



Republic of the Philippines

**Supreme Court**

Manila

EN BANC

**OFFICE OF THE COURT  
ADMINISTRATOR,  
Complainant,**

**A.M. NO. MTJ-12-1813  
(Formerly A.M. No. 12-5-42-  
METC)**

- versus -

**JUDGE ELIZA B. YU,  
METROPOLITAN TRIAL  
COURT, BRANCH 47, PASAY  
CITY,**

Respondent.

x-----x  
**RE: LETTER DATED 21 JULY  
2011 OF EXECUTIVE JUDGE  
BIBIANO G. COLASITO AND  
THREE (3) OTHER JUDGES OF  
THE METROPOLITAN TRIAL  
COURT, PASAY CITY, FOR THE  
SUSPENSION OR DETAIL TO  
ANOTHER STATION OF JUDGE  
ELIZA B. YU, BRANCH 47,  
SAME COURT.**

**A.M. NO. 12-1-09-MeTC**

x-----x  
**RE: LETTER DATED MAY 2,  
2011 OF HON. ELIZA B. YU,  
PRESIDING JUDGE,  
METROPOLITAN TRIAL  
COURT, BRANCH 47, PASAY  
CITY.**

**A.M. NO. MTJ-13-1836  
(Formerly A.M. No. 11-11-115-  
METC)**

x-----x  
**LEILANI A. TEJERO-LOPEZ,  
Complainant,**

**A.M. NO. MTJ-12-1815  
(Formerly OCA IPI No. 11-2401-  
MTJ)**

- versus -

**JUDGE ELIZA B. YU, BRANCH  
47, METROPOLITAN TRIAL**

**COURT, PASAY CITY,**  
Respondent.

x-----x  
**JOSEFINA G. LABID,**  
Complainant,

**OCA IPI NO. 11-2398-MTJ**

- versus -

**JUDGE ELIZA B. YU,**  
**METROPOLITAN TRIAL**  
**COURT, BRANCH 47, PASAY**  
**CITY,**  
Respondent.

x-----x  
**AMOR V. ABAD, FROILAN**  
**ROBERT L. TOMAS, ROMER H.**  
**AVILES, EMELINA J. SAN**  
**MIGUEL, NORMAN D.S.**  
**GARCIA, MAXIMA SAYO and**  
**DENNIS ECHEGOYEN,**  
Complainants,

**OCA IPI NO. 11-2399-MTJ**

- versus -

**HON. ELIZA B. YU, PRESIDING**  
**JUDGE, METROPOLITAN**  
**TRIAL COURT, BRANCH 47,**  
**PASAY CITY,**  
Respondent.

x-----x  
**EXECUTIVE JUDGE BIBIANO**  
**G. COLASITO, VICE**  
**EXECUTIVE JUDGE**  
**BONIFACIO S. PASCUA, JUDGE**  
**RESTITUTO V.**  
**MANGALINDAN, JR. JUDGE**  
**CATHERINE P. MANODON,**  
**MIGUEL C. INFANTE (CLERK**  
**OF COURT IV, OCC-METC),**  
**RACQUEL C. DIANO (CLERK**  
**OF COURT III, METC, BRANCH**

**OCA IPI NO. 11-2378-MTJ**

45), EMMA ANNIE D. ARAFILES (ASSISTANT CLERK OF COURT, OCC-METC), PEDRO C. DOCTOLERO, JR. (CLERK OF COURT III, METC, BRANCH 44), LYDIA T. CASAS (CLERK OF COURT III, METC, BRANCH 46), ELEANOR N. BAYOG (LEGAL RESEARCHER, METC, BRANCH 45), LEILANIE A. TEJERO (LEGAL RESEARCHER, METC, BRANCH 46), ANA MARIA V. FRANCISCO (CASHIER I, OCC-METC), SOLEDAD J. BASSIG (CLERK III, OCC-METC), MARISSA MASHHOOR RASTGOOY (RECORDS OFFICER, OCC-METC), MARIE LUZ M. OBIDA (ADMINISTRATIVE OFFICER, OCC-METC), VIRGINIA D. GALANG (RECORDS OFFICER I, OCC-METC), AUXENCIO JOSEPH CLEMENTE (CLERK OF COURT III, METC, BRANCH 48), EVELYN P. DEPALOBOS (LEGAL RESEARCHER, METC, BRANCH 44), MA. CECILIA GERTRUDES R. SALVADOR (LEGAL RESEARCHER, METC, BRANCH 48), JOSEPH B. PAMATMAT (CLERK III, OCC-METC), ZENAIDA N. GERONIMO (COURT STENOGRAPHER, OCC-METC), BENJIE V. ORE (PROCESS SERVER, OCC-METC), FORTUNATO E. DIEZMO (PROCESS SERVER, OCC-METC), NOMER B. VILLANUEVA (UTILITY WORKER, OCC-METC), ELSA D. GARNET (CLERK III, OCC-METC), FATIMA V. ROJAS (CLERK III, OCC-METC),

EDUARDO E. EBREO (SHERIFF III, METC, BRANCH 45), RONALYN T. ALMARVEZ (COURT STENOGRAPHER II, ME-TC, BRANCH 45), MA. VICTORIA C. OCAMPO (COURT STENOGRAPHER II, METC, BRANCH 45), ELIZABETH LIPURA (CLERK III METC, BRANCH 45), MARY ANN J. CAYANAN (CLERK III, METC, BRANCH 45), MANOLO MANUEL E. GARCIA (PROCESS SERVER, METC, BRANCH 45), EDWINA A. JUROK (UTILITY WORKER, OCC-METC), ARMINA B. ALMONTE (CLERK III, OCC-METC), ELIZABETH G. VILLANUEVA (RECORDS OFFICER, METC, BRANCH 44), ERWIN RUSS B. RAGASA (SHERIFF III, METC, BRANCH 44), BIEN T. CAMBA (COURT STENOGRAPHER II, METC, BRANCH 44), MARLON M. SULIGAN (COURT STENOGRAPHER II, METC, BRANCH 44), CHANDA B. TOLENTINO (COURT STENOGRAPHER II, METC, BRANCH 44), FERDINAND R. MOLINA (COURT INTERPRETER, METC, BRANCH 44), PETRONILO C. PRIMACIO, JR. (PROCESS SERVER, METC, BRANCH 45), EDWARD ERIC SANTOS (UTILITY WORKER, METC, BRANCH 45), EMILIO P. DOMINE (UTILITY WORKER, METC, BRANCH 45), ARNOLD P. OBIAL (UTILITY WORKER, METC, BRANCH 44), RICARDO E. LAMPITOC (SHERIFF III, METC, BRANCH 46),

JEROME H. AVILES (COURT STENOGRAPHER II, METC, BRANCH 46), ANA LEA M. ESTACIO (COURT STENOGRAPHER II, METC, BRANCH 46), LANIE F. AGUINALDO (CLERK III, METC, BRANCH 44), JASMINE L. LINDAIN (CLERK III, METC, BRANCH 44), RONALDO S. QUIJANO (PROCESS SERVER, METC, BRANCH 44), DOMINGO H. HOCOSOL (UTILITY WORKER, METC, BRANCH 48), EDWIN P. UBANA (SHERIFF III, METC, BRANCH 48), MARVIN O. BALICUATRO (COURT STENOGRAPHER II, METC, BRANCH 48), MA. LUZ D. DIONISIO (COURT STENOGRAPHER II, METC, BRANCH 48), MARIBEL A. MOLINA (COURT STENOGRAPHER II, METC, BRANCH 48), CRISTINA E. LAMPITOC (COURT STENOGRAPHER II, METC, BRANCH 46), MELANIE DC BEGASA (CLERK III, METC, BRANCH 46), EVANGELINE M. CHING (CLERK III, METC, BRANCH 46), LAWRENCE D. PEREZ (PROCESS SERVER, METC, BRANCH 46), EDMUNDO VERGARA (UTILITY WORKER, METC, BRANCH 46), AMOR V. ABAD (COURT INTERPRETER, METC, BRANCH 47), ROMER H. AVILES (COURT STENOGRAPHER II, METC, BRANCH 47), FROILAN ROBERT L. TOMAS (COURT STENOGRAPHER II, METC, BRANCH 47), MAXIMA C. SAYO (PROCESS SERVER, BRANCH

**47), SEVILLA B. DEL CASTILLO  
(COURT INTERPRETER, METC,  
BRANCH 48), AIDA JOSEFINA  
IGNACIO (CLERK III, METC,  
BRANCH 48), BENIGNO A.  
MARZAN (CLERK III, METC,  
BRANCH 48), KARLA MAE R.  
PACUNAYEN (CLERK III,  
METC, BRANCH 48), IGNACIO  
M. GONZALES (PROCESS  
SERVER, METC, BRANCH 48),  
EMELINA J. SAN MIGUEL  
(RECORDS OFFICER, OCC,  
DETAILED AT BRANCH 47),  
DENNIS M. ECHEGOYEN  
(SHERIFF III, OCC-METC),  
NORMAN GARCIA (SHERIFF  
III, METC, BRANCH 47), NOEL  
G. LABID (UTILITY WORKER I,  
BRANCH 47),**

Complainant,

- versus -

**HON. ELIZA B. YU, PRESIDING  
JUDGE, METROPOLITAN  
TRIAL COURT, BRANCH 47,  
PASAY CITY,**

Respondent.

**x-----x  
JUDGE BIBIANO G. COLASITO,  
JUDGE BONIFACIO S. PASCUA,  
JUDGE RESTITUTO V.  
MANGALINDAN, JR. and  
CLERK OF COURT MIGUEL C.  
INFANTE,**

Complainants,

**OCA IPI NO. 12-2456-MTJ**

- versus -

**HON. ELIZA B. YU, PRESIDING  
JUDGE, METROPOLITAN**

**TRIAL COURT, BRANCH 47,  
PASAY CITY,**

Respondent.

x-----x  
**JUDGE EMILY L. SAN GASPARGITO, METROPOLITAN TRIAL COURT, BRANCH 20, MANILA,**  
Complainant,

**A.M. NO. MTJ-13-1821**

Present:

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

- versus -

**JUDGE ELIZA B. YU,  
METROPOLITAN TRIAL  
COURT, BRANCH 47, PASAY  
CITY,**

Respondent.

Promulgated:

November 22, 2016

*[Signature]*

x-----x

**DECISION**

***PER CURIAM:***

A judge embodies the law; she cannot be above it. She should not use it to advance her personal convenience, or to oppress others. She should be obedient to the rules and directives enunciated by the Supreme Court for the effective administration of justice; otherwise, she becomes an arrogant tyrant. Being a magistrate of the law, she must comport herself in a manner consistent with the dignity of her judicial office, and must not commit any act that erodes public confidence in the Judiciary.

\* On official leave.  
\*\* On official leave.

In these consolidated administrative proceedings, we resolve the several charges of gross misconduct, gross ignorance of the law, gross insubordination, oppression, and conduct unbecoming of a judge leveled by various complainants, some of them her fellow Judges, against respondent Judge Eliza B. Yu, the Presiding Judge of Branch 47, Metropolitan Trial Court (MeTC) in Pasay City.

On June 4, 2013, A.M. No. MTJ-12-1813 was consolidated with A.M. No. MTJ-12-1-09-MeTC.<sup>1</sup> Other closely-related administrative complaints involving the respondent, specifically: A.M. No. MTJ-13-1863, A.M. No. MTJ-12-1815, OCA IPI No. 11-2398-MTJ, OCA IPI No. 11-2399-MTJ, OCA IPI No. 11-2378-MTJ, and OCA IPI No. 12-2456-MTJ, were similarly consolidated.<sup>2</sup>

### **Antecedents**

#### **A.M. No. MTJ-12-1813 (Office of the Court Administrator v. Judge Eliza B. Yu)**

On January 27, 2011, the Court, through Chief Justice Renato C. Corona, issued Administrative Order No. 19-2011<sup>3</sup> in response to the specific request of Secretary Alberto A. Lim of the Department of Tourism (DOT) to establish night courts in Pasay City and Makati City. A.O. No. 19-2011 designated the branches of the MeTC in Pasay City and Makati City as night courts to expeditiously hear and try cases involving nighttime apprehensions, special cases under the *Rule on Summary Procedure*, and criminal cases involving tourists, *viz.*:

#### **ADMINISTRATIVE ORDER NO. 19-2011**

#### **ESTABLISHING NIGHT COURTS IN THE METROPOLITAN TRIAL COURTS OF PASAY CITY AND MAKATI CITY**

**WHEREAS**, the Constitution mandates the speedy disposition of cases of all persons before judicial bodies;

**WHEREAS**, “the Executive Judges of the Metropolitan Trial Courts and Municipal Trial Courts in Cities of the cities and municipalities comprising Metro Manila x x x may assign all judges to hold night court

<sup>1</sup> *Rollo* (A.M. No. MTJ-12-1813), p. 157.

<sup>2</sup> *Id.* at 183.

<sup>3</sup> *Id.* at 39-40.

*Handwritten signature: J. P. ...*

sessions daily from Monday to Friday and on official holidays and special days.”

**WHEREAS**, in line with the constitutional mandate on the speedy disposition of cases and in the exercise of its power of administrative supervision over all courts, the Supreme Court has ordered (a) the establishment of night courts in the Metropolitan Trial Courts of Manila “to try and decide all special cases enumerated in the Rule on Summary Procedure,” and (b) the opening of two branches in the Metropolitan Trial Courts of Quezon City as night courts to hear “cases involving nighttime apprehensions” and special cases enumerated in the Rule on Summary Procedure;”

**WHEREAS**, the Court held that the operational guidelines for the assignment of judges and the holding of night court sessions in Manila shall also be applicable to the night courts established in Quezon City;

**WHEREAS**, the Court requires the expeditious disposition of criminal cases involving tourists;

**WHEREAS**, the Honorable Secretary Alberto A. Lim of the Department of Tourism has requested the designation of night courts also in Pasay City and Makati City, in addition to those already existing in Manila and Quezon City;

**WHEREFORE**, it is hereby directed that:

1. Night courts similar to those designated in the Metropolitan Trial Courts of Manila City and Quezon City be established in the Metropolitan Trial Courts of Pasay City and Makati City;

2. The operational guidelines for the assignment of judges and the holding of night court sessions in the Metropolitan Trial Courts of Manila be applicable to the night courts in the Metropolitan Trial Courts of Pasay City and Makati City, respectively, except operating hours, which shall be from four-thirty in the afternoon (4:30 p.m.) until eleven o'clock in the evening (11:00 p.m.);

3. The night courts of Pasay City and Makati City be authorized to try and decide cases involving nighttime apprehensions and all special cases enumerated in the Rule on Summary Procedure;

4. The provisions of Administrative Circular No. 58-2002, dated 14 November 2002, requiring an expeditious disposition of criminal cases involving tourists be complied with; and

5. The Executive Judges of the Metropolitan Trial Courts of Pasay City and Makati City (a) to inform the Philippine National Police (PNP) and the Prosecutor's Office

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within their respective jurisdictions of the schedule of the branches of the metropolitan trial courts assigned to hold night sessions; and (b) make representations with the PNP and the local government units to ensure that appropriate security measures are adopted to protect the judges and their staff during night sessions.

Immediate compliance with this order is enjoined.

27 January 2011:

To comply with A.O. No. 19-2011, then Pasay City MeTC Executive Judge Bibiano G. Colasito issued a Memorandum dated February 9, 2011<sup>4</sup> prescribing the schedules for night court service of all Pasay City MeTC Judges and employees effective February 14, 2011. Under the Memorandum, MeTC Branch 47, presided by respondent Judge Yu, was assigned night court duties every Friday. But Judge Yu did not desire to comply, and so inscribed the following marginal note on the February 9, 2011 Memorandum of Judge Colasito, to wit:

February 11, 2011

Pls. I dissent with the night court assignment. I have pending legal question before the Office of Court Administrator.<sup>5</sup>

The pending legal question Judge Yu adverted to had been posed in her letter dated February 2, 2011 to the Court Administrator Jose Midas P. Marquez,<sup>6</sup> as follows:

Sir:

Our Court is in receipt of Administrative Order No. 19-2011 (Establishing Night Courts in the Metropolitan Trial Courts of Pasay City and Makati City) today.

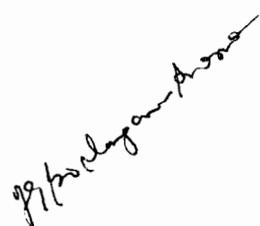
Among others, it is provided that: "3. The night Courts of Pasay City and Makati City be authorized to try and decide cases involving night time apprehensions and all special cases enumerated in the Rule on Summary Procedure."

With due respect, **the police officers cannot apprehend, detain and bring the arrested persons charged with cases covered by the Rule on Summary Procedure at night without being liable for Arbitrary Detention. The arrested persons need not post bail under**

<sup>4</sup> Id. at 38.

<sup>5</sup> *Rollo* (OCA IPI No. 11-2378-MTJ), p. 18.

<sup>6</sup> *Rollo* (A.M. No. MTJ-12-1318), p. 12.



**the Rule on Summary Procedure. Thus, there is no legal basis for the police officers to detain them prior to the hearing of their cases at night by the court. Moreover, the public prosecutors cannot conduct inquest on the night arrests of the suspected criminals because the penalty involved in cases covered by the Rule on Summary Procedure is not more than six (6) months. Inquest can be conducted only where the penalty is four (4) years, two (2) months and one (1) day and above. The night inquest without the release of the arrested suspects is questionable. It can make the public prosecutors criminally and administratively liable.**

**It is tedious for the public prosecutor and the public attorney to attend the night court from 4:30 p.m. to 11:00 p.m. after attending an exhaustive hearing in the morning then attend the hearing on the following day, without additional pay.**

**Unlike in Manila Metropolitan Trial Courts where the cases tried by night courts are mostly violation of ordinances, in Pasay Metropolitan Trial Courts, most of the cases filed are Theft, B.P. Blg. 6 and P.D. No. 1602 that entail full blown trial because the accused refuses to enter into a plea bargaining. In this sense, the establishment of night courts in Pasay City cannot unclog a court's criminal docket. (Bold emphases supplied)**

Please enlighten us on this concern.

Thank you.

It appears that the Station Investigation and Detective Management Section (SIDMS) of the Pasay City Police Station received a copy of Judge Yu's letter to Court Administrator Marquez. Wary of the potential criminal liability of apprehending officers adverted to in the letter, Police Chief Inspector Raymund A. Liguden of the SIDMS sought clarification from the Office of the Pasay City Prosecutor.<sup>7</sup> In response, the Office of the Pasay City Prosecutor explained through Prosecutor Dolores P. Rillera that the apprehending officers could become liable for arbitrary detention only when they failed to refer the arrested persons for inquest proceedings within the periods specified under Article 125 of the *Revised Penal Code*.<sup>8</sup>

Apprised of the explanation from the Office of the Pasay City Prosecutor, Judge Yu requested Prosecutor Rillera to refer the matter to the Department of Justice (DOJ) and request a legal opinion thereon,<sup>9</sup> even as she requested Court Administrator Marquez to have her letter to Prosecutor Rillera docketed as an administrative matter.<sup>10</sup>

<sup>7</sup> Id. at 33.

<sup>8</sup> Id. at 30-32.

<sup>9</sup> Id. at 20.

<sup>10</sup> Id. at 19.

*Raymund A. Liguden*

Judge Yu communicated her reservations about the night court by letter directly to DOT Secretary Lim,<sup>11</sup> pointing out that the DOT's request for the establishment of the night courts was supported neither by statistical data nor by any study. After rendering a lengthy discourse on the flaws of establishing night courts, she ended her letter with a request for additional compensation and security in case she would undertake night court duties. The pertinent portions of her letter ran as follows:

Dear Sir:

This Court learned that you requested for the designation of night courts in Pasay City that resulted to the issuance of Administrative Order No. 19-2011 (Establishing Night Courts in the Metropolitan Trial Courts of Pasay City and Makati City) dated January 27, 2011.

**With due respect, there is insufficient basis for your request. There was no statistical data present or there was no study conducted by your department recommending the necessity of establishing night courts in Pasay City.** For the record, this Court is yet to hear a case involving any tourist. **Moreover, the tourists should be advised not to roam around the city at night so as not to be victims of various crimes. Usually, the perception of the tourists who are going around the city at night is negative, for they are likely to be engaging in unlawful nocturnal activities. They are at their own risk at night.**

**There was no prior consultation with the police officers, public attorneys, public prosecutors, judges and their staff before your department requested for the creation of night courts in Pasay City.**

**There are many concerns which your department did not consider.**

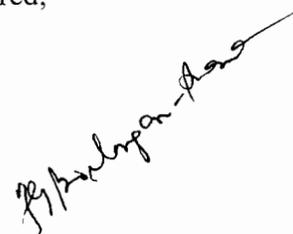
**First, some of the rights of the accused who were charged with cases covered by the Summary Procedure are impaired by the operation of night courts. x x x**

x x x x

**Second, night courts in Manila City and Quezon City are criticized for being ineffective and non-functional.** In Manila City, when I was a public prosecutor, I questioned as to the legality of the detention of the accused being arraigned at night for violation of ordinances. When I was not given any legal justification, I requested to be relieved from night court. My experience showed that night court is a waste of time for all. The cases tried at night court can be tried during day time without burdening the three (3) pillars of our criminal justice system. xxx. The cases tried are violation of city ordinances, mostly on illegal vending in the night courts. I heard that these cases were filed for money making scheme by the police officers. From the information gathered,

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<sup>11</sup> Id. at 13-17.



only those accused who did not give them money were arrested, detained and brought to the night courts.

**Third, there is a grave violation of the right of government employees against long and extended period of work with no additional pay at night.** This is a form of exploitation of workers whose rights are enshrined under the Constitution. It bears pointing out that additional compensation for night time work is founded on public policy.

x x x x.

**Fourth, it is very burdensome to attend the court at night.**

x x x x.

**Fifth, it is risky to work at night because of lack of security.**

x x x x.

**Lastly, the establishment of night courts in Pasay City will not unclog a court's criminal docket.** The situation in Manila City and Quezon City are not similar with Pasay City. x x x. In Manila Metropolitan Trial Courts, majority of the accused pay the fine for the violation of ordinances not involving any tourist crime during the night court hearing. Also, a study must be conducted by your department, if necessary, about the effectiveness of night courts in Manila City and Quezon City, and if these night courts are attaining the purposes they were created. If not, there is no reason for the establishment of a night court or tourism court here in Pasay City. Another thing, there is uneven assignment of judges alone to the night court. x x x.

