  
 Associate Justice

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