I hope you find merit with this letter. May your department reconsider your request for the establishment of night courts in Pasay City. With due respect, **it will be appreciated if your department will give additional compensation and provide police security to the judges, public prosecutors, public attorneys and the entire court staff, if it insist of [sic] establishing night courts here without conducting any study.**

x x x x. (Bold emphases supplied)

On May 5, 2011, the Office of the Court Administrator (OCA), through Assistant Court Administrator (ACA) Thelma C. Bahia, responded to the concerns raised by the Judge Yu in the following manner:<sup>12</sup>

This refers to your letter dated February 2, 2011 apprising us of certain concerns relative to the establishment of night courts in Pasay City.

x x x x

<sup>12</sup> Id. at 28.

The first concern has been ably explained in the attached letter dated February 25, 2011 of Prosecutor Dolores P. Rillera, Chief, Inquest Division, Office of the City Prosecutor, Pasay City, addressed to Police Chief Inspector Raymond A. Liguden, Chief SIDMS, Pasay City, who, having been furnished a copy of your letter dated February 2, 2011, subsequently sought the guidance of Prosecutor Rillera on the matter.

With respect to the second point you raised, prosecutors and public attorneys of Pasay City had long been assigned their respective schedules to handle inquest proceedings until 10 p.m. prior to the designation of night courts in Pasay City. Attending night courts would not be as tedious as you surmise. Besides, prosecutors and public attorneys already receive allowances for staying beyond office hours.

As to the third issue, the main consideration for the designation of night courts is to address the matter of nighttime apprehension which include offenses enumerated in the Rule of Summary Procedure. Priority is also given to those criminal cases where the offended party or the complainant is a tourist or transient in the country as already explained in Administrative Circular No. 58-2002 dated November 14, 2002.

Be reminded that judges, prosecutors and public attorneys are public officers who are duty bound to serve with the highest degree of responsibility, integrity, loyalty and efficiency and whose main concern in the performance of their duties is public welfare and interest.

Please be guided accordingly.<sup>13</sup>

Ostensibly not satisfied, Judge Yu replied,<sup>14</sup> pertinently stating:

x x x x

With due respect, your letter did not address the issues raised in my letter dated February 11, 2011 to Hon. Alberto A. Lim, Secretary of Tourism who did not reply said letter to date [sic]. Attached is my letter dated March 22, 2011 address[ed] to Hon. Jose Midas P. Marquez together with the attachments.

As per information from this Courts' Officer-in-Charge Emelina J. San Miguel who heard from other staff of the Office of the Clerk of Court, there is (sic) no criminal case filed at night since the start of the night courts here in Pasay until now showing the need to review, if not abolish the administrative order creating it.

Back at the Pasay City MeTC, the continued refusal by Judge Yu to render night court service prompted Executive Judge Colasito to assign additional night court duties to the other MeTC Judges and their personnel.<sup>15</sup>

<sup>13</sup> Id. at 28-29.

<sup>14</sup> Id. at 18.

<sup>15</sup> Id. at 35.

*Alfonso Lim*

In view of Judge Yu's refusal to follow A.O. No. 19-2011, the OCA submitted a memorandum to the Court,<sup>16</sup> recommending that her insubordination, gross misconduct and violation of *The New Code of Judicial Conduct* be docketed as an administrative complaint against her. In due course, the Court required Judge Yu to comment.<sup>17</sup>

In her comment, Judge Yu denied the charges, and asserted that she did not commit insubordination;<sup>18</sup> that her protest against night courts was a mere expression of her opinion; that she would render night duty upon receiving a resolution on her protest from the Court; that the OCAD should have submitted a complete study and report about the effectiveness of night courts in the National Capital Judicial Region, particularly in Pasay City;<sup>19</sup> and that her protest was covered by her constitutional right to freedom of speech<sup>20</sup> and other legal principles.<sup>21</sup>

Judge Yu also asserted that based on her experience, holding night courts unduly burdened the Judges and their court personnel, as well as other court employees;<sup>22</sup> that A.O. No. 19-2011 merely reiterated Administrative Order No. 72 dated June 30, 1988 that had been based on the *1983 Rule on Summary Procedure in Special Cases* but the latter issuance had already been superseded by the *1991 Revised Rules on Summary Procedure*;<sup>23</sup> that A.O. No. 19-2011 did not make any reference to the *1991 Rules of Summary Procedure* which was a "huge legal blunder;"<sup>24</sup> that the drafters of A.O. No. 19-2011 merely reiterated Administrative Circular No. 58-2002 dated November 14, 2002, and overlooked R.A. No. 4908 (*An Act Requiring Judges Of Courts To Speedily Try Criminal Cases Wherein The Offended Party Is A Person About To Depart From The Philippines With No Definite Date Of Return*);<sup>25</sup> that night court duty violated the 8-hour work period;<sup>26</sup> that the Court should exercise judicial restraint;<sup>27</sup> the A.O. No. 19-2011 was invalid for non-compliance with the requirements of issuing a valid

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<sup>16</sup> Id. at 1-11.

<sup>17</sup> Id. at 41.

<sup>18</sup> Id. at 43.

<sup>19</sup> Id. at 43-44.

<sup>20</sup> Id. at 45; 98-105.

<sup>21</sup> Id. at 98-110; among her submissions were contentions on the supremacy of the Constitution; marketplace of ideas; privileged communications; totality and spirit of the letter; and the weight of evidence and burden of proof.

<sup>22</sup> Id. at 44.

<sup>23</sup> Id. at 47-50; she argued that the drafters of A.O. No. 19-2011 should have considered the material change brought about by Section 12 of the *1991 Revised Rules on Summary Procedure*, and the reverse order of arraignment and submission of affidavits under the *1983 Rule on Summary Procedure in Special Cases*. (see Comment dated July 16, 2012).

<sup>24</sup> Id. at 110.

<sup>25</sup> Id. at 59-61.

<sup>26</sup> Id. at 108.

<sup>27</sup> Id. at 111-113.

*J. M. Reyes - Pasay*

administrative order;<sup>28</sup> that A.O. No. 19-2011 did not provide any penalty in case of its non-compliance;<sup>29</sup> and that A.O. No. 19-2011 was an invalid order addressed solely to the Executive Judges of the MeTC of Makati City and Pasay City.<sup>30</sup>

**A.M. No. MTJ-13-1836**  
*(Re: Letter dated May 2, 2011 of Hon. Eliza B. Yu,  
Branch 47, MeTC, Pasay City); and*

**A.M. No. MTJ-12-1815**  
*(Leilani A. Tejero-Lopez v. Judge Eliza B. Yu)*

These administrative matters refer to the appointments of Ms. Leilani A. Tejero-Lopez as the Branch Clerk of Court of MeTC Branch 47, and Ms. Mariejoy P. Lagman as Clerk III of the Regional Trial Court (RTC) Branch 108, in Pasay City.

Respondent Judge Yu challenged the appointments.

**I. Appointment of Ms. Tejero-Lopez as Clerk of Court III, MeTC Branch 47, Pasay City**

On July 9, 2010, Judge Yu requested to fill the position of Clerk of Court III in her sala.<sup>31</sup> Upon approval of her request<sup>32</sup> and consequent posting of the notice of vacancy,<sup>33</sup> three applicants vied for the position, namely: Ms. Ellen D.L.S. Serrano, Ms. Leilani A. Tejero-Lopez and Ms. Eloisa A. Bernardo.<sup>34</sup> From the outset, Judge Yu favored Ms. Bernardo for the vacancy.<sup>35</sup>

After evaluating the applicants' qualifications, the Selection and Promotion Board for the Lower Courts under the OCA (OCA-SPBLC) recommended the appointment of Ms. Tejero-Lopez, then a Legal Researcher assigned at MeTC Branch 46, in its Board Resolution No. 12B-

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<sup>28</sup> Id. at 153; 158.

<sup>29</sup> Id. at 154; 158.

<sup>30</sup> Id.

<sup>31</sup> Id. at 736.

<sup>32</sup> *Rollo* (A.M. No. MTJ-13-1836), p. 52.

<sup>33</sup> Id. at 54.

<sup>34</sup> Id. at 55-58.

<sup>35</sup> Id. at 53; 59.

*Mariejoy P. Lagman*

2011(A) dated April 4, 2011.<sup>36</sup> The OCA-SPBLC had found Ms. Bernardo to have lacked the required training.<sup>37</sup>

On April 12, 2011, Chief Justice Corona, along with Associate Justice Antonio T. Carpio and Associate Justice Conchita Carpio-Morales, approved Ms. Tejero-Lopez's appointment.

In the meantime, by letter dated March 31, 2011, Judge Yu requested the temporary designation of Ms. Bernardo as the Clerk of Court,<sup>38</sup> and furnished a copy of the letter to Ms. Tejero-Lopez.<sup>39</sup> In the letter, Judge Yu expressed her protest against the appointment of "another applicant from Metropolitan Trial Court Branch 46, Pasay City, as well as other applicants who cannot be appointed because they lacked the requirement of the personal endorsement by the judge." She further declared that it would be best to either hire a new lawyer or to call for another batch of applicants in the event that Ms. Bernardo would not be appointed.

The OCA-SPBLC, through Deputy Court Administrator Nimfa C. Vilches, denied Judge Yu's request for Ms. Bernardo's temporary designation pursuant to Section 2(b), Rule III of the *Omnibus Rules on Appointments and Other Personnel Actions* in view of the availability of a qualified applicant.<sup>40</sup>

On April 14, 2011, Ms. Tejero-Lopez learned from Ms. Emmie San Miguel, the then OIC of Branch 47, that Judge Yu had wanted her to execute a waiver or withdrawal of her application.

Wishing to settle the issue of the appointment amicably, Ms. Tejero-Lopez paid Judge Yu a visit in her chambers. The meeting between them was hostile. In describing the meeting, Ms. Tejero-Lopez pointed out that Judge Yu had shouted and exclaimed at her: "*Nanggugulo ka[!] Ikaw ang nanggugulo[!] katatawag ko lang sa Supreme Court, Sabi ng Supreme Court, ikaw ang nanggugulo[!]*." Ms. Tejero-Lopez recalled that Judge Yu then demanded her withdrawal with a threat to revoke her appointment later on. Faced with the prospect of eventually losing her job, Ms. Tejero-Lopez decided to withdraw her application.<sup>41</sup>

<sup>36</sup> Id. at 84-90.

<sup>37</sup> Id. at 61-62.

<sup>38</sup> Id. at 69.

<sup>39</sup> *Rollo* (A.M. No. MTJ-12-1815), p. 4.

<sup>40</sup> *Rollo* (A.M. No. MTJ-13-1836), p. 70.

<sup>41</sup> *Rollo* (A.M. No. MTJ-12-1815), pp. 5-6.



On April 26, 2011, Judge Yu asked for the reconsideration with the OCA-SPBLC by submitting a copy of the withdrawal of the application signed by Ms. Tejero-Lopez.<sup>42</sup>

However, by her letter dated May 10, 2011, Ms. Tejero-Lopez retracted her withdrawal, and signified her intention to pursue her application.<sup>43</sup>

After an investigation that established that Ms. Tejero-Lopez did not voluntarily withdraw her application, the OCA-SPBLC continued processing her appointment,<sup>44</sup> and she was eventually appointed Clerk of Court III effective May 31, 2011.<sup>45</sup>

Upon receiving her appointment on June 7, 2011, Ms. Tejero-Lopez went to Judge Yu's chambers to take her oath, but the latter refused her request to administer her oath. According to Ms. Tejero-Lopez, Judge Yu questioned the integrity of the selection process, and told her directly that the Court had appointed her in retaliation to her refusal to render night court service. Judge Yu threatened Ms. Tejero-Lopez with criminal cases of grave coercion and trespassing, and contempt of court if she persisted on taking her oath of office. Judge Yu further vowed to assail the appointment before the Court and the Civil Service Commission (CSC).<sup>46</sup>

On the same day, Judge Yu wrote to Atty. Caridad A. Pabello, Chief of Office, OCA-Office of Administrative Services (OCA-OAS),<sup>47</sup> to protest the appointment, to wit:

Madam:

Thank you for your telegram today. Please be informed that Leilani Lopez has withdrawn her application as Clerk of Court III in this court [a] long time ago. **She failed to comply (sic) all the requirements for the consideration of her application for such position because, among others, she has no personal endorsement from this court despite her last ditch attempt to get it on March 7, 2011.** This court did not sign an important document for her relative to the position thus her

<sup>42</sup> *Rollo* (A.M. No. MTJ-13-1836), pp. 71-72.

<sup>43</sup> *Id.* at 91.

<sup>44</sup> *Id.* at 95; on May 2, 2011, the OCA-SPBLC met and resolved to wait for the explanation of Ms. Tejero-Lopez regarding her withdrawal; ACA Bahia volunteered to talk to Ms. Tejero-Lopez; following their meeting on May 9, 2011, ACA Bahia reported that Ms. Tejero-Lopez had only been prevailed upon by Judge Yu to withdraw her application by threatening to file the necessary actions to revoke her appointment or to remove her from the service.

<sup>45</sup> *Rollo* (A.M. No. MTJ-12-1815), p. 3.

<sup>46</sup> *Id.* at 1-2.

<sup>47</sup> *Rollo* (A.M. No. MTJ-13-1836), p. 103.

*Caridad A. Pabello*

application cannot be considered by the Selection and Promotion Board for the Lower Courts at all. Moreover, **this court has continuing protest against her appointment in this court to date. And this was reiterated to Leilani Lopez few moments ago.**

Please be guided accordingly.

x x x x (Bold emphasis supplied)

A week later, Judge Yu sent another letter stating that she had apprised Ms. Tejero-Lopez of her possible indictment for unlawful appointment, grave coercion and unjust vexation, among others.<sup>48</sup> She thereby also expressed her refusal to honor the “*void ab initio*” appointment of Ms. Tejero-Lopez, which she characterized as “*a big joke.*” For the fullest appreciation of the contents, the letter is quoted hereinbelow:

Madam:

Please be informed that today Leilani Lopez, the applicant for Clerk of Court III who has withdrawn her application long time ago, sought to see me because of her appointment, **a legally infirm one.** I accommodated her for a brief talk for the last time, hoping to not see her again and never to bother me anymore.

**It was explained to her that she will face possible indictment of, among others, unlawful appointment, grave coercion and unjust vexation, all punishable under the Revised Penal Code, if she forcibly insist to take a seat in this court despite of numerous oral and written opposition by the court to her selection and appointment. Likewise, she can be thrown to jail for contempt of court, if such callousness and discourteousness continue to exist in this court.** Moreover, she was told that if thievery extends to public office, the elements of Theft under our penal code were established *prima facie*, as the concept of apoderamiento or unlawful taking predominates in this situation, an affront of the Rule of Law, showing that the Rule of Jungle where might is right triumphs as can be gleaned in a paper, a null and void appointment paper held by her. **Her appointment is highly questionable. Leilani Lopez received the proverbial forbidden apple, obviously grown from a toxic tree. Our court advised her for the last time not to eat it, or she will suffer the grave consequences, without any taint of threats to her. The ways of a scholar seem not to have a place in this prestigious institution, for her appointment is an example of brute force, they say it is a rape of the honor of this bench, others say it is a spit of insult.** However, this court will not press formal charges against the poor Leilani Lopez, a sorry victim of a subtle power play. Article 24 of the New Civil Code says indirectly that the court must be vigilant for the protection of morally dependent, ignorant, indigent, mentally weak, tenderness of age or other handicap of a person. Your office must be reminded that I took my oath seriously before SC Justice Antonio B. Nachura, and I swore to him that I

<sup>48</sup> Rollo (A.M. MTJ-12-1815), p. 8.

*Handwritten signature*

will uphold the Constitution, and I will remain faithful to my oath even after his retirement in the judiciary. Consequently, **this court will not honor the void ab initio appointment of Leilani Lopez, a big joke and so this court is laughing at her** and all others who are like her, not to put her and others down, only to treat this delicate matter lightly in jest, strange things, sometimes contrary to law or contrary to the spirit of the law, do happen in judiciary. **The Selection and Promotion Board for the Lower Court is funny, and it made me laugh.** I rather laugh than be angry, than feel helpless, than look powerless in this awful and mean situation. Firmness of decision anchored on the principles of righteousness and justice is one of the characteristic of this unassuming court. I am happy to feel that God is with me, and He not Satan is cheering with me in this lonely fight as to what is right and just.

Thank you. (Bold emphasis supplied)

On June 17, 2011, Judge Yu submitted her formal protest<sup>49</sup> against Ms. Tejero-Lopez' appointment, as follows:

Chief Justice Renato C. Corona  
Supreme Court  
P. Faura St., Manila City

FORMAL PROTEST TO THE APPOINTMENT OF LEILANI  
LOPEZ AS BRANCH CLERK OF COURT OF  
METROPOLITAN TRIAL COURT BRANCH 47, PASAY  
CITY

Sir:

**All the laws provide the inherent relief of protest by the incumbent judge to an appointment of any staff in his or her court. The appointed applicant Leilani Lopez is not qualified and not fit to work as the branch clerk of court in my sala.**

**Leilani Lopez lacked personal indorsement.** The applicant knew this, and so she said to me on June 14, 2011 that she does not know why she was appointed. She attempted to get a personal indorsement from me on March 7, 2011 that I rejected. She must submit her neuro-psychiatric test results to me and to the Board because it is definitely abnormal, some kind of an obsession, to insist in clinging on to a position of a branch clerk of court after numerous oral and written opposition by a judge she will be working with. This alone is a sign that she is unfit for the job. Her obsession is dark, it is destructive because she places her own personal interest over public interest[.] [w]ith her presence in my court, the public will definitely suffer, and so the judiciary. I as a judge will suffer. **I am demoralized with this rotten system of appointing an unfit applicant. I am unhappy right now of her appointment, and it will affect my enthusiasm and productivity in court. I expressed my disgust**

<sup>49</sup> Rollo (A.M. No. MTJ-13-1836), pp. 115-116.

*Jeffrey L. Lopez*

**unabashedly before the Chief of OAS and the lawyer from the Legal Department, and so I felt discourteous as I was a victim of discourtesy here.** For showing lack of delicadeza, Leilani Lopez was rejected openly[,] verbally[,] and in writing, made to her by me and my court staff [sic] for numerous times, thus she is callous and discourteous.

Leilani Lopez deceived me by giving me a formal letter of her withdrawal of application, only to find out yesterday that she filed her waiver of withdrawal which disclosure should have been made to me by her in good faith. This qualifies her for the crime of Other Deceits under Article 318 of the Revised Penal Code. In doing this, she does not have my trust and confidence, a biting reality since the time she applied for the position until her numerous rejections. Dishonesty encompasses all that deviates sense of honesty. Our workplace provides that “Dishonesty is a serious offense which reflects a person’s character and exposes the moral decay which virtually destroys honor, virtue, and integrity. It is a malevolent act that has no place in the judiciary, as no other office in the government service exacts a greater demand for moral righteousness from an employee than a position in the judiciary.” If Leilani Lopez has a gull [sic] to deceive me at this point in time, giving me her formal withdrawal letter and filing her waiver of her withdrawal letter without my knowledge, and this was not disclosed to me by her despite her opportunities to do so, this meant that she has a dishonorable and vicious character, undeserving to be in my court. She did this deceitful conduct to me and she showed unpredictable actuations to me and to the Board while she is still an applicant, she will most likely do it as a branch clerk of court in my sala. And so I will always be wary with her presence in my court, and it is a tremendous mental stressor for me as a judge.

With due respect, **there was a misconstruction of the laws on selection and appointment of court personnel by the Board,** it presupposes that all the applicants submitted for consideration by the Board must have good and harmonious working relationship with a judge he or she will work with and so the judge must have assented or agreed to the proposed application of all applicants, expressly or impliedly. If an appointed applicant is not the liking of the judge, there will be disharmony in the court. The working relationship with [sic] be based on mistrust and distrust. It will not accomplish anything good for the judiciary as a whole. Each other’s working life as a judge and as a branch clerk of court will be miserable. This is not the spirit of the letter of all the laws pertaining to selection and appointment of Supreme Court employee aspiring for confidential position such as branch clerk of court. In fact, I believe that the branch clerk of court must be co-terminus with a judge’s assignment in a particular court. **I do not engage in a power play, it happens that the personal indorsement of a branch clerk of court is my prerogative as a judge and I want to exercise that prerogative to accomplish excellently in my judicial and non-judicial tasks. There were substantive and procedural flaws with her selection and appointment as branch clerk of court. The laws surrounding the irregular appointment of Leilani Lopez, including the fact of not resolving my grievance prior to her appointment, were misapplied in her case. We do not uphold the laws that cause quarrel and dissension in court. Assuming Leilani Lopez took her oath of an irregular appointment which she is aware of, my**

*gly for [unclear]*

**recourse as a judge is to ask for her detail to another court, preferable to the Selection and Promotion Board.** This will not contribute for the success of my court in the interest of public service. Our workplace deprived me of a court staff who I can completely trust, and help me accomplish great things in the judiciary. The Board deprived me already of my prerogative to choose my branch clerk of court, and so I want this deprivation to be put on record. If I lose this legal battle in this workplace, I am a winner because I brought to your attention, and all Supreme Court justices, ultimately the public, such unrighteous and unjust manner of selecting and appointing a branch clerk of court. **You may have been misled by the Board in signing her appointment. You have many things to do as Chief Justice, sometimes, you may not have read the minutes of Board and merely followed its recommendation.** As a judge, I have my rights and privileges, and far more considered than the rights and privileges of an applicant for a branch clerk of court, a virtual stranger to me at the time of her application, and now her character is dubious to me. **Imagine, this kind of irregular appointment invites suits and casts disrepute amongst us, I doubt if this is what our Supreme Court envisions or our Constitution dreams for the Supreme Court.** I re-plead all my letters and the attachments dated June 15 and 16, 2011 pertaining to the appointment of Leilani Lopez that were furnished to the Office of the Court Administrator and to you to form part of this formal protest. Attached herewith is a formal complaint against Leilani Lopez. (Emphasis supplied)

I am requesting for a Solomonic resolution of this protest.

Thank you.

Judge Yu submitted a supplemental formal protest dated June 28, 2011 describing the appointment to be “*tainted with irregularity in gross violation of the substantive and procedural laws*” and “*void ab initio*” for failure to obtain the favorable recommendation from her as the presiding judge.<sup>50</sup> She argued that the OCA-SPBLC had failed to assess the competence and qualifications of Ms. Tejero-Lopez; that Ms. Tejero-Lopez did not meet the minimum requirements for the position; and that the position of Branch Clerk of Court was confidential.

In view of Judge Yu’s refusal to honor her appointment, Ms. Tejero-Lopez requested Executive Judge Colasito through her letter of June 11, 2011 for her detail to another office.<sup>51</sup>

Ms. Tejero-Lopez ultimately executed a *sinumpaang salaysay* charging Judge Yu with refusal to obey court order.<sup>52</sup>

<sup>50</sup> *Rollo* (A.M. No. MTJ-13-1836), pp. 239-244.

<sup>51</sup> *Rollo* (A.M. No. 11-2378-MTJ), p. 159.

<sup>52</sup> *Rollo* (A.M. No. MTJ-12-1815), pp. 1-2.



On September 12, 2011, the Court dismissed Judge Yu's protest against the appointment of Ms. Tejero-Lopez.<sup>53</sup>

Judge Yu was undaunted, however, and she filed a motion for reconsideration,<sup>54</sup> attaching the motion to her supplemental explanation.<sup>55</sup>

## **II. Appointment of Ms. Mariejoy P. Lagman, Clerk III, RTC Branch 108, Pasay City**

In June 2010, Judge Yu initiated a complaint, docketed as A.M. No. P-12-3033 (formerly A.M. No. 10-8-97-MeTC), entitled *Memoranda of Judge Eliza B. Yu Issued to Legal Researcher Mariejoy P. Lagman and to Court Stenographer Soledad J. Bassig, All of Metropolitan Trial Court, Branch 47, Pasay City*, against Ms. Mariejoy P. Lagman, Legal Researcher II of Branch 47, for grave misconduct, falsification, usurpation of judicial functions and dishonesty.

Citing "pressure within the working environment" and in order to have "a self-assured and peaceful mind," Ms. Lagman requested her transfer to another branch of the MeTC pending the hearing of the complaint against her.<sup>56</sup> Eventually, the Court appointed her as Clerk III of Branch 108 of the RTC in Pasay City effective October 5, 2010, a demotion from her position as Legal Researcher in Branch 47.

Apparently, Ms. Lagman's appointment did not sit well with Judge Yu, who assailed it before the OCA-SPBLC as a "fast appointment" for being made despite her pending administrative complaint.<sup>57</sup>

On May 2, 2011, the OCA received a letter from Judge Yu requesting for updates on the alleged delay in the appointment of a clerk of court in her branch, and her protest against the appointment of Ms. Lagman, among others.<sup>58</sup> She thereby threatened to file formal charges against the members of the OCA-SPBLC, thus:

<sup>53</sup> *Rollo* (A.M. No. MTJ-13-1836), pp. 414-415.

<sup>54</sup> *Id.* at 410-412.

<sup>55</sup> *Id.* at 408-409.

<sup>56</sup> *Id.* at 25.

<sup>57</sup> *Id.* at 19-20.

<sup>58</sup> *Id.* at 18.



Sir:

I am requesting your office to furnish me the information on the following:

(1) x x x;

(2) x x x;

(3) x x x;

(4) The report of an investigation of the very delayed appointment of our Branch Clerk of Court, the position is vacant for over three (3) years now;

(5) x x x; and

(6) The report of an investigation on the appointment of Ms. Mariejoy P. Lagman in RTC Branch 108, Pasay City despite the pending administrative cases involving grave offenses against her.

I am requesting Atty. Wilma D. Geronga, Chief of Legal Department, Docket and Clearance Division of your office, to docket my letter dated April 28, 2011 together with the attachments addressed to the Selection and Promotion Board for the Lower Courts that said office received on the same day touching on the foregoing matters for the conduct of full investigation because I will take the appropriate action. **I will not hesitate to press formal charges against your office if there was a transgression of the laws and if still necessary.** (sic) **Stamping out corruption of any form is one of my advocacies in life.**(Emphasis supplied)

Thank you.

The OCA filed a memorandum denouncing the misconduct and insubordination of Judge Yu relative to the appointments of Ms. Tejero-Lopez and Ms. Lagman.<sup>59</sup>

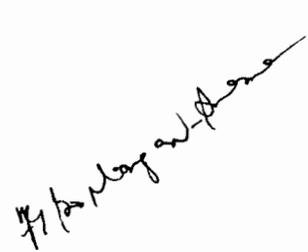
On January 30, 2012, the Court required Judge Yu to show cause and explain why she should not be disciplined for her actions.<sup>60</sup>

In her explanation,<sup>61</sup> Judge Yu denied the allegations, and maintained that she had only exercised her freedom of speech; that it was her “statutory right as a judge” to question the “irregular appointment” of a branch clerk of

<sup>59</sup> Id. at 1-17.

<sup>60</sup> Id. at 227-228.

<sup>61</sup> Id. at 229-234.



court whom she believed to be lacking in the basic requirements for the position;<sup>62</sup> that it was “strange to have a jurisprudence on alleged misconduct and insubordination of a judge” based on mere letters; that her letters were privileged communications and could not be used against her, pursuant to her constitutional right against self-incrimination;<sup>63</sup> that she had no evil intention in writing her letters because she was thereby only expressing her honest-to-goodness opinion without fear of censorship.<sup>64</sup>

**A.M. No. 12-109-METC**

***(Re: Letter dated 21 July 2011 of Executive Judge Bibiano G. Colasito and Three (3) Other Judges of the Metropolitan Trial Court, Pasay City, For the Suspension or Detail To Another Station of Judge Eliza B. Yu, Branch 47, Same Court)***

**A.M. No. 11-2399-MTJ**

***(Amor V. Abad, et al., v. Hon. Eliza B. Yu); and***

**A.M. No. 11-2378-MTJ**

***(Executive Judge Bibiano G. Colasito, et al. v. Hon. Eliza B. Yu)***

A.M. No. 11-2399-MTJ refers to the complaint<sup>65</sup> filed by the court staff of MeTC Branch 47 charging Judge Yu with grave misconduct, oppression, gross ignorance of the law and violation of the *Code of Judicial Conduct*.

In OCA IPI No. 11-2378-MTJ, four MeTC Judges and 70 MeTC court personnel assigned in Pasay City filed two affidavit-complaints dated May 12, 2011<sup>66</sup> and July 14, 2011,<sup>67</sup> accusing Judge Yu with: (1) gross insubordination; (2) refusal to perform official duty; (3) gross ignorance of the law or procedure; (4) serious and grave misconduct constituting violations of Canon 3, Rules 3.0 and 3.08 of the *Code of Judicial Conduct* in relation to Canon 6 of *The New Code of Judicial Conduct of the Philippine Judiciary*; Sections 1 and 2, Canon 2 of the *New Code of Judicial Conduct*; and Sections 1 and 2, Canon 4 of the *Code of Judicial Conduct*; (5) violation of Supreme Court rules, directives and circulars; (6) violation of Canon 1 of the *Code of Professional Responsibility*; (7) violation of the Lawyer’s Oath

<sup>62</sup> Id. at 229.

<sup>63</sup> Id. at 231.

<sup>64</sup> Id. at 233-234.

<sup>65</sup> *Rollo* (OCA IPI No. 11-2399-MTJ), pp. 1-9.

<sup>66</sup> *Rollo* (OCA IPI No. 11-2378-MTJ), pp. 1-17.

<sup>67</sup> Id. at 127-151.

*B. B. Delgado*

and her oath of office as judge; (8) oppressive conduct; and (9) violation of Article 231<sup>68</sup> of the *Revised Penal Code*.

A.M. No. 12-109-METC relates to the Letter dated July 21, 2011<sup>69</sup> sent by her fellow Pasay City MeTC Judges, namely: Executive Judge Bibiano G. Colasito (Branch 45), Vice-Executive Judge Bonifacio S. Pascua (Branch 44), Judge Restituto V. Mangalindan (Branch 46), and Judge Catherine P. Manodon (Branch 48), requesting Judge Yu's immediate suspension or detail to another station pending investigation of all the administrative cases filed against her.

The common issue in the three complaints concerned the conduct of Judge Yu in relation to her staff, fellow Judges and other officers of the Supreme Court, her disobedience of the Court's issuances, and her manner of disposing cases.

### **I. Oppressive conduct towards her staff**

The complaining staffmembers of MeTC Branch 47 claimed that Judge Yu had constantly threatened them with administrative complaints;<sup>70</sup> that she had readily attributed malice upon their actions, and had sown intrigue against their honor;<sup>71</sup> that she had impulsively declared in open court during the hearing of the case docketed as Civil Case No. M-PSY-10-12032-CV entitled *Fabra v. Global Classe* that they had engaged in irregular conduct;<sup>72</sup> that she had berated Mr. Ferdinand Santos even in front of all the other staff members;<sup>73</sup> and that she had harassed the personnel who had brought administrative complaints against her (*i.e.* by refusing to sign the applications for leave of Noel Labid and Robert Froilan Thomas, and by requiring them to submit unwarranted documents).<sup>74</sup>

The complaining staffmembers recalled that at one time they had overheard the respondent uttering:

<sup>68</sup> Article 231. *Open disobedience*. — Any judicial or executive officer who shall openly refuse to execute the judgment, decision or order of any superior authority made within the scope of the jurisdiction of the latter and issued with all the legal formalities, shall suffer the penalties of *arresto mayor* in its medium period to *prision correccional* in its minimum period, temporary special disqualification in its maximum period and a fine not exceeding 1,000 pesos.

<sup>69</sup> *Rollo* (A.M. No. 12-1-09-MeTC), pp. 48-49.

<sup>70</sup> *Rollo* (OCA IPI No. 11-2378-MTJ), p. 3.

<sup>71</sup> *Rollo* (OCA IPI No. 11-2399-MTJ), p. 4.

<sup>72</sup> *Id.*

<sup>73</sup> *Rollo* (OCA IPI No. 11-2399-MTJ), p. 2.

<sup>74</sup> *Rollo* (OCA IPI No. 11-2378-MTJ), p.135-136.

*Handwritten signature*

*Mananalo tayo sa kaso sila ang mali. Tayo ang matuwid hindi sila. x x x Ferdie, ready na nga pala yung permit to carry ko. Magdadala ako ng baril, Cal 45.*<sup>75</sup>

by which they had felt threatened; and that seeing the door to the respondent's chamber left wide open, they had sought refuge in the offices of her fellow Judges.<sup>76</sup>

Judge Yu also trained her sights on the Pasay City MeTC personnel when she requested ACA Bahia to audit the Office of the Clerk of Court for allegedly unremitted fees paid for the *ex parte* presentations of evidence in replevin cases.<sup>77</sup> This incident, according to the complaining staffmembers, caused demoralization among the Pasay City court personnel.

## **II. Disrespectful attitude towards co-judges, SC officers and offices**

The complainant Judges charged Judge Yu with being disrespectful towards other Judges when she wrote Vice Executive Judge Caridad G. Cuerdo of the RTC Branch 113, and accused Executive Judge Pedro B. Corrales of the RTC Branch 118, Judge Maria Rosario B. Ragasa of the RTC Branch 108, MeTC Executive Judge Colasito, and MeTC Vice-Executive Judge Pascua with violations of Canon 1, Section 3 and Canon 2, Section 3 of the *New Code of Judicial Conduct*, and violation of Section 1, paragraph (c) of Presidential Decree No. 1829 (*obstruction of justice*).<sup>78</sup>

Allegedly, Judge Yu used her OIC Ferdinand A. Santos in sending the letter to Clerk of Court IV Miguel C. Infante.<sup>79</sup> The letter insinuated that Judge Gina Bibat-Palamos and Judge Josephine Vito-Cruz had failed to act despite their knowledge on the purported selling of decisions by court employees, pertinently stating:<sup>80</sup>

Lastly, this court experienced few attempts to withdraw cash bond without motions by including in the orders granting release of cash bonds, including those confiscated, and the public prosecutor did not object for failure to read previous order of confiscation, presumably such order is detached from the court records, as there are instances the pleadings,

<sup>75</sup> *Rollo* (OCA IPI No. 11-2399-MTJ), pp. 7-8.

<sup>76</sup> *Rollo* (A.M. No. 12-109-MeTC), pp. 1-2.

<sup>77</sup> *Id.* at 128; see letter dated May 5, 2011 addressed to ACA Thelma C. Bahia.

<sup>78</sup> *Id.* at 126.

<sup>79</sup> *Rollo* (A.M. No. 11-2378-MTJ), pp. 183-184.

<sup>80</sup> *Id.*

*Handwritten signature: 19/10/2011*

motions and oppositions are removed from the records, then attached again after investigation of the court as to where is the particular paper. This is something old because for example, Acting Judge Josephine Vito-Cruz was able to sign commitment orders when records show that the accused was arrested and detained already, and this fact was on paper immediately preceding the order that she can read it, if it was not detached and attached again after her order; she was able to sign orders on two arraignments of same accused in different dates in several occasions, and this court noted that in calendaring, there were attempts to mislead by writing it is for arraignment instead of pre-trial that to relay on it, the court will issue two arraignment orders; and lost or detached exhibits that she decided on such point only to know later on the receiving copy of the plaintiff that she decided adversely in the case of *Equitable vs. Chua Ty Kuen*, Civil Case No. 2-03 for Replevin, as it seems the modus operandi is to win or dismiss cases by argument that the evidence are photocopies, as also in this court's experience in case of *People vs. Basa*, CC-00-1988 for Reckless Imprudence decided on June 28, 1010, the material exhibits are photocopies, some are not attached in the court records despite existence in the minutes and transcript of records, all these examples are presumably, are warnings of existence of wicked harm in this court. Thus, your office should scrutinize release of cash bonds. Of course, there were complaints of alleged selling of decisions by court staff in cahoots with each other during Judge Gina Palamos and Judge Josephine Vito Cruz who were aware of this money-making devious scheme.

This court hopes that your office will take note of this letter which the contents here were supplied by our judge that deserves to be acted upon swiftly by the Office of the Court Administrator to eradicate, if not lessen corruption in the judiciary.

Moreover, Judge Yu issued a resolution in Civil Case No. B-03-08 entitled *Rodelio Hilario v. Shirley Pabilona*,<sup>81</sup> whereby she declared that she was not the co-equal of Judge Vito-Cruz of the Municipal Trial Court in Cardona, Rizal, as follows:

With due respect, the principle of "co-equality" between the two courts provided in paragraph 5 of the motion for reconsideration, to wit, "In essence, the incumbent Presiding Judge cannot over-rule the regular procedure adopted by her predecessor judge, because they are of the same level," finds no application in this case because a predecessor's judge orders can be interfered and encroached upon by the incumbent judge when they are contrary to the principle of equity, existing law and jurisprudence. **Moreover, the predecessor judge, Honorable Josephine A. Vito Cruz is a Municipal Trial Court Judge of Cardona, Rizal while undersigned is a Metropolitan Trial Court Judge of Pasay City, their salary grades are not at par with each other so it is quite incorrect with defendant's counsel declaration that the predecessor**

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<sup>81</sup> Id. at 52-67.



**judge and the incumbent judge are of the same level.**<sup>82</sup> (Bold emphasis supplied)

Aside from her failure to accord the respect due her fellow Judges, Judge Yu was overheard uttering disparaging remarks against Court officers. In one instance, after the OCA-SPBLC had recommended Ms. Tejero-Lopez to the position of Branch Clerk of Court, Judge Yu made the following statement against Court Administrator Marquez, to wit:

*Yang si Midas Marquez na iyan napaka-highly incompetent, kung lalaki lang ako sinuntok ko na iyan, basta gwapo at maganda, mga walang utak. Oh, tandaan nyo yan ha! Iyang OCAD kalaban natin hindi kakampi.*<sup>83</sup>

Judge Yu also said at another occasion:

*Iyang auditor na Cielo na iyan, traidor, sana noong pinakain ko nilagyan ko na lang ng lason.*

referring to SC Auditor Cielo Calonia who had earlier denied having informed her about court personnel profiting from the collection of *ex parte* fees.<sup>84</sup>

The complainants claimed that Judge Yu's disrespectful attitude towards her fellow Judges and the Court's officials constituted a violation of Section 3 of Canon 1, and Section 3 of Canon 2 of *The New Code of Judicial Conduct*.

### **III. Gross ignorance of laws, rules and regulations**

The complaining staffmembers averred that Judge Yu: (a) had assigned the duty of correcting draft decisions, orders and resolutions to on-the-job trainees (OJTs) in violation of Memorandum Circular No. 5-2003 entitled *Re: Prohibiting the Accommodation of Students to Undergo On-The-Job Training/Practicum in the Different Offices of the Court*; (b) had designated an Officer-in-Charge (OIC) for Branch 47, who did not possess the minimum qualifications for the position and without approval from the

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<sup>82</sup> Id. at 60.

<sup>83</sup> Id. at 9.

<sup>84</sup> Id. at 10; also *rollo* (OCA IPI No. 11-2399-MTJ), p. 7.

*J. B. Lujan, Jr.*

Court; and (c) had ordered her staff to advertise and offer for sale the books she had authored in violation of SC Administrative Circular No. 09-99.<sup>85</sup>

The complainants in A.M. No. 11-2399-MTJ and OCA IPI No. 11-2378-MTJ alleged that Judge Yu: (a) had authorized the prosecution of Criminal Case No. M-PSY-09-08592-CR entitled *People v. Ramil Fuentes, et al.*<sup>86</sup> without the presence and prior endorsement of the public prosecutor; (b) had allowed the arraignment of the accused in Criminal Case No. M-PSY-11-13957-CR entitled *People v. Balwinder Singh*,<sup>87</sup> and the change of plea by the accused in Criminal Case No. M-PSY-11-13159-CR entitled *People v. Lito Manduriao*<sup>88</sup> in the absence of the public prosecutor;<sup>89</sup> (c) had ordered the presentation of *ex parte* evidence in Civil Case No. M-PSY-11-12626-CV before the OIC who was not a member of the Bar in violation of Section 9, Rule 30 of the *Rules of Court*;<sup>90</sup> and (d) had required the plaintiffs in replevin cases to submit receipts of payment of legal fees under Sections 8(e) and 21(e) of Administrative Circular No. 35-2004, as well as an explanation why they were making payments to the OIC and stenographers during the *ex parte* presentation of evidence.<sup>91</sup>

Judge Yu was being held to account also for her failure to protect and uphold the dignity of her court by not castigating the opposing counsels who had physically attacked each other during court proceedings. She was heard to have remarked: *Hindi ko sila kinontempt kasi wala naman akong mabibenefit.*<sup>92</sup>

In her comment,<sup>93</sup> Judge Yu denied the accusations, and attributed malice and fraud to all the complainants, branding their accusation as the manifestation of a “tyranny in numbers.”<sup>94</sup> She dismissed the charges against her as false, frivolous, meritless, and intended to harass her<sup>95</sup> and destroy her

<sup>85</sup> *Rollo* (A.M. No. 11-2399-MTJ), pp. 2-3.

<sup>86</sup> *Rollo* (A.M. No. 11-2378-MTJ), pp. 38-51.

<sup>87</sup> *Rollo* (A.M. No. 11-2399-MTJ), p. 15.

<sup>88</sup> *Id.* at 25.

<sup>89</sup> *Rollo* (OCA IPI No. 11-2399-MTJ), pp. 16-24; the complainants in A.M. No. MTJ-12-1815 alleged that Judge Yu also allowed the prosecution of the following cases without the presence of the public prosecutor, *viz.*: Criminal Case No. M-PSY-11-14002-CR (*People v. Chudee Morales Dulay*); Criminal Case No. M-PSY-11-13956 (*People v. Regielyn Hidalgo*); Criminal Case No. M-PSY-11-13986-CR (*People v. Jennifer Alcantara*); Criminal Case No. M-PSY-11-13991-CR (*People v. Cris Gonzaga*); Criminal Case No. M-PSY-11-13446-CR (*People v. Sps. Joselito Lacsamana, et al.*); Criminal Case No. M-PSY-11-13510-CR (*People v. Vicente Guillermo*); Criminal Case Nos. M-PSY-10-12631-CR and M-PSY-10-12632 (*People v. Lorna Boto*); Criminal Case Nos. M-PSY-10-12228-CR and M-PSY-10-12229-CR (*People v. Evangelina Arias*); Criminal Case No. M-PSY-10-11902-CR (*People v. Anecito Basada*).

<sup>90</sup> *Rollo* (A.M. No. MTJ-11-2378), pp. 6, 33.

<sup>91</sup> *Id.* at 131-135.

<sup>92</sup> *Rollo* (OCA IPI No. 11-2399-MTJ), pp. 3-4.

<sup>93</sup> *Id.* at 42-56; (A.M. No. 11-2378-MTJ), pp. 73-89; (A.M. No. 12-1-09-MeTC), pp. 437-453.

<sup>94</sup> *Rollo* (A.M. No. 11-2378-MTJ), p. 74; (A.M. No. 12-1-09-MeTC), p. 438.

<sup>95</sup> *Rollo* (A.M. No. 11-2378-MTJ), p. 437.

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reputation.<sup>96</sup> She declared that she did not know most of the court employees who had executed and signed the complaint; and warned that they had opened themselves to criminal, civil and administrative liabilities by signing the complaint.<sup>97</sup>

Anent the charges of gross ignorance of the law, Judge Yu contended that the students who were OJTs had sought permission to report to her court in compliance with their school requirements, but they were told not to carry on judicial tasks;<sup>98</sup> that the memorandum dated November 2, 2010 was not followed, and was not officially given because of the prohibition against OJTs in the courts;<sup>99</sup> that Ms. Angelica Rosali had acted only as an observer to comply with her school requirements, as an accommodation of the request of her (Judge Yu's) parents;<sup>100</sup> that her designation of Mr. Santos as an OIC did not violate CSC Memorandum No. 6-2005 because the position of OIC required trust and confidence;<sup>101</sup> that she did not order her staffmembers to sell and advertise her books;<sup>102</sup> that she had cited the counsels disrupting the court proceedings with contempt of court and had imposed the corresponding fines on them;<sup>103</sup> that there was recent jurisprudence allowing a trial to proceed even in the absence of the public prosecutor provided no prejudice was caused to the State;<sup>104</sup> that there was a need to verify the case records with respect to the allegations that she had allowed the prosecution of criminal cases in the absence of the public prosecutor because of the complainants' propensity to falsify documents; that the complainants were not the proper parties to raise any issues related to the criminal proceedings;<sup>105</sup> that there were provisions of the *Rules of Court* allowing the waiver of certain rights according to the agreement of the parties;<sup>106</sup> and that the provision on reception of *ex parte* evidence is merely directory because of the word "may."<sup>107</sup>

<sup>96</sup> *Rollo*, (A.M. No. 11-2378-MTJ), p. 80.

<sup>97</sup> *Id.* at 73; (A.M. No. 12-1-09-MeTC), p. 437.

<sup>98</sup> Ms. Angelica Rosali, one of the OJTs, submitted an affidavit denying the charges against the respondent. (see *Sinumpaang Salaysay [Rollo]*, OCA IPI No. 11-2399-MTJ, pp. 57-58); the other OJTs, namely, Ms. Johaira O. Mababaya, Ms. Catherine L. Sarate and Mr. Eduardo M. Pangilinan III, executed a joint affidavit (*id.* at p. 76) stating that they had only acted as assistant to court stenographer Mr. Froilan Robert L. Tomas during their court observation.

<sup>99</sup> *Rollo* (OCA IPI No. 11-2399-MTJ), p. 43; see also letter dated September 5, 2011 (*rollo* [OCA IPI No. 11-2399-MTJ], pp. 145-B-149).

<sup>100</sup> *Id.* at 44.

<sup>101</sup> *Id.* at 45-46.

<sup>102</sup> *Id.* at 47-49.

<sup>103</sup> *Id.* at 49.

<sup>104</sup> *Rollo* (OCA IPI No. 11-2378-MTJ), p. 86; (A.M. No. 12-1-09-MeTC), p. 450. In her letter dated August 7, 2011 addressed to Court Administrator Marquez, ACA Bahia and Atty. Geronga, the respondent cited *People v. Malinao* (G.R. No. L-63735, April 5, 1990, 184 SCRA 148) where the Court held that the absence of the public prosecutor at the trial was not prejudicial to the accused because the witness had only testified on the autopsy report without any objection being interposed by the appellant's counsel, and the Defense waived the public prosecutor's presence (*Rollo* [OCA IPI No. 11-2378-MTJ], pp. 235-236).

<sup>105</sup> *Rollo* (OCA IPI No. 11-2399-MTJ), p. 50.

<sup>106</sup> *Id.*

<sup>107</sup> *Rollo* (OCA IPI No. 11-2378-MTJ), p. 248.

*Handwritten signature: J. B. ...*

As to the charge of oppression, Judge Yu countered that she had always been kind and generous towards her staffmembers;<sup>108</sup> that she did not humiliate Mr. Santos;<sup>109</sup> that she did not terrorize her staffmembers, although she had displayed her anger and displeasure whenever they committed irregularities;<sup>110</sup> that she had not sown intrigues against her staffmembers, but had constantly reminded them to refrain from committing any graft and corrupt practices;<sup>111</sup> that in the hearing of the case of *Fabra v. Global Classe*, she had only replied to the manifestation made by Atty. Agustin Javellana regarding the false and irresponsible acts of her court staffmembers;<sup>112</sup> that the alleged threat in relation to her licensed firearm was untrue; and that the entering of the incident in the police blotter was libelous.<sup>113</sup>

Judge Yu denied uttering statements against Court Administrator Marquez, and SC Auditor Calonia.<sup>114</sup> She said that as far as the resolution alluding to Judge Vito Cruz was concerned, the court minutes were falsified, as to which Ms. Soledad Bassig and the lawyers were co-conspirators; that she harbored no ill will towards Judge Vito-Cruz; that such statement was a rejoinder to the unfair comments of the defendants' lawyer;<sup>115</sup> that the statement "spoke of the truth" and was not, therefore, defamatory;<sup>116</sup> that in not furnishing to her the memorandum regarding the resolution prior to filing the administrative complaint, Executive Judge Colasito had deprived her of the opportunity to amend the same "just to suit their whims, caprices and fancies;" and that the filing of the administrative complaint against her had been done treacherously.<sup>117</sup>

**OCA IPI No. 12-2456-MTJ**  
***(Judge Bibiano G. Colasito, et al., all of the***  
***Metropolitan Trial Court [MeTC] Pasay City***  
***v. Judge Eliza B. Yu, MeTC, Branch 47, Pasay City)***

This administrative matter concerned the letter dated January 12, 2012<sup>118</sup> signed by MeTC Executive Judge Colasito, Vice-Executive Judge Bonifacio S. Pascua, Judge Restituto V. Mangalindan, Jr., and Clerk of Court Miguel C. Infante charging Judge Yu with oppression in issuing the

<sup>108</sup> Id. at 80-81.

<sup>109</sup> *Rollo* (OCA IPI No. 11-2399-MTJ), p. 47; see Affidavit of Mr. Ferdinand Santos, at 74-75.

<sup>110</sup> *Rollo* (OCA IPI No. 11-2378-MTJ), p. 83; (A.M. No. 12-1-09-MeTC), p. 447.

<sup>111</sup> *Rollo* (OCA IPI No. 11-2399-MTJ), p. 49.

<sup>112</sup> Id. at 50.

<sup>113</sup> Id. at 54-56.

<sup>114</sup> *Rollo* (OCA IPI No. 11-2378-MTJ), pp. 85-86; (A.M. No. 12-1-09-MeTC), pp. 449-450; (OCA IPI No. 11-2399-MTJ), pp. 51-53.

<sup>115</sup> *Rollo* OCA IPI No. 11-2378-MTJ), pp. 86-87; (A.M. No. 12-1-09-MeTC), pp. 450-451.

<sup>116</sup> Id. at 251.

<sup>117</sup> Id. at 253.

<sup>118</sup> *Rollo* (OCA IPI No. 12-2456-MTJ), p. 1.

*J. B. Colasito*

order dated December 1, 2011<sup>119</sup> in Criminal Case No. M-PSY-09-08592-CR entitled *People v. Ramil Fuentes, et al.*, viz.:

The stenographer in this case Romer Aviles is directed to make and attach the transcript of stenographic notes (TSN) dated September 7, 2011 within ten (10) days from receipt of this order copy furnished to Court Administrator Jose Midas P. Marquez and Assistant Court Administrator Thelma C. Bahia by the process server Maxima Sayo with corresponding return and proof of service and to surrender the tape containing the recorded proceedings on said date to the Officer-in-Charge Ferdinand Santos. Failure to comply with this will compel this Court to issue show cause for contempt of court against the responsible stenographer. Moreover, **he and Executive Judge Bibiano Colasito, et al. who are signatories in the false and malicious complaint under OCA IPI No. 11-2378-MTJ alleging gross ignorance of the law of this Court by surreptitiously taking a TSN, minutes and order dated March 22, 2011 of this case on the absence of public prosecutor, when a trial can proceed without public prosecutor is allowed under our existing jurisprudence is directed to explain within seventy-two (72) hours from the receipt of this order why they should not be cited in contempt of court under Rule 71, Section 3(a) and (d) of the Revised Rules of Court.** Process server Maxima Sayo is directed to personally serve copies of this order to Executive Judge Bibiano Colasito et al., with corresponding return.

**Tentatively set the contempt proceedings February 15, 2012 at 8:30 a.m.**

SO ORDERED. (Bold emphasis supplied)

To avert a crisis and disharmony in the Pasay City MeTCs, the Court suspended Judge Yu from office effective February 1, 2012.<sup>120</sup>

In her comment, Judge Yu maintains that she validly issued the subject order by virtue of the inherent contempt powers of the court,<sup>121</sup> and in accordance with the rulings in *People v. Godoy* and *Salcedo v. Hernandez*;<sup>122</sup> that the complainants should have availed of the appropriate relief in questioning the order instead of filing the administrative complaint; and that the OCA could not rule on the propriety of issuing the subject order because doing so was beyond the OCA's power and prerogative.<sup>123</sup>

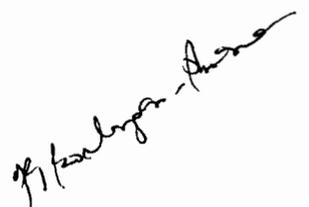
<sup>119</sup> *Rollo* (OCA IPI No. 12-2456-MTJ), p. 2.

<sup>120</sup> *Rollo* (A.M. No. 12-1-09-MeTC), p. 410.

<sup>121</sup> *Rollo* (OCA IPI No. 12-2456-MTJ), p. 4.

<sup>122</sup> *Id.* at 14-16.

<sup>123</sup> *Id.*



**OCA IPI No. 11-2398-MTJ**  
***(Josefina G. Labid v. Judge Eliza B. Yu)***

This administrative matter stemmed from the complaint filed by Mrs. Josefina G. Labid charging Judge Yu with oppression, gross ignorance of the law, and conduct unbecoming of a judge in connection with the fate of her son, Noel, who had served as Utility Worker I at the MeTC Branch 47.<sup>124</sup>

Mrs. Labid narrated that in January 2011, Noel had been diagnosed with “Cancer of the floor of the mouth, Stage IV-A;” that Noel had then applied for leave of absence covering the period of his treatment from January 2011 until March 2011, which Judge Yu had approved without any incident;<sup>125</sup> that being the sole breadwinner of the family, Noel had reported to work on April 4, 2011 against his doctor’s advice; that she (Mrs. Labid) had started noticing that Noel would appear exhausted and weak upon arriving home from work; that Noel had confided to her that Judge Yu had directed him to go to different offices in the Supreme Court to deliver copies of her orders and letters, as well as her books or manuals, despite his medical condition;<sup>126</sup> that shortly after arriving home from work on June 7, 2011, Noel had become delirious and weak due to profuse bleeding in the mouth; that on the following day, she had gone to Branch 47 to inform the staff that Noel would not be reporting to work; that she had then learned that Noel had moved a heavy table inside the office upon the instructions of Judge Yu;<sup>127</sup> that Noel had reported back to work on June 10, 2011, but his bleeding had recurred and he had been constantly brought to the hospital since then;<sup>128</sup> that on June 28, 2011, she had submitted Noel’s applications for leave at Judge Yu’s office covering the periods of June 8 and 9, 2011,<sup>129</sup> and of June 13-30, 2011;<sup>130</sup> that she had returned on July 5, 2011 to the sala of Judge Yu, and had then learned that the latter had not signed Noel’s application; that she was then told by Court Stenographer Roman Aviles to see and talk with Judge Yu; that she had met with Judge Yu in her chambers, and during their conversation, Judge Yu had allegedly remarked:

*Mabait naman ako sa anak mo. Pag-inuutusan ko siya binibigyan ko pa siya ng pera, siguro aabot ng ₱15,000.00 sa isang taon ang maibibigay ko sa kanya. Pero bakit pumirma siya sa petition na nagsasabi na bobo ako*

<sup>124</sup> Rollo (OCA IPI No. 11-2398-MTJ), pp. 1-5.

<sup>125</sup> Id. at 1.

<sup>126</sup> Id.

<sup>127</sup> Id. at 2.

<sup>128</sup> Id.

<sup>129</sup> Id. at 26.

<sup>130</sup> Id. at 25.

*Josefina G. Labid*

*at corrupt? x x x halata pa na dinagdag lang sila ni Emma Sayo kasi di nakatype ang pangalan nila. Kung ganoon ang tingin nila sa akin, bakit di na lang sila magresign?*<sup>131</sup>

that Judge Yu had replied that Noel would be in a better position to address her (Mrs. Labid) concern; that she had begged Judge Yu to sign her son's application for leave, explaining that she had to submit the document before the deadline in order to claim monetary aid from the Supreme Court Health and Welfare Fund; that instead of signing, Judge Yu had left her inside the chambers, and had given instructions to Mr. Santos; that upon her return, Judge Yu had advised that Noel should first submit a medical clearance before she would sign the application for leave; and that she had then appealed to Judge Yu by leaving a handwritten letter requesting the approval on Noel's application.<sup>132</sup>

Mrs. Labid recalled that she had returned the following day to again plead with Judge Yu, but Mr. Santos had prevented her from seeing Judge Yu and had instead handed her a memorandum for her son that reads as follows:

Dear Mr. Labid,

You have been consistently absent in this court due to sickness. As per record, your absences with leave due to treatment of cancer in the court are as follows: for the whole months of February 2011 and March 2011, you also incur several days absences for April and May 2011 while for the months of June, 2011 you incur 15 days absent (June 8, 9, 13, 14, 15, 16, 17, 21, 22, 23, 24, 27, 28, 29, 30, 2011). Being a government (public servant) employee, you are not suppose to be always absent from your work and if the absences are due to sickness, you must submit original copy of medical certificate. Your continued absence in your work affects the performance of this Court that affects also the performance of your co-employees. As per Civil Service Commission ruling; as a general rule, an employee whose continued absence from his work due to his lingering illness, the Department Head, if he sees to it that the performance of his office is much affected because of the continued absence of such the employee, the Department Head in his own discretion, may ask his superior for a replacement of such employee – thus the affected employee may file for permanent disability or terminal leave.

In view of the above matters, you are required to submit the following documents: Certificate of Fitness to Work (if not contagious), Duration of Recovery (from illness) and Certificate of discharge from

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<sup>131</sup> Id. at 2.

<sup>132</sup> Id. at 6-7.

*Asst. Legal Sec.*

the hospital (June 17 and 24, 2011) prior to the approval of your leave of absences for the months of June, 2011.

(sgd)  
Ferdinand A. Santos  
Officer-in-charge<sup>133</sup>

Mrs. Labid believed that Judge Yu had dictated the contents of the memorandum to Mr. Santos after their previous conversation; and that Judge Yu's unjustified refusal to sign Noel's application for leave had been motivated by malice and ill-will, arising from the administrative complaint against her that Noel had signed and joined. She mentioned that her son had later on died on August 15, 2011.<sup>134</sup>

In her comment,<sup>135</sup> Judge Yu denied the imputations of Mrs. Labid. She justified her denial of Noel's application for leave by citing in her undated and unsigned Memorandum<sup>136</sup> the ruling in A.M. No. 2004-41-SC (January 13, 2005) entitled *Re: Memorandum Report of Atty. Thelma C. Bahia against Ms. Dorothy Salgado*. She maintained that Mrs. Labid had not submitted the documents she had required.<sup>137</sup> She denied having received any handwritten letter from Mrs. Labid; and having known of Noel's condition. She insisted that Noel had volunteered to lift the table as part of his job as a utility worker.<sup>138</sup>

**A.M. No. MTJ-13-1821**  
**(Hon. Emily L. San Gaspar v. Hon. Eliza B. Yu)**

This administrative matter emanated from the Letter-Complaint of Judge Emily L. San Gaspar-Gito of MeTC Branch 20,<sup>139</sup> whereby the latter imputed to Judge Yu conduct unbecoming of a judge for constantly sending alarming messages with sexual undertones via Facebook and electronic mail.

Judge San Gaspar-Gito and Judge Yu became acquainted in May 2009 when the latter was the public prosecutor pinch hitting at the MeTC Branch 20 in Manila where the former presided as Judge. They became Facebook friends upon Judge Yu's initiative, and Judge San Gaspar-Gito accepted her

<sup>133</sup> Id. at 17.

<sup>134</sup> Id. at 28.

<sup>135</sup> Id. at 30.

<sup>136</sup> Id. at 43-47.

<sup>137</sup> Id. at 45.

<sup>138</sup> Id. at 46.

<sup>139</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. I, pp. 4-6.

*Emily L. San Gaspar-Gito*

request as a matter of courtesy.<sup>140</sup> Judge San Gaspar-Gito claimed that Judge Yu normally sent long messages that she had ignored most of the time.<sup>141</sup> On August 30, 2009, Judge San Gaspar-Gito received in her Yahoo account a peculiar message from Judge Yu, as follows:

**NATIONAL HEROES DAY'S THANK YOU** Sunday, August 30, 2009 6:02 PM

From: "ELIZA YU" <astrobench@yahoo.com>  
To: [emily\\_san\\_gaspar@yahoo.com](mailto:emily_san_gaspar@yahoo.com)  
1 File (82KB)



MEAL STUB

Hon, thank you for your MEAL STUB ... when and where can I claim it? take care & love you.<sup>142</sup>

Judge Yu sent another message to Judge San Gaspar-Gito's Facebook account with the subject *Meal Stub*, to wit:

August 31, 2009

**Eliza B. Yu**  
**MEAL STUB**

9:20am

dear ems, i sent your meal stub at your yahoo account to honor you this national heroes day. **it's good you gave me an idea of your preferred sexual position, there's no need to study that 69, you'll get it from me spontaneously** ... that's easy, pulled down your underwear, and eat what's in between your thighs ... but you have to pay me \$10 first ... He He He! take care and see you later...<sup>143</sup> (Bold emphasis supplied)

The message contained an attachment similar to the image of a man and a woman juxtaposed in a 69 position appearing in the previous Yahoo message.<sup>144</sup> Judge San Gaspar-Gito ignored both communications, but Judge

<sup>140</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. II, TSN dated August 29, 2013, pp. 663-666.

<sup>141</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. I, p. 4

<sup>142</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. I, Annex "A" of Letter of Mr. Alexander M. Arevalo, Acting Chief of the SC Management Information Systems Office (MISO) dated May 27, 2013, p. 367.

<sup>143</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. I, Annex "D" of Letter of Mr. Arevalo dated May 27, 2013, p. 533.

<sup>144</sup> *Id.*

*Atty. General*

Yu continued sending more puzzling messages to the complainant's Facebook account, *viz.*:

September 1, 2009

**Eliza B. Yu**

11:21pm

**YOUR MEAL STUB ...**

giving me FEVER honey ... YOU ARE KEEPING ME WIDE AWAKE. I need a bath no not a bath ... I need a sex therapist He He He

BLOWN KISS?? I haven't claim yet my meal stub now you are sending me a blown kiss ... why don't you send me your cell no. asap so we can practice your fave 69?

September 2, 2009

**Eliza B. Yu**

7:43am

**PRO LOVE (No Jokening Here)**

YES TO LOVE NO TO LUST!!

Why naman you are heating me up out of your hundreds FB friends?

HHHmmm ... don't fall in love online kasi you

are not supposed to kiss, kiss a pc monitor ... He He He

No dialogues from you lately, are we in a silent "titillating" movie?

Wala ba tayong rehearsals dito? FAMAS award na rin ba tayo?

Buti na lang magaan loob ko sa iyo,

SOUL MATES tayo. Isasauli ko na ang meal stub mo...wala naman nakalagay when and

where to claim, wala ring cell phone no. mo (siguro trip mo lang mag send ng lewd pic kasi photographer ka in your past life, lewd photographer ... He He He).

Dami kong tanong sa iyo, pero impersonal kasi ang

computer kaya wala na akong masyadong tanong online ... maliban sa ano

na ba civil status mo, MAINIT KA MASYADO?? Yung photo profile mo,

di na "cute little devil" ... ikaw ay "red hot and horny"<sup>145</sup> na ... tandaan mo

honey NO TO CYBERSEX! NO TO PHONE SEX! PAY ME \$10 FIRST

BEFORE 69 (prone to HIV AIDS na sexual position ang 69 kaya sa

swimming pool yan ginagawa). Take care and see you later.

September 4, 2009

**Eliza B. Yu**

9:24pm

**2 VISITS**

hey ems, i really miss you, so i plan to visit you at your chamber this sept. 1 and 21. are you available at these dates?? pls. reply. take care and see you later.

**Eliza B. Yu**

9:47pm

<sup>145</sup> Judge San Gaspar-Gito stated that the "cute little devil" being referred to was a photo of her son in a red devil suit, while she was the one alluded to as red, hot and horny as she was wearing a red blouse in a family photo (TSN dated August 29, 2013, *rollo* [A.M. No. MTJ-13-1821], Vol. II, pp. 690-691.

*Handwritten signature: J. San Gaspar-Gito*

hey, wish me good luck for my report tom at justice rene corona's class, it's a "MIXED NUTS" feelings to have a future chief justice as an audience (he's a "terrorist" ... he he he ... but he did not give me a HIGH FEVER unlike you! ha ha ha!) pls. tell me what time you will be at your chamber this sept. 7 and 21 so i can visit you? PREPARE THE \$10. x's and o's.<sup>146</sup>

Confounded, Judge San Gaspar-Gito finally confronted Judge Yu on the messages. Instead of giving a direct reply, Judge Yu continued sending puzzling messages. Their exchanges ran as follows:

September 6, 2009

**Eliza B. Yu**

10:41 a.m.

**CLUELESS INQUIRER**

hey what's that meal stub and 69, got no idea about it? Does my fb send something to everyone? Am i in a game? huh, m wondering!

**Eliza B. Yu**

10:44am

**A TRIBUTE TO ELVIS PRESLEY**

Wise Men say  
only fools rush in  
but I cant help  
falling in love with you

Shall I stay  
would it be a sin  
if I can't help falling in love with you...

Like a river flows, surely to the sea  
Darlin so it goes, somethings are meant to be..  
Take my hand, take my whole life too  
for I can't help fallin in love with you...

Like a river flows, surely to the sea  
Darlin so it goes, somethings are meant to be.:

Take my hand take my whole life too for I can't help  
falling in love with you

for I cant help falling in love with.... You.

x x x x

x x x x

x x x x

September 12, 2009

**Eliza B. Yu**

7:07am

**MOVIES**

<sup>146</sup> Rollo (A.M. No. MTJ-13-1821), Vol. I; Annex "D" of Letter of Mr. Arevalo dated May 27, 2013, p. 534.

*7/9/12 Judge San Gaspar-Gito*

hey since you are a movie buff, watch "BROKEBACK MOUNTAIN", you will enjoy the sex between 2 cowboys in a tent. The 1st sex was made out of lust while the 2nd sex was made out of love! In the movie, the "measure of love was not jealousy but sacrifice."

-----September 14, 2009-----

**Eliza B. Yu** 8:43am

**I'Hymne A l'Amour**

Hey, after watching "Brokeback Mountain", I recommend you to watch "When Night Is Falling", there was a sizzling (red hot) sex between a university literature professor at a religious college and a free-spirited circus performer inside a tent, too just like "Brokeback Mountain". Certainly, you will enjoy "When Night Is Falling" more than "Brokeback Mountain" because you liked Edith Piaf's "I'Hymne A l'Amour."

x x x x            x x x x            x x x x

-----September 17, 2009-----

**Eliza B. Yu** 7:23pm

**MOVIE AGAIN**

Star Cinema's "In My Life," the ABS-CBN Movie outfit's grandest film offering for 2009, earned a record P20 million in ticket sales on its first day of screening. I don't recommend you and Owen this move (but Gener, Tiya and Yaya would enjoy watching this together ... He He He) TAKE CARE!

-----September 18, 2009-----

x x x x            x x x x            x x x x

**Eliza B. Yu** 7:00am

**Some Kind**

honey i'm some kind of sloth at home and enjoy much freedom, and i miss you, tsup! tsup! tsup! take care always. see you later!

-----September 18, 2009-----

**Emily San Gaspar** 11:18pm

I think i would be watching in my life, have you watched it? Is it nice?

-----September 19, 2009-----

x x x x            x x x x            x x x x

**Eliza B. Yu** 4:07pm

**IN MY LIFE**

hey fb sweetie, ems not that i don't want to accompany you in a movie house, it's just that you succeeded heating me up with that 69 meal stub, it will be dangerous ... to watch this in my life movie together, i may go down on you in a movie house ~ that would be highly scandalous ... I will give you a dvd /vcd of it, I will go to video shops for it tomorrow (whether you

*Handwritten signature*

have watched it or not, even I did not recommend it to you) ... i am trying to shrug off a fuzzy, groovy feeling with you, OH NO! anyways, take care, take care, take care, i knew you have convention next week. if you are interested to join with us at GUMBO resto next week, just say so (dean froilan is a great guy, and a genius, interesting to meet him, this i recommend to you). Oh, i still have to give you complimentary copies of my articles published in the lawyers review. you gotta wait, i keep my promises. see you later . x's and o's for you. p.s. movie watching is not my ideal activity with you (it's at the bottom of the list, i rather watch you than tagalog movies).<sup>147</sup>

Judge San Gaspar-Gito decided to deactivate her Facebook account. Yet, the deactivation did not deter Judge Yu from sending messages to Judge San Gaspar-Gito's Yahoo account to express her disagreement over the Facebook deactivation, thus:

[ No Subject ]

Friday, September 25, 2009 6:14PM

From: "ELIZA YU" <luvs2smile2@msn.com>  
To: emily\_san\_gaspar@yahoo.com

Dear Emily, what happened to your FB account?  
I told you to rest, I understand that it's so tiring  
after travelling, our bodies crave sleep!  
If I have your mobile no., I could have flown there  
and joined you. Still, I believe there is plenty of time  
ahead of us. Anyway, I did not mean you stay away  
from Facebook or me... COME ON, tell me, you are joking  
giving up Facebook ... you have over 190 friends, they will  
MISS you. You have my no. still (09175217828), you can contact me,  
you should contact me, I am not running away from you, rain or shine.  
I will stay even I am a problem. Take care always.  
Talk and see you later. Of course, God bless us.<sup>148</sup>

**Facebook**

Monday, September 28, 2009 5:45PM

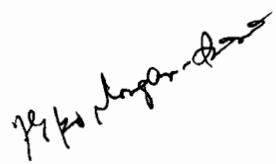
From: "ELIZA YU" <luvs2smile2@msn.com>  
To: emily\_san\_gaspar@yahoo.com

Dear Emily, I raised the issue  
before, about 4 months ago, about your  
membership in Facebook, your  
answer was acceptable ...

Your declaration about consensus  
in the convention seems to be an

<sup>147</sup> Id. at 535-537.

<sup>148</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. I, Annex "B" of Letter of Mr. Arevalo dated May 27, 2013, p. 443.



after-thought, logic rejects it  
as plausible. But I BELIEVE you.  
There is no reason not to TRUST you.  
I also understand the consensus.

Because you seemed HAPPY connecting  
to your friends particularly those very  
far in FB, it's not a smart choice to sacrifice  
your happiness at the expense of consensus.  
Also, there are ways to circumvent  
the consensus' prohibition. You can change your  
name to your nickname, and remove traces that  
will link it to your work. You blended your  
work with your personal life in FB,  
of course your work's nature extend to your  
personal life, the price you pay, not because of  
the demand of your work, it's the price for your  
your idealism with your work. It's up to  
you what perspective you take, you  
are intelligent, you ought to choose the best  
option. Your FB speaks a lot about you.  
You may not talk much about yourself in mails  
but by reading your posts and looking at  
your photos, you give clues of yourself,  
you leave lots of fingerprints online.  
Deactivating it is not the best option,  
For now...

By the way, our office told me, I cannot  
troubleshoot in your court, because you  
have two prosecutors already – NO ROOM FOR ME  
THERE. I told the staff to call you up about this.  
I promised to troubleshoot next month, which  
is not possible to happen. I learned that your  
court was flooded, I was at home when notified,  
I failed to help you clean up the mess. That's why,  
there is the importance of mobile connection.  
Besides, I will only call you if I have your cell no.  
not text you. Anyway, take care always.  
God bless you.<sup>149</sup>

PS

Monday, September 28, 2009 6:06PM

From: "ELIZA YU" <luvs2smile2@msn.com>  
To: emily\_san\_gaspar@yahoo.com

ems, don't be like  
MeTC magistrate (one of  
Your judges pals according to your FB posting) who  
permanently dismissed a case on the ground of

<sup>149</sup> Id. at 446-447.

*By the way - please*

speedy trial when accused  
jumped bail.

When there was a MR by  
the prosecutor, it was  
granted on the basis of  
substantive justice.

Of course, there was double jeopardy  
already, the MR was granted  
correctly. And the pemanent (sic)  
dismissal was wrong.

You are intelligent, you  
finished your law schooling at  
24 years old ranked 5<sup>th</sup> in your  
class ... DO NOT DE-ACTIVATE  
YOUR FACEBOOK FOR MORE THAN  
3 MONTHS.  
Talk and see you later.<sup>150</sup>

**Oh God, I Forgot ...**

Monday, September 28, 2009 8:47PM

From: "ELIZA YU" <luvs2smile2@msn.com>  
To: emily\_san\_gaspar@yahoo.com

Tsup! Honey, next time you re-activate your FB,  
pls. change your...  
PHOTO PROFILE  
DELETE:  
Your Status, Birthday,  
School, Work,  
and all your PHOTOS.  
it's OK to be wild online ...  
Be cautious and prudent.  
Take care always.

Couple of weeks, I will be very busy will [sic] school  
papers due to ending sem and  
my second wind, will re-lobby  
for my promotion.  
Sept 30, I have lunch with ...  
Oct 1, I have dinner with ...  
Oct 2, I have appointment with ...  
Oct 3, I have my last report  
I have dinner at Gumbo for Dean's birthday  
Oct 5, I have lunch at Aristocrat  
Oct 6, I have cocktail at Manila Hotel  
Oct 7, I have appointment at Ajinomoto

<sup>150</sup> Id. at 448.

*JR Gaspar*

Decision

44 A.M. Nos. MTJ-12-1813; 12-1-09-MeTC;  
MTJ-13-1836; MTJ-12-1815; OCA IPI Nos.  
11-2398-MTJ; 11-2399-MTJ; 11-2378-MTJ;  
12-2456-MTJ and A.M. No. MTJ-13-1821

Oct 8, I will meet ...

Oct 9, I will meet another ...

I am regular troubleshooter, too.

I will see you later. Of course, I miss you.

God bless. MWAH! tsup ...<sup>151</sup>

A month after sending the *meal stub* message, Judge Yu apologized for said message, to wit:

**I AM SO SORRY ...** Saturday, October 3, 2009 6:22AM

From: "ELIZA YU" <luvs2smile2@msn.com>

To: emily\_san\_gaspar@yahoo.com

Hello there Emily, I found out that Facebook sent unauthorized gifts (lewd ones) to its account subscribers, I asked my classmates if they sent this and that gift applications and they said no.

I am so sorry for my nonsense replies to that 69 gift application I received from your Facebook account (which you wondered). Now, I believe it was not you who sent it to me. I could have been a Facebook computer system error or maybe a Facebook prank hacker.

I deleted all your emails. I hope you will delete my emails to you also including this email for peace of mind and as a safety measure.

OH FORGET ALL MY EMAILS TO YOU SINCE JUNE AFTER READING & RIDDING THIS APOLOGY EMAIL. Deal??

This is our MOA.

It's a good choice to deactivate your Facebook account – it will bring you good harm. Sometimes, you have to convince yourself that your status has changed a lot, you change friends, you change status, change lifestyle and ... leave Facebook.

I cannot deactivate my Facebook account, it was Dean Froilan Bacungan who invited me to join. I created my Facebook account for him.

Thank you. Take care always.

God bless you.

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<sup>151</sup> Id. at 449.



I'M SO SORRY AGAIN ... I gave you lots  
of trashes online. Anyway, emails are easy to delete.<sup>152</sup>

Judge Yu subsequently sent an e-mail with a subject that read:  
"CONGRATS 4 UR ELECTION AS P.R.O. CDO METC NATIONAL  
CONVENTION, W/ MORE REASON 2 DELETE MY EMAILS 2 U. TY.  
GOD BLESS," but without an accompanying message.<sup>153</sup>

A few weeks later, Judge Yu confronted Judge San Gaspar-Gito  
regarding the reactivation of her Facebook account in the following manner:

**CHILL OUT**

Friday, October 23, 2009 2:13AM

From: "ELIZA YU" <luvs2smile2@msn.com>  
To: emily\_san\_gaspar@yahoo.com  
Hey Milay, I have a trouble shooting assignment  
this coming Monday (October 26) in MeTc Branch 23,  
I will pass by your court for sure,  
I will drop by, unless I'm in a bad mood  
like you today! Chill out ... it's basic, when the answer  
to the question is obvious – DO NOT ANSWER!  
Why did you re-activate your Facebook account?  
Oh No, you gave a wrong answer!  
As expected, you are an Oscar awardee, remember?  
Hhhmmm... lots of Oscar trophies you quite  
collected at Facebook (He He He).  
Nobody can prohibit you in the  
exercise of your POLICE POWER in the  
Facebook – that's the force of lust (He He He).  
Your little siesta wants your photos?

Of course not, you look prettier in person  
than in photos. I don't think your  
prettiest photo can substitute the real you,  
you are so warm in person.  
Take care always.<sup>154</sup>

Judge San Gaspar-Gito was prompted to explain that her sister had  
used her Facebook account,<sup>155</sup> but Judge Yu apparently disbelieved the  
explanation and retorted instead:

<sup>152</sup> Id. at 450.

<sup>153</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. I, Annex "A" of Letter of Mr. Arevalo dated May 27, 2013, p. 451.

<sup>154</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. I, Annex "B" of Letter of Mr. Arevalo dated May 27, 2013, p. 461.

<sup>155</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. I, Annex "A" of Letter of Mr. Arevalo dated May 27, 2013, p. 389.

*Y. San Gaspar-Gito*

Decision

46 A.M. Nos. MTJ-12-1813; 12-1-09-MeTC;  
MTJ-13-1836; MTJ-12-1815; OCA IPI Nos.  
11-2398-MTJ; 11-2399-MTJ; 11-2378-MTJ;  
12-2456-MTJ and A.M. No. MTJ-13-1821

**Be Right Back**

Friday, October 23, 2009 10:42PM

From: "ELIZA YU" <luvs2smile2@msn.com>  
To: emily\_san\_gaspar@yahoo.com

Hello there Ems, the sister act explanation was cool! I'm sure it will be accepted by your MeTCJAP in case it found out you still maintain a Facebook account notwithstanding its express prohibition. Congrats, you seemed to be a member of the "palusot".com! (He He He)

What is the name of your sister? You mean having same parents? Affinity? Sorority? Job-related? Religious Organization? I thought you were the youngest child. Did I hear it right, you said while I was looking at your gold medal on the wall, you have 5 siblings? Going back to your sister, why would she do that? First, isn't she confident enough to be herself online? Second, she is unaware that it will put you in harm by feigning to be you? Third, did you not warn her? Fourth, Why did you tolerate her? You could have changed your password anytime so she cannot have an access.

I thought it was definitely a rude answer (@ yahoo) as to why you re-activated you Facebook account? Only, I cannot judge you or anyone online, it's not my task to do so. As I said before, it is OK to be wild, wild, wild online.

Actually, your FB account was checking my FB account at those times you de-activated it. I laughed at you... oh no, not you... now, your sister for it. Still, it was the reason for my writing of "daily activity" entries at FB – that I was doing OK – after you went "PUFF" at FB, without saying any goodbye. Of course, I may deserve it, you may expect something, I failed to write, like a visit perhaps. But you did not give me your mobile no. so no seeing, only reading mails. Hhhmmm... so your sister got my mobile no. also. It's so cool! There is a possibility, it was your sister, I talked to online or did those stuff which I believed it was you from June to October. Well, then, I should meet your sister! Is she living with your popsie? What is the name your father? Let us then visit them.

Anyway, I have to go, I will visit the Franciscan missionary after this. I will donate biscuits and fruit juices for the abandoned children. I have a favourite cousin, with an awesome academic credentials and very pretty, who is a miraculous real, real in flesh, real in her words and deed, a sister belonging to the Franciscan missionary. She was assigned in Italy for almost 10 years as a nun, and she can read, write, Italian. I have to buy her a cake, it's her birthday today. Doesn't Italy means an abbreviation of I Trust And Love You?

I will talk to you later. I will drop by at your court on October 26, for sure am to pass by in going or coming from MeTC Branch 23, my first time to go there. I'm so accessible, so simple. It was you, or it was your sister, should I say, that make things complicated. The article, "A Tribute to a Great Mentor", it was your sister who wrote it? Well, Justice

*Handwritten signature:* J. Gaspar

Angelina Sandoval – Gutierrez is her ideal woman. A tall order. Oh no, no need to tell me the orientation or preference of the author of the article by mere reading of it. Take care always. God bless you always. Be right back.<sup>156</sup>

The following day, Judge Yu sent another lengthy message apologizing for her previous actions.<sup>157</sup> But to add more confusion, Judge Yu sent a message on November 17, 2009 containing a La Paz Bachoy recipe, but with a notation at the end reading: *we shall claim the 69 meal stub in a dirty kitchen.*<sup>158</sup>

Aside from attributing to Judge Yu the sending of messages containing sexual innuendos, Judge San Gaspar-Gito accused her of creating a fake Facebook account under the name “Rudela San Gaspar.” That account contained captured photographs, including that of the complainant’s son allegedly taken from her deactivated account. Judge San Gaspar-Gito confronted Judge Yu and threatened to initiate an administrative complaint. This threat prompted the respondent to take down the fake account.<sup>159</sup>

<sup>156</sup> Rollo (A.M. No. MTJ-13-1821) Vol. I, Annex “B” of Letter of Mr. Arevalo dated May 27, 2013, p. 463.

<sup>157</sup> Rollo (A.M. No. MTJ-13-1821) Vol. I, Annex “D” of Letter of Mr. Arevalo dated May 27, 2013, pp. 503-504.

<sup>158</sup> Id. at 468-469.

<sup>159</sup> The March 19, 2010 email message of Judge San Gaspar-Gito reads:

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Re: hello there ... Thursday, March 18, 2010 7:46 PM  
From: “emily san gaspar” <emily\_san\_gaspar@yahoo.com>  
To: “Bambi Yu” <astrobench@yahoo.com>

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Elisa, a cousin of mine informed me that someone has created an account in my name, changing the same to “Rudela San Gaspar”. When he traced the link re: the captured photo of my son and the other photos, the same was traceable from you. I looked into it and I am sure you are indeed the culprit. The details you originally placed in the Profile were matters that have been the subject of our earlier discussions. Even the photos you attached were the ones you captured from my previous Account, as what you have e-mailed me once.

I consider you as a friend but I cannot tolerate such childish act. We are both judges and, on many occasions you have shown your idiosyncratic tendencies. I tried to be civil with you but what you have done is really the height of indecency. Faking a profile or misrepresenting someone in the Internet to enter into somebody else’s private domain is conduct unbecoming of a judge. I compiled all the e-mails you sent to me through my Facebook Account. Those reflect how disturbed and unstable you are. If you do not stop on pestering me and my family I will forward all those e-mails to the Supreme Court in the form of a complaint and, to your parents and siblings as well, so that you may be taught a lesson on decency, civility, morality and good conduct. (Rollo, [A.M. No. MTJ-13-1821] Annex “A,” Letter of Mr. Alexander M. Arevalo, Acting Chief of the SC Management Information Systems Office (MISO) dated May 27, 2013, p. 415).

*Rudela San Gaspar*

The complainant also received a message on April 2, 2010 with an attached image of a boy holding a pair of scissors,<sup>160</sup> and a sign reading *Full Brazillian 5¢*.<sup>161</sup>

The last straw came on July 4, 2010 when Judge San Gaspar-Gito received a message from her friend, Juliet Tabanao-Galicinao, informing her that a certain Bambi Yu had inquired about her sexual orientation, *viz.*:

Juliet Tabanao-Galicinao July 4 at 12:15am  
(no subject)

Milay:

Some crazy woman e-mailed me. Her name is bambi yu. I accepted her on Facebook because she told me you were friends. Then last Friday, she sent me a weird message asking if you were bisexual. I promptly answered her and after that, I deleted her from my facebook list, as well as any common friends we might have. I am telling you this so you will be warned that there are envious people like this. I am copying here the contents of our exchange for your own records.

as follows:

bambi yu:

I read your post about judge of the year award to Milay today. I was about to comment but your post disappeared. She wrote me months ago that she closed her Facebook account because it became a Pandora's box. I'm curious, is she an AC DC?? (I am actually laughing) You are listed as among her best friends, you must be competent to answer this inquiry. Rest assured that this is highly confidential. Thanks. God bless. .

Juliet Tabanao-Galicinao July 2 at 8:19am what is an AC DC?

Bambie Yu July 2 at 3:48pm Report

AC DC is non-offensive slang for bisexual. Is she a bisexual? Thanks for replying. Judges have limited correspondence here at FB. .

Juliet Tabanao-Galicinao July 2 at 8:45pm

Hi! Emily is definitely not bisexual. We have been friends and roommates in school for ages and I can honestly say she is straight. She is also very happily married with one kid. I am not saying this because we are friends. I am just stating a fact. I am not offended though. Glad I was able to correct a mistake. What made you think so? (just wondering)

<sup>160</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. I, Annex "A" of Letter of Mr. Arevalo dated May 27, 2013, p. 430.

<sup>161</sup> *Id.* at 431.

*Handwritten signature*

Bambie Yu July 3 at 5:48am Report

What made me think Milay is an AC DC? It does not matter. While I thank you for your honest to goodness answer, and I would like to return the favor by answering your question but judges have restrictions and limited correspondence online. Judges are expected to be courteous to fellow judges. I promised not to speak or write anything about Emily that would put her in bad light. I honor my promises. She has high aspirations in the judiciary which we should support. Besides, we are enemies for judicial excellence awards. You can ask her directly the question please. She is the only one who can answer it correctly. My lips are sealed this time. Have a nice day. Thank you. God bless!

Bambie Yu July 3 at 6:04am Report

PS: Just to take advantage of your generosity, because Emily broke her vow not to open her Facebook account which she claimed to be Pandora's box, can you do me a little favor, to ask her to delete all my emails? She told me she kept all my old emails despite my instruction to delete them after reading. Our emails contained gossips which will lead to our disbarment as honorable members of the bar. Thus, I was anxious to learn from your post that hinted she opened up her Facebook account again yesterday, this meant she broke a vow. My emails may still be there, and I have waited for her assurance that she have deleted all. I did not receive any such assurance from her that my emails are gone except that she closed her FB account. I was relieved with that closed FB account until yesterday. I kept writing her before to delete my emails. She does not reply. Anyway, I am not going to speak anything bad against her. I would be glad if I will get an assurance from you, as her bestfriend, that she already deleted the emails. We are not speaking to each other because we have a huge misunderstanding and, I said earlier, we are enemies, mortal enemies for the judicial excellence award. Thank you again & good day.<sup>162</sup>

Judge San Gaspar-Gito formally filed the present administrative complaint on July 12, 2010.<sup>163</sup>

Judge Yu submitted her comment by way of a compliance dated October 12, 2010,<sup>164</sup> and attached her own complaint-affidavit charging Judge San Gaspar-Gito with conduct unbecoming of a judge, and requesting the OCA to conduct a discreet investigation on the complaint.<sup>165</sup> She manifested that she had come upon two versions of Judge San Gaspar-Gito's complaint.<sup>166</sup>

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<sup>162</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. I, pp. 102-103; see also Affidavit of Juliet Tabanao-Galicnao, *Rollo* (A.M. No. MTJ-13-1821), Vol. I, pp. 99-101.

<sup>163</sup> *Id.* at 4-6.

<sup>164</sup> *Id.* at 27.

<sup>165</sup> *Id.* at 28-32.

<sup>166</sup> *Id.*



The following day, Judge Yu wrote to the OCA expressing her dissatisfaction over the investigation being conducted by the OCA.<sup>167</sup>

On October 22, 2010 Judge Yu submitted a supplemental manifestation arguing that Judge San Gaspar-Gito did not only violate the *Code of Judicial Ethics*, the *Civil Code* and the *Revised Penal Code*, but also Republic Act No. 8792, specifically Section 32<sup>168</sup> on confidentiality of electronic messages. She described the complaint letters as poison letters, and denied all the material averments stated therein.<sup>169</sup>

Judge San Gaspar-Gito submitted her reply.<sup>170</sup>

Judge Yu wrote the OCA on March 18, 2011 formally withdrawing her complaint against Judge San Gaspar-Gito.<sup>171</sup>

On July 22, 2011, Judge Yu sent a letter to Judge San Gaspar-Gito's brother, Atty. Reynaldo L. San Gaspar,<sup>172</sup> to wit:

REPUBLIC OF THE PHILIPPINES  
National Capital Judicial Region  
METROPOLITAN TRIAL COURT  
Branch 47, Pasay City  
Tel. No. 831-1109

July 22, 2011

Atty. Reynaldo L. San Gaspar  
No. 154 P. Talavera St.,  
Pakil, 4017, Laguna

Dear Atty. San Gaspar:

Our court is inviting you for a brief conference in our court on August 5, 2011 around 1:00 p.m. to 4:00 p.m. or any available and convenient time and place for you, to clarify matters pertaining to the two (2) letters both dated July 12, 2010 of your sister Judge Emily L. San Gaspar-Gito. She can come with you if she wants to.

<sup>167</sup> Id. at 33-34.

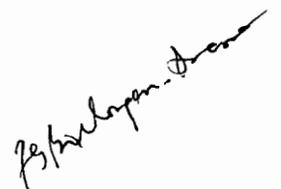
<sup>168</sup> Section 32. Obligation of Confidentiality. - Except for the purposes authorized under this Act, any person who obtained access to any electronic key, electronic data message or electronic document, book, register, correspondence, information, or other material pursuant to any powers conferred under this Act, shall not convey to or share the same with any other person.

<sup>169</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. II, p. 242.

<sup>170</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. I, pp. 52-97.

<sup>171</sup> Id. at 256.

<sup>172</sup> Id. at 353.



Your cooperation is highly appreciated.

Thank you.

Very truly yours,

(sgd.)

Judge Eliza B. Yu

Copy furnished:  
Judge Emily L. San Gaspar-Gito  
Metropolitan Trial Court Branch 20, Manila

In the meantime, the Court referred the matter to the Court of Appeals (CA),<sup>173</sup> and directed Judge San Gaspar-Gito to allow the Chief of the Management Information System Office (MISO) to gain access to her Facebook and Yahoo accounts.

Pursuant to the Court's directive, the MISO accessed the Yahoo and Facebook accounts of Judge San Gaspar-Gito. Later on, Mr. Alexander M. Arevalo, the Acting Chief of the MISO, submitted his report,<sup>174</sup> attaching and certifying to the messages/communications extracted from the Yahoo and Facebook accounts of Judge San Gaspar-Gito.<sup>175</sup>

In her memorandum,<sup>176</sup> Judge Yu accused Judge San Gaspar-Gito with dishonesty and violation of the right to privacy.<sup>177</sup> She insisted on her innocence, claiming that Judge San Gaspar-Gito had sent her the meal stub with the attached image; that based on her research, the image was a photo engraving by Felicien Rops for *Le Diable au Corps* in 1865,<sup>178</sup> which should be treated as an artwork rather than as pornography;<sup>179</sup> that she had treated the message as a joke, but Judge San Gaspar-Gito would continually send similar graphics through the Facebook gift section everytime she would ask her to troubleshoot in her sala;<sup>180</sup> that she did not send some of the messages to Judge San Gaspar-Gito whom she knew to be very much married;<sup>181</sup> that she had become alarmed upon learning that Judge San Gaspar-Gito had

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<sup>173</sup> Id. at 272-274.

<sup>174</sup> Id. at 358-538.

<sup>175</sup> Id. at 362-538.

<sup>176</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. II, pp. 124-202.

<sup>177</sup> Id. at 127.

<sup>178</sup> Id. at 128.

<sup>179</sup> Id. at 138.

<sup>180</sup> Id. at 129.

<sup>181</sup> Id. at 129-130.



repeatedly read her messages, and had treated the same as “treasures” that she had refused to delete;<sup>182</sup> and that her messages were intended to be “double entendres” and should not be considered as having any sexual connotations but instead as having been innocently uttered.<sup>183</sup>

In her September 26, 2013 manifestation,<sup>184</sup> Judge Yu attached a copy of her credit card bill supposedly showing that she had been charged \$10.00 when she opened the meal stub sent by Judge San Gaspar-Gito. She posited that the lewd graphics had originated from Judge San Gaspar-Gito who had tampered the electronic messages submitted as evidence herein.<sup>185</sup>

Regarding her exchanges with Ms. Galicinao, Judge Yu invoked the exclusionary rule because she did not give her consent to use the private messages as evidence.<sup>186</sup>

CA Associate Justice Hakim S. Abdulwahid conducted the investigation, and scheduled several hearings. It appears that despite notice, Judge Yu did not appear in the hearings, and instead manifested her willingness to submit the matter for decision based on the records. She also waived her attendance, including the right to cross examine the complainant,<sup>187</sup> in order to avoid generating “hostile feelings and antagonistic views” upon the entry of appearance as counsel of Atty. Gener Gito, Judge San Gaspar-Gito’s husband.<sup>188</sup>

Justice Abdulwahid submitted his Report and Recommendation dated September 26, 2013,<sup>189</sup> wherein he recommended the suspension from office of Judge Yu for a period of three months due to simple misconduct and conduct unbecoming of a judge. He concluded that the barrage of inappropriate messages sent by Judge Yu, as well as her stalking through the internet, constituted conduct unbecoming of a judge; and that her use of her court’s letterhead to summon the complainant’s brother fell under the category of simple misconduct.

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<sup>182</sup> Id. at 130.

<sup>183</sup> Id. at 197-198.

<sup>184</sup> Id. at 203-212.

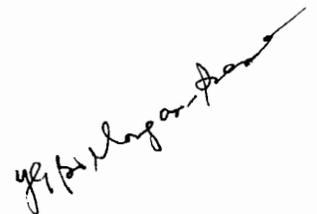
<sup>185</sup> Id. at 490-491.

<sup>186</sup> Id. at 135.

<sup>187</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. I, pp. 600-601.

<sup>188</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. II, p. 490.

<sup>189</sup> *Rollo* (A.M. No. MTJ-13-1821), Vol. I, pp. 600-611.



### Recommendation and Evaluation of the Office of the Court Administrator

On October 13, 2015, the Court directed the OCA to submit a comprehensive evaluation, report and recommendation on the consolidated cases.<sup>190</sup>

The OCA complied through Deputy Court Administrator (DCA) Jenny Lind R. Aldecoa-Delorino<sup>191</sup> by submitting a Memorandum<sup>192</sup> containing the following recommendation:

**RECOMMENDATION:** It is respectfully recommended for the consideration of the Honorable Court that respondent Judge Eliza B. Yu, Branch 47, Metropolitan Trial Court, Pasay City, be found **GUILTY of INSUBORDINATION, GROSS IGNORANCE OF THE LAW, REFUSAL TO PERFORM OFFICIAL FUNCTIONS, GROSS MISCONDUCT AMOUNTING TO VIOLATION OF THE CODE OF JUDICIAL CONDUCT, GRAVE ABUSE OF AUTHORITY, OPPRESSION, and CONDUCT UNBECOMING OF A JUDGE**, and be **DISMISSED FROM THE SERVICE** with forfeiture of all benefits, except accrued leave credits, and disqualification from reinstatement or appointment to any public office including government-owned or controlled corporations.<sup>193</sup>

The OCA recommended that the charges of gross ignorance of the law in allowing OJTs to perform judicial work and directing the court staff to sell the books authored by Judge Yu, as well as the allegation of malicious utterances against Court Administrator Marquez should be dismissed for being unsubstantiated;<sup>194</sup> and upheld Judge Yu's requiring the plaintiffs with pending replevin cases to pay legal fees for transcripts, pursuant to her judicial prerogative to ensure that court funds were properly accounted for.<sup>195</sup>

The OCA declared Judge Yu's refusal to comply with A.M. No. 19-2011 and to honor the appointments of Ms. Lagman and Ms. Tejero-Lopez as insubordination; Judge Yu's letter to DOT Secretary Lim as gross misconduct, and a violation of Section 6, Canon 4 of the *New Code of Judicial Conduct*; Judge Yu's conduct in relation to the request for sick leave by Noel Labid, and the appointment of Ms. Tejero-Lopez as

<sup>190</sup> *Rollo* (A.M. No. MTJ-12-1813), pp. 695-696.

<sup>191</sup> Court Administrator Marquez did not take part in the evaluation, report and recommendation.

<sup>192</sup> *Rollo* (A.M. No. MTJ-12-1813), pp. 697-755.

<sup>193</sup> *Id.* at 754-755.

<sup>194</sup> *Id.* at 729.

<sup>195</sup> *Id.* at 730.

*Jenny Lind R. Aldecoa-Delorino*

oppression;<sup>196</sup> regarded as gross ignorance of the law Judge Yu's acts of allowing the criminal proceedings in her court to continue without the presence of the public prosecutor, and of ordering the reception of evidence by the OIC who was not a member of the Bar;<sup>197</sup> and considered Judge Yu's issuance of the show cause order against Executive Judge Colasito, *et al.* as grave abuse of her authority.<sup>198</sup>

The OCA agreed with the recommendation and findings of Justice Abdulwahid to consider Judge Yu's actuations towards Judge San Gaspar-Gito as conduct unbecoming of a judge, but clarified that Judge Yu's use of the official letterhead of her court in summoning the brother of Judge San Gaspar-Gito to a conference demonstrated her abuse of power, and constituted a violation of Section 8, Canon 4 of the *New Code of Judicial Conduct*.<sup>199</sup>

### Ruling of the Court

We agree with the findings and recommendations of the OCA.

#### I

#### Noncompliance with A.O. No. 19-2011

Judge Yu forthwith resisted the implementation of A.O. No. 19-2011 because of her unresolved protest against the issuance. She explained that her compliance with A.O. No. 19-2011 would render her protest moot. But her unresolved protest was not a sufficient justification for her to resist the implementation of A.O. No. 19-2011. She was quite aware that A.O. No. 19-2011 was issued pursuant to Section 6, Article VIII of the Constitution, which confers to the Court the power of administrative supervision over all courts,<sup>200</sup> and was for that reason an issuance to be immediately implemented and unquestioningly obeyed by the affected Judges.

The resistance by Judge Yu to the the implementation of A.O. No. 19-2011 was unexpected. She was quite aware that A.O. No. 19-2011 was not a mere request for her to comply with only partially, inadequately or selectively,<sup>201</sup> or for her to altogether disregard. At the very least, her

<sup>196</sup> Id. at 730, 739-741, 752.

<sup>197</sup> Id. at 731-734.

<sup>198</sup> Id. at 735-736.

<sup>199</sup> Id. at 749-751.

<sup>200</sup> Section 6. The Supreme Court shall have administrative supervision over all courts and the personnel thereof.

<sup>201</sup> *Fernandez v. Hamoy*, A.M. No. RTJ-04-1821, August 12, 2004, 436 SCRA 186, 193.

*79/12/2011*

resistance to A.O. No. 19-2011 manifested an uncommon arrogance on the part of a Judge of a court of the first-level towards the Court itself. Such attitude smacked of her unbecoming condescension towards the Court and her judicial superiors. We cannot tolerate her attitude lest it needlessly sows the seeds of arrogance in others that can ultimately destroy the faith and trust in the hierarchy of courts so essential in the effective functioning of the administration of justice.

Moreover, Judge Yu's resistance to the implementation of A.O. No. 19-2011 disrupted the orderliness of the other Pasay City MeTCs to the prejudice of public interest. This effect became unavoidable, for Executive Judge Colasito necessarily required the other courts to render additional night court duties to cope with her refusal to render night court duties.

Judge Yu compounded her condescension towards the Court and her judicial superiors by her bypassing them to directly communicate her personal reservations about A.O. No. 19-2011 to Secretary Lim, the proponent of holding the night courts, and other quarters like the police authority in Pasay City. Her reservations extended to assailing the legal foundation and the practicality for holding the night courts. Her doing so broadcast to them the notion that obedience to A.O. No. 19-2011 and similar issuances of the Court could be deferred at the whim and caprice of a lowly-ranked judicial officer like her. Although she might have regarded her reservations as impressed with outstanding merit, that was no justification for her to defer or reject the implementation of A.O. No. 19-2011 in her court for any length of time, and to be public about it. A.O. No. 19-2011 dealt with an administrative matter on the administration of justice and procedure over which the Court was the supreme and sole authority. She should have the maturity to know so, and to bow her head before that authority. Her freedom to exercise her constitutional right to free speech and expression was not a consideration. She had no privilege to disobey; hers was but to follow.

Judge Yu's having directly communicated her misgivings about A.O. No. 19-2011 to Secretary Lim and to other quarters was beyond forgiving by the Court. She thereby strongly hinted that the Court was altogether wrong and impractical about holding night courts. What she accomplished from such exercise was to broadcast how little regard she had for the Court and its issuances. Her attitude constituted an open insubordination that extensively diminished the respect owed to the Court by the public, especially by the latter who were directly affected in the implementation of A.O. No. 19-2011. There is no question that when a Judge becomes the transgressor of the law that she has sworn to uphold, she places her office in disrepute, encourages



disrespect for the law, and impairs public confidence in the integrity of the Judiciary itself.<sup>202</sup>

It is timely for the Court to use this occasion to remind Judge Yu and other judicial officers of the land that although they may enjoy the freedoms of speech and expression as citizens of the Republic, they should always conduct themselves, while exercising such freedoms, in a manner that should preserve the dignity of their judicial offices and the impartiality and independence of the Judiciary. As to this duty to observe self-restraint, Section 6, Canon 4 of the *New Code of Judicial Conduct for the Philippine Judiciary* is clear and forthright, viz.:

Sec. 6. Judges, like any other citizen, are entitled to freedom of expression, belief, association and assembly, but in exercising such rights, they shall always conduct themselves in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.

For sure, Judge Yu's expression of her dissent against A.O. No. 19-2011 was misplaced. We may as well declare that she did not enjoy the privilege to dissent. Regardless of her reasons for dissenting, she was absolutely bound to follow A.O. No. 19-2011. Indeed, she did not have the unbridled freedom to publicly speak against A.O. No. 19-2011 and its implementation, for her being the Judge that she was differentiated her from the ordinary citizen exercising her freedom of speech and expression who did not swear obedience to the orders and processes of the Court without delay.<sup>203</sup> Her resistance to the implementation of A.O. No. 19-2011 constituted gross insubordination and gross misconduct,<sup>204</sup> and put in serious question her fitness and worthiness of the honor and integrity attached to her judicial office.<sup>205</sup>

According to *Himalin v. Balderian*,<sup>206</sup> the refusal of a Judge to comply with any resolution or directive of the Court constituted insubordination and gross misconduct, viz.:

[A] judge who deliberately and continuously failed and refused to comply with a resolution of this Court was held guilty of gross misconduct

<sup>202</sup> Id. at 213.

<sup>203</sup> See *Office of the Court Administrator v. Indar*, A.M. No. RTJ-11-2287, January 22, 2014, 714 SCRA 381, 391-393; *Falsification of Daily Time Records of Ma. Emcisa A. Benedictos, Administrative Officer I, Regional Trial Court, Malolos City, Bulacan*, A.M. No. P-10-2784, October 19, 2011, 659 SCRA 403, 409.

<sup>204</sup> Id.

<sup>205</sup> *Office of the Court Administrator v. Amor*, A.M. No. RTJ-08-2140, October 7, 2014, 737 SCRA 509, 518.

<sup>206</sup> A.M. No. MTJ-03-1504, August 26, 2003, 409 SCRA 606, 612.

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and insubordination, the Supreme Court being the agency exclusively vested by our Constitution with administrative supervision over all courts and court personnel from the Presiding Justice of the Court of Appeals to the lowest municipal trial court clerk. The Court can hardly discharge such constitutional mandate of overseeing judges and court personnel and taking proper administrative sanction against them if the judge or personnel concerned does not even recognize its administrative authority.

Insubordination is the refusal to obey some order that a superior officer is entitled to give and to have obeyed. It imports a willful or intentional disregard of the lawful and reasonable instructions of the employer.<sup>207</sup> Judge Yu's obstinate resistance to A.O. No. 19-2011 displayed both her rebellious character and her disdain and disrespect for the Court and its directives.

Judge Yu's unwillingness to comply with A.O. No. 19-2011 was also a betrayal of her sworn duty to maintain fealty to the law,<sup>208</sup> and brought dishonor to the Judiciary. In that regard, her conduct amounted to gross misconduct, defined as follows:

Misconduct means intentional wrongdoing or deliberate violation of a rule of law or standard of behavior in connection with one's performance of official functions and duties. For grave or gross misconduct to exist, the judicial act complained of should be corrupt or inspired by the intention to violate the law, or a persistent disregard of well-known rules. The misconduct must imply wrongful intention and not a mere error of judgment.<sup>209</sup>

In all, Judge Yu exhibited an unbecoming arrogance in committing insubordination and gross misconduct. By her refusal to adhere to and abide by A.O. No. 19-2011, she deliberately disregarded her duty to serve as the embodiment of the law at all times. She thus held herself above the law by refusing to be bound by the issuance of the Court as the duly constituted authority on court procedures and the supervision of the lower courts. To tolerate her insubordination and gross misconduct is to abet lawlessness on her part. She deserved to be removed from the service because she thereby revealed her unworthiness of being part of the Judiciary.<sup>210</sup>

<sup>207</sup> *Marigomen v. Labar*, A.M. No. CA-15-33-P, August 24, 2015; *Dalmacio-Joaquin v. Dela Cruz*, A.M. No. P-07-2321, April 24, 2009, 586 SCRA 344, 349.

<sup>208</sup> Rule 3.01, Canon 3 of the *Code of Judicial Conduct*.

<sup>209</sup> *Gacad v. Clapis, Jr.*, A.M. No. RTJ-10-2257, July 17, 2012, 676 SCRA 534, 544.

<sup>210</sup> *Zamudio v. Peñas, Jr.*, A.M. No. RTJ-95-1332, February 24, 1998, 286 SCRA 367, 377.

*J. P. Reyes-Arce*

## II

### Refusal to honor the appointments of court personnel

Although Judge Yu insisted on the irregularity of the appointment of Ms. Tejero-Lopez for lack of personal endorsement from her as the Presiding Judge, and of the appointment of Ms. Lagman due to a pending administrative complaint, the appointments of Ms. Tejero-Lopez and Ms. Lagman were valid and regular. As such, Judge Yu had no good reason to reject the appointments.

To start with, Ms. Tejero-Lopez and other applicants had undergone scrutiny and processing by the duly constituted committee, and the OCA had then signed and executed the appointment. Nonetheless, the authority to appoint still emanated from the Court itself.<sup>211</sup> Judge Yu's objection to Ms. Tejero-Lopez's appointment for lack of her personal endorsement was not enough to negate the appointment. Judge Yu had no right to reject the appointment, making her rejection another instance of gross insubordination by her. This consequence has been elucidated in *Edaño v. Asdala*,<sup>212</sup> as follows:

[R]espondent Judge Asdala, in insisting on the designation of respondent Nicandro as OIC, blithely and willfully disregarded the Memorandum of this Court, through the OCA, which approved the designation of Amy Soneja alone – and not in conjunction with respondent Nicandro – as OIC. **While the presiding judge, such as respondent Judge Asdala, can recommend and endorse persons to a particular position, this recommendation has to be approved by this Court. Again, the respondent judge ought to know that the Constitution grants this Court administrative supervision over all the courts and personnel thereof.** In the case at bar, despite the Court's approval of Amy Soneja's designation, the respondent judge allowed, if not insisted on, the continued discharge of the duties of OIC by respondent Nicandro. Respondent Judge Asdala even had the gall to insist that as presiding judge she has the authority and discretion to designate "anyone who works under her, as long as that person enjoys her trust and confidence." Coming from a judge, such arrogance, if not ignorance, is inexcusable. The memorandum from the OCA regarding the designation of court personnel is no less an order from this Court. Court officials and personnel, particularly judges, are expected to comply with the same. Respondent judge's gross insubordination cannot be countenanced.<sup>213</sup>

Judge Yu could only recommend an applicant for a vacant position in her court for the consideration of the SPBLC, which then accorded priority

<sup>211</sup> See Circular No. 30-91, September 30, 1991.

<sup>212</sup> A.M. No. RTJ-06-1974, July 26, 2007, 528 SCRA 212.

<sup>213</sup> Id. at 222-223.

to the recommendee if the latter possessed superior qualifications than or was at least of equal qualifications as the other applicants she did not recommend.<sup>214</sup> The SPBLC explained to Judge Yu the selection process that had resulted in the appointment of Ms. Tejero-Lopez. She could not impose her recommendee on the SPBLC which was legally mandated to maintain fairness and impartiality in its assessment of the applicants<sup>215</sup> based on performance, eligibility, education and training, experience and outstanding accomplishments, psycho-social attributes and personality traits, and potentials.<sup>216</sup>

Secondly, Judge Yu's rejection of the appointment of Ms. Lagman was just as unwarranted.

Under Section 34, Rule II of the *Uniform Rules on Administrative Cases in the Civil Service* (URACCS),<sup>217</sup> a pending administrative complaint shall not disqualify an employee from promotion, thus:

Section 34. *Effect of the Pendency of an Administrative Case.* — Pendency of an administrative case shall not disqualify respondent from promotion or from claiming maternity/paternity benefits.

For this purpose, a pending administrative case shall be construed as follows:

- a. When the disciplining authority has issued a formal charge; or
- b. In case of a complaint filed by a private person, a *prima facie* case is found to exist by the disciplining authority.

The rule, which is reiterated in Section 42 of the *Revised Rules on Administrative Cases in the Civil Service* (RRACCS) of 2011,<sup>218</sup> cannot be interpreted otherwise.

Accordingly, Judge Yu's administrative complaint had no bearing on Ms. Lagman's appointment, more so because Ms. Lagman was held liable

<sup>214</sup> Paragraph 1.4.10, Chapter IX, The 2002 Revised Manual for Clerks of Court.

<sup>215</sup> Paragraph 1.4.9, Chapter IX, The 2002 Revised Manual for Clerks of Court.

<sup>216</sup> Paragraph 1.4.14, Chapter IX, The 2002 Revised Manual for Clerks of Court.

<sup>217</sup> CSC Memorandum Circular No. 19, series of 1999, was the applicable rule when Judge Yu filed the administrative complaint against Ms. Lagman.

<sup>218</sup> Section 42. *Effects of the Pendency of an Administrative Case.* — Pendency of an administrative case shall not disqualify respondent from promotion and other personnel actions or from claiming maternity/paternity benefits.

For this purpose, a pending administrative case shall be construed as such when the disciplining authority has issued a formal charge or a notice of charge/s to the respondent.

*99/21/10/2011*

only for simple misconduct, a less grave offense that did not merit termination from public service for the first offense.<sup>219</sup> It is relevant to point out, too, that Judge Yu had no personality to object to or oppose Ms. Lagman's appointment, considering that only a qualified next-in-rank employee has been recognized as a party-in-interest to file the protest in accordance with paragraph 1.6.1, Article IX of the 2002 *Revised Manual of Clerks of Court*.<sup>220</sup>

Thirdly, we also take Judge Yu to task for disrespectful language uttered against the Court, no less. She characterized the appointment of Ms. Tejero-Lopez as "*void ab initio*" and "*a big joke*." The use of such language in assailing the Court's exercise of its absolute power of appointment was highly offensive and intemperate. She thereby disregarded her obligation to show respect and deference toward the Court and its officials. She was thereby guilty of another serious misconduct.

And, fourthly, Judge Yu issued verbal threats of filing administrative, civil and criminal charges against Ms. Tejero-Lopez unless she withdrew her application. Judge Yu reiterated the threats in her letter dated June 14, 2011 addressed to Atty. Pabello.<sup>221</sup> Ms. Tejero-Lopez felt intimidated enough because she actually withdrew her application (although she later went on with it). The making of the verbal threats by Judge Yu to compel a subordinate to withdraw her application constituted grave abuse of authority on the part of Judge Yu. Grave abuse of authority is committed by a public officer, who, under color of his office, wrongfully inflicts upon a person any bodily harm, imprisonment, or other injury; it is an act characterized with cruelty, severity, or excessive use of authority. Also, the intimidation exerted upon Ms. Tejero-Lopez amounted to oppression, which refers to an act of cruelty, severity, unlawful exaction, domination or excessive use of authority.<sup>222</sup>

<sup>219</sup> *Memoranda of Judge Eliza B. Yu Issued to Legal Researcher Mariejoy P. Lagman and to Court Stenographer Soledad J. Bassig, All of Metropolitan Trial Court, Branch 47, Pasay City*, A.M. No. P-12-3033, August 15, 2012, 678 SCRA 386.

<sup>220</sup> Article 1.6.1 Grounds of Protest -

A qualified next-in-rank employee may file a protest against the appointment issued for the following reasons:

1.6.1.1 Non-compliance with the selection process;

1.6.1.2 Discrimination on account of gender, civil status, disability, pregnancy, religion, ethnicity or political affiliation;

1.6.1.3 Disqualification of the appointee to a career position for reason of lack of confidence of the recommending authority; and

1.6.1.4 Other violations of the provisions of the MSP-LC.

<sup>221</sup> *Rollo* (A.M. No. MTJ-12-1815), p. 8.

<sup>222</sup> *Dialo, Jr. v. Macias*, A.M. No. RTJ-04-1859, July 13, 2004, 434 SCRA 186, 194.



### III

#### Issuing a show-cause order against fellow Judges and court personnel

According to the OCA, Judge Yu gravely abused her authority in issuing the show-cause order against his fellow Judges, the complainants against her in OCA IPI No. 11-2378-MTJ. The OCA rendered its finding thereon, as follows:

**This Office finds it absolutely irregular for respondent Judge Yu to require the complainants in OCA IPI No. 11-2378-MTJ to explain within seventy-two (72) hours upon receipt of notice why they should not be cited in contempt for surreptitiously taking the TSNs, orders and minutes of the proceedings in Criminal Case No. M-PSY-09-08592-CR and using these as part of their attachments to their complaint. As the respondent in OCA IPI No. 11-2378-MTJ, respondent Judge Yu has no authority to summon the complainants (Executive Judge Colasito, et al.) because it is only the Supreme Court who has the power to issue directives requiring the parties in an administrative case to appear and to present their respective arguments in support of their position.**

Not only is her directive misplaced, it also shows respondent Judge Yu's utter lack of respect and disdain for the Supreme Court. It must be noted that the parties in Criminal Case No. M-PSY-09-08592-CR (*the accused Ramil Fuentes et al. and the plaintiff Republic of the Philippines*) are outsiders to the administrative controversy between respondent Judge Yu and the complainants in OCA IPI No. 11-2378-MTJ. However, **respondent Judge Yu acted as if she was the investigating authority instead of being the respondent. She took undue advantage of her position as a judge and used the judicial process for her own benefit. Such action clearly depicts an abusive character which has no place in the judiciary.** (Bold emphasis supplied)<sup>223</sup>

The issuance of the show-cause order by Judge Yu represented clear abuse of court processes, and revealed her arrogance in the exercise of her authority as a judicial officer. She thereby knowingly assumed the role of a tyrant wielding power with unbridled breadth. Based on its supervisory authority over the courts and their personnel, the Court must chastise her as an abusive member of the Judiciary who tended to forget that the law and judicial ethics circumscribed the powers and discretion vested in her judicial office.

Nothing extenuated Judge Yu's abuse of authority and arrogance. Instead of accepting the error of her ways, Judge Yu defended her conduct

<sup>223</sup> Rollo (A.M. No. MTJ-12-1831), p. 736.

*J. B. Panganiban - Done*

by insisting on having the authority to initiate contempt proceedings against her fellow Judges and court personnel. She supported her insistence by citing the rulings in *People v. Godoy*,<sup>224</sup> *Zaldivar v. Sandiganbayan*,<sup>225</sup> and *Salcedo v. Hernandez*.<sup>226</sup> But the cited rulings had no relevance at all. *People v. Godoy* related to the contemptuous newspaper article involving a case that the trial court had decided. *Zaldivar v. Sandiganbayan* required the Tanodbayan-Ombudsman, a party in the case, to explain his contumacious remarks about an ongoing case to the media. *Salcedo v. Hernandez* concerned the contemptuous remarks by counsel for the petitioner in a motion filed before the Court. In short, the factual settings for the cited rulings involved parties or counsel of the parties, while the factual setting in this administrative matter concerned the act of merely copying the records of Judge Yu's court for purposes of producing evidence against her in the administrative cases her fellow Judges and the concerned court employees would be initiating against her. The latter were not parties in any pending case in her court.

Moreover, the Court notes that Judge Yu's issuance of the show-cause order emanated from her desire to retaliate against her fellow Judges and the concerned court employees considering that the allegedly contumacious conduct was the copying of court records to be used as evidence in the administrative complaint against her. She thereby breached her duty to disqualify herself from acting at all on the matter. Such self-disqualification was required under Section 5, Canon 3, and Section 8 of Canon 4 of the *New Code of Judicial Conduct for the Philippine Judiciary*, viz.:

Section 5. Judges shall disqualify themselves from participating in any proceedings in which they are unable to decide the matter impartially or in which it may appear to a reasonable observer that they are unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where:

(a) The judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;

x x x x

Section 8. Judges shall not use or lend the prestige of the judicial office to advance their private interest, x x x.

<sup>224</sup> G.R. No. 115908-09, March 29, 1995, 243 SCRA 64.

<sup>225</sup> G.R. No. 79690-79707, October 7, 1988, 166 SCRA 316.

<sup>226</sup> 61 Phil. 724 (1935).

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By insisting on her inherent authority to punish her fellow Judges for contempt of court, Judge Yu wielded a power that she did not hold. Hence, she was guilty of gross misconduct.

#### IV

### **Refusal to sign the application for leave of absence and other allegations of oppression**

The 2002 Revised Manual for Clerks of Court governs the approval of an application for sick leave by court personnel. Paragraphs 2.2.1<sup>227</sup> and 2.2.2,<sup>228</sup> Chapter X of the 2002 Revised Manual requires the submission of a medical certificate or proof of sickness prior to the approval of the application for sick leave, thus:

#### 2.2.1 Application for sick leave

All applications for sick leave of absence for one (1) full day or more shall be made on the prescribed form and shall be filed immediately upon the employee's return from such leave. Notice of absence, however, should be sent to the immediate supervisor, and/or agency head. **Application for sick leave in excess of five (5) successive days shall be accompanied by a proper medical certificate.**

x x x x

#### 2.2.2. Approval of sick leave

Sick leave shall be granted only on account of sickness or disability on the part of the employee concerned or of any member of his immediate family.

**Approval of sick leave, whether with pay or without pay, is mandatory provided proof of sickness or disability is attached to the application** in accordance with the applicable requirements. **Unreasonable delay in the approval thereof or non-approval without justifiable reason shall be a ground for appropriate sanction against the official concerned.** (Emphasis supplied)

Noel Labid complied with the 2002 Revised Manual by submitting the medical certificate and the clinical abstracts issued and certified by the Medical Records Division of the Philippine General Hospital (PGH). The medical certificate indicated that he had been suffering from "*Bleeding submandibular mass in hypovolemic shock Squamous cell Carcinoma Stage*

<sup>227</sup> Citing Section 53 of Civil Service Commission Memorandum Circular No. 41, series of 1998.

<sup>228</sup> Citing Civil Service Commission Memorandum Circular No. 14, series of 1999.

*J.P. Ong - A*

*IV floor of mouth*,<sup>229</sup> while the clinical abstracts dated June 14, 2011<sup>230</sup> and June 23, 2011<sup>231</sup> indicated the same reason for his hospital admission. However, Judge Yu was unconvinced by such submissions, and adamantly refused to approve Noel's leave application supposedly based on the ruling in *Re: Memorandum Report of Atty. Thelma C. Bahia against Ms. Dorothy Salgado*.<sup>232</sup>

Judge Yu apparently misapplied the cited ruling.

*Re: Memorandum Report of Atty. Thelma C. Bahia against Ms. Dorothy Salgado* concerned the habitual absenteeism of the respondent court personnel, and her belated submission of the medical certificates proving her illness. Crucial was the finding that despite several attempts by her office to contact the respondent and to inquire on her situation, she had deliberately failed to inform her superior of her absence and her condition. This is not the same in the case of Noel.

Under paragraph 2.1.2<sup>233</sup> of the 2002 Revised Manual, heads of offices like Judge Yu possessed the authority to confirm the employee's claim of ill health. Being aware of Noel's true medical condition after having met with Mrs. Labid who had seen her to plead for the approval of her son's leave application, Judge Yu was not justified in demanding a prior written notice about Noel's serious medical condition. Neither was she justified in still requiring Noel to submit the certificate of fitness to work considering that he had yet to report for work.

Noel's medical certificate and clinical abstracts had sufficiently established the reason for his absence and his hospital admission. Despite his obvious critical condition, Judge Yu chose to ignore the medical records certified by a government health institution, and unjustifiably demanded the submission of documents that the 2002 Revised Manual did not require. Judge Yu did not convincingly establish that her actions came within the limits of her authority as a court manager, or were sanctioned by existing court regulations and policies. Her unjustified refusal to approve Noel's leave application exposed her to administrative sanction under paragraph 2.2.2 of the 2002 Revised Manual. Accordingly, Judge Yu was again guilty of grave abuse of authority.

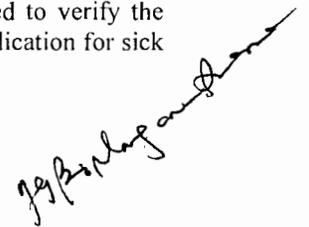
<sup>229</sup> *Rollo* (A.M. No. 11-2398-MTJ), p. 21.

<sup>230</sup> *Id.* at 22.

<sup>231</sup> *Id.* at 23.

<sup>232</sup> A.M. No. 2004-41-SC, January 13, 2005, 448 SCRA 81.

<sup>233</sup> 2.1.2, In case of claim of ill health, heads of department of agencies are encouraged to verify the validity of such claim and, if not satisfied with the reason given, should disapprove the application for sick leave. x x x.





RE: Preference of Typing Orders, Encoding of Monthly Report, Submission of Monthly Report, Typing of Pro-Forma Notices and Orders and Other Related Concerns

In the interest of service, the stenographers are ordered to type first the orders on sentence, dismissal and archival of cases within the day of issuing the same in open court. Said orders must be placed at the court's chambers before 2:00 p.m. for signature after checking of the case titles and dates by the office[r]-in-charge. Thereafter, after (sic) signing of these orders by the undersigned judge, these will be forwarded to the encoder of the monthly report. **The encoder shall encode immediately these orders upon receipt thereof. The encoder shall be responsible for the typing of newly filed criminal and civil cases, the cases submitted for decision, and the cases decided, dismissed and archived.** Upon receipt of the newly filed criminal or civil cases within a day, the officer-in-charge shall place them, at the court's chambers. After the evaluation of these cases, the undersigned judge shall instruct the officer-in-charge to turn over these cases to the encoder for typing. Thereafter, after (sic) these newly filed criminal and civil cases are typed and printed within the day, a copy shall be furnished to the undersigned judge. The said cases will be given by the officer-in-charge to the records officer and process server for safekeeping. The monthly report must be submitted within the 1<sup>st</sup> week up to the 2<sup>nd</sup> week of the following month.

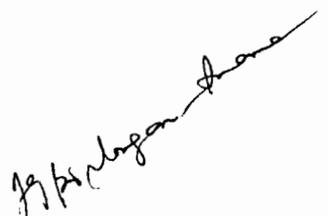
All other orders must be typed within the week after their issuance in open court. Every Friday, the Officer-in-Charge must see to it that all orders issued within the week are typed within the same week.

After the receipt of the printed copy of the newly filed civil and criminal cases from the encoder, the undersigned judge shall instruct the officer-in-charge to calendar these cases and to delegate fairly the typing of the notices of these cases. The officer-in-charge is directed to mimeograph the forms of subpoenas, summons, other notices, order to file an answer or counter-affidavit in cases covered by the Rule on Summary Procedure, order for the issuance of warrant of arrest, warrant of arrest, commitment order, minutes, pre-trial order and such other pro-forma orders as determined by this Court subject to delegation. With respect to an order on archiving of a case, there must be a corresponding warrant of arrest. **The Officer-in-Charge is responsible for the checking of the correct name of the case title, date, parties and addresses of these pro-forma orders subject to delegation. Erroneous typing of case title, date, parties and addresses, among others is considered gross inefficiency if committed ten (10) consecutive times, and it calls [f]or an explanation. If re-committed another ten (10) consecutive times, this merits disciplinary sanction.**(Emphasis supplied)

For strict compliance.

Thank you.

(Sgd.) Eliza B. Yu  
Judge



That the memorandum was not disseminated to the person concerned, and that it was not implemented were immaterial to the charge. The fact that Judge Yu issued the memorandum naming Ms. Rosali, a student, as the encoder and assigning to her court duties similar to those of a regular court employee signified Judge Yu's intention to treat Ms. Rosali as a trainee instead of as a mere observer. Ms. Rosali denied in her *sinumpaang salaysay*<sup>237</sup> that she had received the memorandum and performed encoding tasks, but nonetheless confirmed that she was directed to docket the decisions and staple the returns. The other student "observers," namely: Ms. Johaira O. Mababaya, Ms. Catherine L. Sarate and Mr. Eduardo M. Pangilinan III, also attested that they had conducted their court observation as "assistant court stenographer."

Under the circumstances, Judge Yu could not feign ignorance of the tasks assigned to and performed by the OJTs. If she had been strict about accepting student trainees, then she should not have assigned court-related tasks. In this regard, Judge Yu deliberately ignored OCA Circular No. 111-2005 in prohibiting OJTs, thus:

OCA CIRCULAR NO. 111-2005

TO : THE COURT OF APPEALS, SANDIGANBAYAN,  
COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, SHARI'A  
DISTRICT COURTS, METROPOLITAN TRIAL COURTS,  
MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL  
COURTS, SHARI'A CIRCUIT COURTS

SUBJECT: MEMORANDUM CIRCULAR NO. 5-2003 Re:  
PROHIBITING THE ACCOMODATION OF STUDENTS TO  
UNDERGO ON-THE-JOB TRAINING/PRACTICUM IN THE  
DIFFERENT OFFICES OF THE COURT

The Supreme Court En Banc in its Resolution dated 6 September 2005, in A.M. No. 05-7-16-SC, Re: Analysis of the Current Judicial System Using Information Technology by Student of the De La Salle University, Resolved to direct the undersigned to CIRCULARIZE to all lower courts Memorandum Circular No. 05-2003 dated 25 June 2003, to wit:

"MEMORANDUM CIRCULAR NO. 5-2003

PROHIBITING THE ACCOMMODATION OF STUDENTS TO  
UNDERGO ON-THE-JOB TRAINING/PRACTICUM IN THE  
DIFFERENT OFFICES OF THE COURT

<sup>237</sup> Rollo (OCA IPI No. 11-2399-MTJ), pp. 57-58.

It is observed that some offices of the Court allow students of different colleges and universities to undergo on-the-job training/practicum without authority or approval by the Chief Justice.

Due to security reasons which prompted the Court to deny previous requests of colleges and universities for on-the-job training/practicum, it is noted that the practice of some offices allowing students to undergo on-the-job training/practicum jeopardizes not only the functions of some offices but also their confidential records. Notably, the accommodation of these students pose as a security risk.

ACCORDINGLY, in order to ensure the security of officials and employees of the Court as well as its records, all Chiefs of Offices/Services/Divisions of the Court, including those of the Presidential Electoral Tribunal, Judicial and Bar Council and the Philippine Judicial Academy, are hereby directed **to disallow on-the-job training/practicum in their respective offices/services/divisions.**

x x x x

**The provision of the above memorandum shall likewise apply to all trial courts to serve as a guide for similar requests of students and as reflective of the policy of the Court on the matter.**

For the information and guidance of all concerned.

x x x x (Emphasis supplied)

## II. Designating an Officer-in-Charge

Judge Yu designated as OIC of Branch 47 of the MeTC Mr. Ferdinand Santos, who occupied the position of Clerk III. Under the 2002 Revised Manual, the position of Clerk III fell under the first level position with a minimum educational requirement of two years of college studies,<sup>238</sup> and a career service sub-professional eligible.<sup>239</sup> The position of Clerk of Court III was a second level position with a minimum educational requirement of a Bachelor of Laws degree, at least one year relevant experience, four hours of relevant training, and a professional career service eligible.<sup>240</sup>

On the other hand, the CSC Memorandum Circular No. 06-05 dated February 15, 2005 provides the following guidelines:

<sup>238</sup> A first level position includes clerical, trades, crafts and custodial service positions which involve non-professional or sub-professional work in a non-supervisory or supervisory capacity requiring less than four years of collegiate studies. (Section 8, Chapter 2, Title I, Book V, Executive Order No. 292)

<sup>239</sup> The 2002 Revised Manual for Clerks of Court (Vol. I), p. 618.

<sup>240</sup> Id. at 615.

*M. P. ...*

## CSC MEMORANDUM CIRCULAR NO. 06-05

TO: All Heads of Constitutional Bodies; Departments, Bureaus and Agencies of the National Government; Local Government Units; Government-Owned or Controlled Corporations; and State Universities and Colleges

SUBJECT: Guidelines on Designation

In its Resolution No. 050157 dated February 7, 2005, the Commission has adopted the following guidelines on Designation in the civil service:

x x x x

B. Designees can only be designated to positions within the level they are currently occupying. However, Division Chiefs may be designated to perform the duties of third level positions.

**First level personnel cannot be designated to perform the duties of second level positions.**

x x x x (Emphasis supplied)

Designating a first-level personnel like Mr. Santos as OIC defied CSC Memorandum Circular No. 06-05 because the position of OIC was reserved for personnel belonging to the second level. It becomes immaterial whether nobody from Branch 47 opposed the designation because the memorandum circular expressly prohibits designation of first level personnel to a second level position. It is emphasized that the memorandum is crafted in the negative; hence, the memorandum is mandatory, and imports that the act required shall not be done otherwise than designated.<sup>241</sup>

Judge Yu's contention that the designation of the OIC was based on trust and confidence had no basis. We underscore that the OIC referred to here was the acting Branch Clerk of Court (Clerk of Court III). The 2002 Revised Manual enumerates the following duties and responsibilities of a branch clerk of court, *viz.*:

1.3.1 Adjudicative Support Functions

1.3.1.1 Attends all court sessions

1.3.1.2 Supervises the withdrawal of all records of cases to be heard and the preparation of the notices of hearings, court's

<sup>241</sup> *Brehm v. Republic*, No. L-18566, September 30, 1963, 9 SCRA 172, 176.

*Handwritten signature: J. P. ...*

- calendar, reports, minutes, monthly reports, inventory of cases, index of exhibits, and paging of records of cases;
- 1.3.1.3 Sees to it that all returns of notices are attached to the corresponding evidence properly marked during the hearing as collected in an exhibit folder; and
- 1.3.1.4 Signs notices of orders and decisions for service to the parties, release papers of detained prisoners who are acquitted and/or who filed their corresponding bail bonds duly approved by the presiding judge.

#### 1.3.2 Non-Adjudicative Functions

- 1.3.2.1 Plans, directs, supervises and coordinates the activities of all personnel in a branch of a multiple sala for effectiveness and efficiency;
- 1.3.2.2 Keeps tab of the attendance and whereabouts of court personnel during office hours;
- 1.3.2.3 Controls and manages all court records, exhibits, documents, properties and supplies;
- 1.3.2.4 Administers oath;
- 1.3.2.5 Issues certificates of appearances and clearances;
- 1.3.2.6 Drafts/prepares correspondence and indorsements for signature of the Judge; and
- 1.3.2.7 Performs other duties that may be assigned to him.

Clerks of court are officers of the law who perform vital functions in the prompt and sound administration of justice. Their office is the hub of adjudicative and administrative orders, processes and concerns. They perform delicate functions as designated custodians of the courts funds, revenues, records, properties and premises.<sup>242</sup> The functions of a clerk of court require a higher degree of education as well as understanding of the law and court processes, that they cannot be delegated to first level personnel such as Mr. Santos. The position requires not only trust and confidence, but most importantly, education and experience. Ineluctably, the respondent ignored the clear import of CSC Memorandum Circular No. 06-05 in designating Mr. Santos as OIC.

### **III. Ordering presentation of *ex parte* evidence before the OIC who was not a member of the Bar**

Judge Yu argued that she did not commit any irregularity in ordering the presentation of *ex parte* evidence before her OIC who was not a member of the Bar because the rule on the reception of evidence by a member of the

<sup>242</sup> *Sy v. Esponilla*, A.M. No. P-06-2261, October 30, 2006, 506 SCRA 14, 20.

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Bar was only directory under Section 9, Rule 30 of the *Revised Rules of Civil Procedure*, which uses the word *may*.

Judge Yu's argument does not impress.

Section 9, Rule 30 of the *Revised Rules of Civil Procedure* expressly requires that only clerks of court who are members of the Bar can be delegated to receive evidence *ex parte*, thus:

Section 9. *Judge to receive evidence; delegation to clerk of court.*  
— The **judge of the court where the case is pending shall personally receive the evidence to be adduced by the parties. However, in default or *ex parte* hearings, and in any case where the parties agree in writing, the court may delegate the reception of evidence to its clerk of court who is a member of the bar.** The clerk of court shall have no power to rule on objections to any question or to the admission of exhibits, which objections shall be resolved by the court upon submission of his report and the transcripts within ten (10) days from termination of the hearing. (Emphasis supplied)

The word *may* used in the rule related only to the discretion by the trial court of delegating the reception of evidence to the Clerk of Court, not to the requirement that the Clerk of Court so delegated be a member of the Bar. The rule on *ex parte* reception of evidence was unequivocal on this point, and required no elaboration. Neither the agreement by the parties nor their acquiescence could justify its violation.<sup>243</sup> It followed that Judge Yu could not validly allow the presentation of evidence *ex parte* before Mr. Santos who was a mere OIC because he was not a member of the Bar. Breach of the rule on reception of evidence represented her ignorance of the rule of procedure in question, and subjected her to administrative liability for misconduct.<sup>244</sup>

#### **IV. Allowing criminal proceedings without the actual participation of the public prosecutor**

Anent the charge that she allowed the prosecution of criminal actions without the presence of the public prosecutor, Judge Yu retorted that the complainants were not the proper parties to assail her orders; that the accused in *People v. Manduriao* had begged to be arraigned without counsel

<sup>243</sup> *Umali-Paco v. Quilala*, A.M. No. RTJ-02-1699, October 15, 2003, 413 SCRA 364, 372.

<sup>244</sup> *Concern[ed] Lawyers of Bulacan v. Villalon-Pornillos*, A.M. No. RTJ-09-2183, July 7, 2009, 592 SCRA 36, 58.

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after being informed of the penalty for the offense charged; and that the trial of the case could proceed without the public prosecutor, but not in the absence of a judge.<sup>245</sup>

We are appalled that a Judge like the respondent would explain herself in such a fundamentally wrong manner.

Section 5, Rule 110 of the *Rules of Court* states:

Section 5. *Who must prosecute criminal actions.* - **All criminal actions commenced by a complaint or information shall be prosecuted under the direction and control of the prosecutor. In case of heavy work schedule or in the event of lack of public prosecutors, the private prosecutor may be authorized in writing by the Chief of the Prosecution Office or the Regional State Prosecution Office to prosecute the case subject to the approval of the Court.** Once so authorized to prosecute the criminal action, the private prosecutor shall continue to prosecute the case up to the end of the trial even in the absence of a public prosecutor, unless the authority is revoked or otherwise withdrawn.

x x x x

Accordingly all criminal actions shall be prosecuted under the control and direction of the public prosecutor.<sup>246</sup> The true reason is that the prosecution of criminal offenses is always a public function.<sup>247</sup> In *People v. Ramos*,<sup>248</sup> we cautioned that the exception stated in Section 5, supra, should be strictly construed, thus:

**The exception provided in Section 5 must be strictly applied as the prosecution of crime is the responsibility of officers appointed and trained for that purpose. The violation of the criminal laws is an affront to the People of the Philippines as a whole and not merely the person directly prejudiced, who is merely the complaining witness. This being so, it is necessary that the prosecution be handled by persons skilled in this function instead of being entrusted to private persons or public officers with little or no preparation for this responsibility.** The exception should be allowed only when the conditions therefor as set forth in Section 5, Rule 110 of the Rules on Criminal Procedure have been clearly established.

In *Pinote v. Ayco*,<sup>249</sup> the Court castigated the respondent judge for allowing the presentation of the defense witnesses in the absence of the

<sup>245</sup> *Rollo* (A.M. No. 11-2399-MTJ), p. 146.

<sup>246</sup> *Pinote v. Ayco*, A.M. No. RTJ-05-1944, December 13, 2005, 477 SCRA 409, 412.

<sup>247</sup> *Ricarze v. Court of Appeals*, G.R. No. 160451, February 9, 2007, 515 SCRA 302, 314.

<sup>248</sup> G.R. No. 95370, March 10, 2007, 207 SCRA 144, 152.

<sup>249</sup> A.M. No. RTJ-05-1944 December 13, 2005, 477 SCRA 409.

*My to Japan - done*

public prosecutor or the private prosecutor specially designated for the purpose. A breach of the *Rules of Court* like that could not be rectified by subsequently giving the Prosecution the chance to cross-examine the witnesses. Judge Yu committed a flagrant error by allowing the direct examination of the defense witness without the public prosecutor, or without the private counsel duly authorized by the public prosecutor in Criminal Case No. M-PSY-09-08592-CR.

In addition, Judge Yu disregarded Section 6, Rule 116 of the *Rules of Court* when she allowed the change of plea by the accused in *People v. Manduriao* without the assistance of counsel. Judge Yu justified herself by claiming that she had apprised the accused of the penalty for the offense charged, which had then convinced the accused to change his plea.

The Court cannot accept her justification. In *Gamas v. Oco*,<sup>250</sup> we took the respondent judge to task for conducting an arraignment without the presence of counsel, and observed:

Section 6 of Rule 116 means that:

[W]hen a defendant appears [at the arraignment] without [an] attorney, the court has four important duties to comply with: 1-It must inform the defendant that it[,] is his right to have [an] attorney before being arraigned; 2-After giving him such information the court must ask him if he desires the aid of attorney; 3-If he desires and is unable to employ [an] attorney, the court must assign [an] attorney de oficio to defend him; and 4-If the accused desires to procure an attorney of his own the court must grant him a reasonable time therefor.

Compliance with these four duties is mandatory. The only instance when the court can arraign an accused without the benefit of counsel is if the accused waives such right and the court, finding the accused capable, allows him to represent himself in person. However, to be a valid waiver, the accused must make the waiver voluntarily, knowingly, and intelligently. In determining whether the accused can make a valid waiver, the court must take into account all the relevant circumstances, including the educational attainment of the accused. In the present case, however, respondent judge contends that complainants waived their right to counsel and insisted on their immediate arraignment.<sup>251</sup>

The justification that the accused had waived his right to counsel, and had changed his plea after the respondent Judge had explained to him the

<sup>250</sup> A.M. No. MTJ-99-1231, March 17, 2004, 425 SCRA 588.

<sup>251</sup> Id. at 599-600.



imposable penalty for the offense did not stand considering that in order that the waiver by the accused of his right to counsel would be valid, the trial court must ensure that the accused did so voluntarily, knowingly and intelligently, taking into account the capacity of the accused to give such consent. We have nothing to show that Judge Yu took the pains to enforce the safeguards.

Every judge was expected to know the fundamental substantive and procedural requirements on arraignment and right to counsel.<sup>252</sup> We have always been clear about the right of the accused to counsel under the Constitution, and about the requirements for the arraignment of an accused under the *Rules of Court*. As such, Judge Yu was guilty of gross ignorance of the law, which is ignorance of the law when the law is so elementary, and when one professes not to know it, or when one acts as if she does not know it. Canon 6 of the *New Code of Judicial Conduct* prescribes that competence is a prerequisite to the due performance of the judicial office. In Judge Yu's case, her competence was indispensable to her fair and proper administration of justice in her office. By failing to adhere to and implement existing laws, policies, and the basic rules of procedure, she seriously compromised her ability to be an effective magistrate.

## VI

### **Sending of inappropriate messages was conduct unbecoming of a judicial officer**

Judge Yu denied sending the messages to Judge San Gaspar-Gito, and countered that it was the latter who first sent the "meal stub" message. She maintained that the messages were confidential and inadmissible as evidence under the exclusionary rule.

Judge Yu's reliance on the exclusionary rule fails.

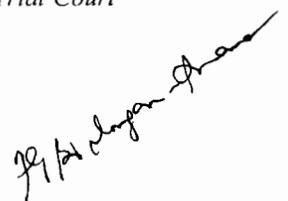
The exclusionary rule, or the fruit of the poisonous tree doctrine, presupposes a violation of law on the part of the agents of the Government,<sup>253</sup> and bars the admission of evidence obtained in violation of the right against unreasonable searches and seizures expressly defined under Section 2, Article III of the Constitution.<sup>254</sup> The exclusionary rule under Section 3(2), Article III of the Constitution refers to the prohibition against

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<sup>252</sup> Id.

<sup>253</sup> *Ejercito v. Sandiganbayan (Special Division)*, G.R. Nos. 157294-95, November 30, 2006, 509 SCRA 190, 218.

<sup>254</sup> *Anonymous Letter-Complaint Against Atty. Miguel Morales, Clerk of Court, Metropolitan Trial Court of Manila*, A.M. No. P-08-2519, November 19, 2008, 571 SCRA 361.



the issuance of general warrants that encourage law enforcers to go on fishing expeditions.<sup>255</sup>

Judge Yu did not specify that the State had unlawfully intruded into her privacy. The subjects of the present inquiry were the messages sent by her to Judge San Gaspar-Gito. Regardless of the mode of their transmission, the ownership of the messages pertained to the latter as the recipient. Considering that it was the latter who granted access to such messages, there was no violation of Judge Yu's right to privacy. As such, the grant of access by Judge San Gaspar-Gito did not require the consent of Judge Yu as the writer.<sup>256</sup> To recall, the Court directed the MISO to retrieve the messages for purposes of these cases.<sup>257</sup> Based on the certification issued by the authorized MISO personnel,<sup>258</sup> the messages were extracted from the Yahoo and Facebook accounts of Judge San Gaspar-Gito with the use of her official workstation. Hence, the exclusionary rule did not apply.

Judge Yu denied the imputed significance of the messages.

The denial lacked persuasion. In her October 3, 2009 message to Judge San Gaspar-Gito's Yahoo account, Judge Yu apologized to Judge San Gaspar-Gito, and expressly clarified that Judge San Gaspar-Gito had not sent the "meal stub." Judge Yu even requested Judge San Gaspar-Gito to "*forget all [her] emails ... since June ...*"<sup>259</sup> This apologetic tone from Judge Yu rendered her denial of responsibility devoid of substance.

Moreover, the barrage of messages, most of which were sent within the same day, makes us believe that they had all come from Judge Yu. Although she insisted that Judge San Gaspar-Gito had sent the "meal stub," Judge Yu did not offer any plausible explanation on the other messages containing sexual innuendos.

It is notable that the Facebook and Yahoo messages started in August 2009 when Judge Yu was still a public prosecutor. Nonetheless, she could still be disciplined for such acts committed prior to her appointment to the Judiciary because her internet stalking of Judge San Gaspar-Gito continued after she had herself become a MeTC Judge in Pasay City on January 12, 2010 and lasted until July 2010.

<sup>255</sup> *People v. Cogaed*, G.R. No. 200334, July 30, 2014, 731 SCRA 427, 454.

<sup>256</sup> Article 723, *Civil Code*.

<sup>257</sup> *Rollo* (A.M. No. 13-1821), Vol. I, pp. 356-357.

<sup>258</sup> *Id.* at 360.

<sup>259</sup> *Id.* at 450.

*P. A. Abogan - Am*

Our reading of the messages supports the studied conclusions by CA Justice Abdulwahid that they did contain sexual insinuations that were ostensibly improper for a Judge to write and send to another. The messages, however they may be read and understood, were at least vexatious and annoying. In any case, the sender showed her deep-seated proclivities reflective of conduct unbecoming of a member of the Judiciary.

Finally, the OCA submits that Judge Yu's use of the letterhead of her office or court in summoning to a conference Atty. Reynaldo San Gaspar, the brother of Judge San Gaspar-Gito, constituted abuse of power, and violated Section 8, Canon 4 of the *New Code of Judicial Conduct*, thus:

Respondent Judge Yu's use of the letterhead of Branch 47, MeTC, to invite Atty. Reynaldo San Gaspar, complainant Judge Gito's brother, to her court is no different from the aforesaid cases. Respondent Judge Yu's letter reads as follows:

Our court is inviting you for a brief conference in our court on August 5, 2011 around 1:00 p.m. to 4:00 p.m. or any available and convenient time and place for you, to clarify certain matters pertaining to the two (2) letters both dated July 12, 2010 of your sister Judge Emily L. San Gaspar-Gito. She can come with you if she wants to.

Your cooperation is highly appreciated.

Thank you.

It is worthy to note that aside from appropriating the court's letterhead, respondent [J]udge Yu used the words "our court" to invite Atty. San Gaspar for the purpose of clarifying matters relative to the ongoing controversy between her and complainant Judge Gito. Even for an ordinary layman, receiving a letter from the court would already create the impression that his presence in the said venue is compulsory. Indeed, the letter to Atty. San Gaspar is a clear illustration of how respondent Judge Yu abuses her power as a member of the bench so that others would give in to her wishes. She undoubtedly took advantage of her position and used the same as a leverage against complainant Judge Gito who filed a case against her. This is patently a violation of Section 8, Canon 4 of the *New Code of Judicial Conduct* which mandates that judges shall not use the prestige of such office to advance their personal interests.<sup>260</sup>

The submission is well-founded.

<sup>260</sup> *Rollo* (A.M. No. MTJ-12-1813), pp. 750-751.

*R. A. Reyes - Law*

In *Ladignon v. Garong*,<sup>261</sup> we discoursed on the liability of Judges for using their official letterhead to advance their personal interests, thus:

x x x In *Rosauro v. Kallos*, we found the respondent Judge liable for violating Rule 2.03 of the Code of the Judicial Conduct when he used his stationery for his correspondence on a private transaction with the complainant and his counsel parties with a pending case in his court. The Court held:

By using his sala's stationery other than for official purposes, respondent Judge evidently used the prestige of his office x x x in violation of Rule 2.03 of the Code.

We do not depart from this rule on the use of official stationary. We clarify, however, that the use of a letterhead should not be considered independently of the surrounding circumstances of the use—the underlying reason that marks the use with the element of “impropriety” or “appearance of impropriety”. In the present case, the respondent Judge crossed the line of propriety when he used his letterhead to report *a complaint involving an alleged violation of church rules and, possibly, of Philippine laws*. Coming from a judge with the letter addressed to a foreign reader, such report could indeed have conveyed the impression of official recognition or notice of the reported violation.

**The same problem that the use of letterhead poses, occurs in the use of the title of Judge or Justice in the correspondence of a member of the Judiciary. While the use of the title is an official designation as well as an honor that an incumbent has earned, a line still has to be drawn based on the circumstances of the use of the appellation. While the title can be used for social and other identification purposes, it cannot be used with the intent to use the prestige of his judicial office to gainfully advance his personal, family or other pecuniary interests. Nor can the prestige of a judicial office be used or lent to advance the private interests of others, or to convey or permit others to convey the impression that they are in a special position to influence the judge. (Canon 2, Rule 2.03 of the Code of Judicial Conduct) To do any of these is to cross into the prohibited field of impropriety.**<sup>262</sup>

In the letter in question, Judge Yu used the phrase “our court” in issuing the invitation to Atty. San Gaspar. She was obviously intending to use her authority as an incumbent Judge to advance her personal interest. Such conduct was reprehensible because she thereby breached Section 4 of Canon 1 and Section 1 of Canon 4 of the *New Code of Judicial Conduct*, viz.:

<sup>261</sup> A.M. No. MTJ-08-1712, August 20, 2008, 562 SCRA 365.

<sup>262</sup> Id. at 370-371.

*Rosauro v. Kallos*

CANON 1  
INDEPENDENCE

x x x x

SECTION. 4. Judges shall not allow family, social, or other relationships to influence judicial conduct or judgment. The prestige of judicial office shall not be used or lent to advance the private interests of others, nor convey or permit others to convey the impression that they are in a special position to influence the judge.

CANON 4  
PROPRIETY

Propriety and the appearance of propriety are essential to the performance of all the activities of a judge.

SECTION 1. Judges shall avoid impropriety and the appearance of impropriety in all of their activities.

x x x x

VII  
The Penalties

In fine, the administrative offenses Judge Yu committed were the following, to wit:

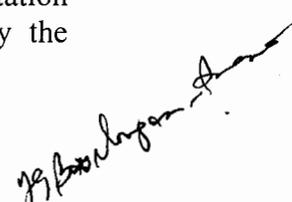
1. In **A.M. No. MTJ-12-1823**, **insubordination** and **gross misconduct** for her non-compliance with A.O. No. 19-2011;
2. In **A.M. No. MTJ-13-1836** and **A.M. No. MTJ-12-1815**, **gross insubordination** for her unwarranted refusal to honor the appointments of court personnel and rejection of the appointment of Ms. Lagman; **disrespect toward the Court** for her intemperate and disrespectful language in characterizing Ms. Tejero-Lopez's valid appointment as *void ab initio* and a *big joke*; and **grave abuse of authority** and **oppression** for issuing verbal threats of filing administrative, civil and criminal charges against Ms. Tejero-Lopez unless the latter withdrew her application;
3. In **OCA IPI No. 11-2378-MTJ** and **OCA IPI No. 12-2456-MTJ**, **grave abuse of authority** and **abuse of court processes** for issuing the show-cause order against her

fellow Judges and court personnel; and **gross misconduct amounting to violation of the *Code of Judicial Conduct*** for not disqualifying herself in acting on the supposedly contumacious conduct of her fellow Judges and concerned court personnel in copying the records of her court;

4. In **OCA IPI No. 12-2398-MTJ**, **refusal to perform official functions and oppression** for refusing to sign the application for leave of absence despite the employee having complied with the requirements, and for doing so in retaliation for the employee's having joined as signatory of administrative complaint filed against her;
5. **Gross ignorance of the law** for: (a) allowing on-the-job trainees and designating an OIC who did not possess the minimum qualifications for the position and without approval from the Court (**OCA IPI No. 11-2399-MTJ**); (b) ordering the presentation of *ex parte* evidence before the OIC despite his not being a member of the Bar (**OCA IPI No. 11-2378-MTJ**); (c) allowing criminal proceedings to be conducted without the actual participation of the public prosecutor (**A.M. No. MTJ-12-1815**); and (d) authorizing the change of plea by the accused without the assistance of counsel; and
6. In **A.M. No. MTJ-13-1821**, **conduct unbecoming of a judicial officer** for sending inappropriate messages with sexual undertones to a fellow female Judge, and for using the official letterhead of her judicial office in summoning a lawyer to a conference.

In view of the totality of the serious infractions committed by Judge Yu, the OCA recommended her dismissal from the service with the following ratiocination, to wit:

In all the cases subject of this consolidated administrative matters, the totality of the infractions committed by Judge Yu, *i.e.* Gross Ignorance of the Law, Insubordination and Refusal to Perform Official Functions, Gross Misconduct Amounting to Violation of the Code of Judicial Conduct, Grave Abuse of Authority, Oppression, and Conduct Unbecoming a Judge, underscores the fact that she is not fit to occupy the position of a judge. She has done more than enough harm to the reputation of the judiciary and the administration of justice, exacerbated by the



oppression she has inflicted on her subordinates and her utter disrespect for her superiors.

In similar instances, the Supreme Court did not hesitate to impose upon erring judges the ultimate penalty of dismissal from service as they have indeed fallen short of the standards required of them as dispensers of justice. These same standards must be required of respondent Judge Yu, failing which she must be meted the penalty of dismissal from the service.<sup>263</sup>

The recommendation of the OCA is well-taken.

Judge Yu unquestionably committed several gross and serious administrative offenses ranging from gross misconduct and gross ignorance<sup>264</sup> to the lesser offense of conduct unbecoming of a judicial officer.<sup>265</sup> Under Section 8, Rule 140 of the *Rules of Court*, either **gross misconduct** or **gross ignorance of the law** is punished by either: (1) dismissal from the service, forfeiture of benefits, and disqualification from reinstatement to any public office; or (2) suspension from office without salary and other benefits for more than three months but not exceeding six months; or (3) fine of more than ₱20,000.00 but not exceeding ₱40,000.00.<sup>266</sup> Under Section 46B, Rule 10 of the *Revised Rules on Administrative Cases in the Civil Service*, either **oppression** or **gross insubordination** – also considered grave offenses – is punishable with suspension from office for a period ranging from six months and one day to one year for the first offense, and dismissal from the service for the second offense. Under Section 11, Rule 140 of the *Rules of Court*, **conduct unbecoming of a judicial officer** merits either: (1) fine of not less than ₱1,000.00 but not exceeding ₱10,000.00; or (2) censure; or (3) reprimand; or (4) admonition with warning.

The grossness and severity of her offenses taken together demonstrated Judge Yu's unfitness and incompetence to further discharge the office and duties of a Judge. Her arrogance and insubordination in challenging A.O. No. 19-2011, and her unyielding rejection of the appointments of court personnel constituted gross insubordination and gross misconduct, and warranted her immediate dismissal from the Judiciary. Her requiring her fellow Judges to submit to her authority by virtue of her show-cause order, whereby she revealed her utter disrespect towards and disdain for them, as well as her conduct unbecoming of a judicial officer aggravated her liability. The administration of justice cannot be entrusted to one like her

<sup>263</sup> *Rollo* (A.M. No. MTJ-12-1813), p. 754.

<sup>264</sup> Section 8, Rule 140, *Rules of Court*.

<sup>265</sup> Section 10, Rule 140, *Rules of Court*.

<sup>266</sup> Section 11, Rule 140, *Rules of Court*.



who would readily ignore and disregard the laws and policies enacted by the Court to guarantee justice and fairness for all.

### VIII Disbarment Cannot Be Meted Without Due Process

The foregoing findings may already warrant Judge Yu's disbarment.

A.M. No. 02-9-02-SC, dated September 17, 2002 and entitled *Re: Automatic Conversion of Some Administrative Cases Against Justices of the Court of Appeals and the Sandiganbayan; Judges of Regular and Special Courts; and Court Officials Who are Lawyers as Disciplinary Proceedings Against Them Both as Such Officials and as Members of the Philippine Bar*,<sup>267</sup> relevantly states:

Some administrative cases against Justices of the Court of Appeals and the Sandiganbayan; judges of regular and special courts; and court officials who are lawyers are based on grounds which are likewise grounds for the disciplinary action of members of the Bar for violation of the Lawyer's Oath, the Code of Professional Responsibility, and the Canons of Professional Ethics, or for such other forms of breaches of conduct that have been traditionally recognized as grounds for the discipline of lawyers.

**In any of the foregoing instances, the administrative case shall also be considered a disciplinary action against the respondent Justice, judge or court official concerned as a member of the Bar. The respondent may forthwith be required to comment on the complaint and show cause why he should not also be suspended, disbarred or otherwise disciplinarily sanctioned as a member of the Bar. Judgment in both respects may be incorporated in one decision or resolution.**

Under Section 27, Rule 138 of the *Rules of Court*, an attorney may be disbarred on the ground of **gross misconduct** and **willful disobedience of any lawful order of a superior court**. Given her wanton defiance of the Court's own directives, her open disrespect towards her fellow judges, her blatant abuse of the powers appurtenant to her judicial office, and her penchant for threatening the defenseless with legal actions to make them submit to her will, we should also be imposing the penalty of **disbarment**. The object of **disbarment** is not so much to punish the attorney herself as it is to safeguard the administration of justice, the courts and the public from the misconduct of officers of the court. Also, **disbarment** seeks to remove

<sup>267</sup> Effective October 1, 2002.



from the Law Profession attorneys who have disregarded their Lawyer's Oath and thereby proved themselves unfit to continue discharging the trust and respect given to them as members of the Bar.<sup>268</sup>

The administrative charges against respondent Judge Yu based on grounds that were also grounds for disciplinary actions against members of the Bar could easily be treated as justifiable disciplinary initiatives against her as a member of the Bar. This treatment is explained by the fact that her membership in the Bar was an integral aspect of her qualification for judgeship. Also, her moral and actual unfitness to remain as a Judge, as found in these cases, reflected her indelible unfitness to remain as a member of the Bar. At the very least, a Judge like her who disobeyed the basic rules of judicial conduct should not remain as a member of the Bar because she had thereby also violated her Lawyer's Oath.<sup>269</sup>

Indeed, respondent Judge Yu's violation of the fundamental tenets of judicial conduct embodied in the *New Code of Judicial Conduct for the Philippine Judiciary* would constitute a breach of the following canons of the *Code of Professional Responsibility*, to wit:

CANON 1 — A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND FOR LEGAL PROCESSES.

Rule 1.02 — A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

CANON 6 — THESE CANONS SHALL APPLY TO LAWYERS IN GOVERNMENT SERVICE IN THE DISCHARGE OF THEIR OFFICIAL TASKS.

Rule 6.02 — A lawyer in the government service shall not use his public position to promote or advance his private interests, nor allow the latter to interfere with his public duties.

CANON 11 — A LAWYER SHALL OBSERVE AND MAINTAIN THE RESPECT DUE TO THE COURTS AND TO JUDICIAL OFFICERS AND SHOULD INSIST ON SIMILAR CONDUCT BY OTHERS.

Rule 11.03 — A lawyer shall abstain from scandalous, offensive or menacing language or behavior before the Courts.

<sup>268</sup> *Anacta v. Resurreccion*, A.C. No. 9074, August 14, 2012, 678 SCRA 352, citing *Berbaro v. Barcelona*, A.C. No. 6084, September 3, 2003, 410 SCRA 258, 264.

<sup>269</sup> *Samson v. Caballero*, A.M. No. RTJ-08-2138, August 5, 2009, 595 SCRA 423, 432-433.

*J. G. [Signature]*

The Court does not take lightly the ramifications of Judge Yu's misbehavior and misconduct as a judicial officer. By penalizing her with the supreme penalty of dismissal from the service, she should not anymore be allowed to remain a member of the Law Profession.

However, this rule of fusing the dismissal of a Judge with disbarment does not in any way dispense with or set aside the respondent's right to due process. As such, her disbarment as an offshoot of A.M. No. 02-9-02-SC without requiring her to comment on the disbarment would be violative of her right to due process. To accord due process to her, therefore, she should first be afforded the opportunity to defend her professional standing as a lawyer before the Court would determine whether or not to disbar her.

## IX Final Word

The Court will not hesitate to impose the extreme penalty on any judicial officer who has fallen short of the responsibilities of her worthy office. Any conduct that violates the norms of public accountability and diminishes the faith of the people in the judicial system must be condemned.<sup>270</sup> No act or omission by a Judge or Justice that falls short of the exacting norms of holding the public office of dispensing justice can be condoned, for the most important thing for every Judge or Justice is to preserve the people's faith and confidence in the Judiciary as well as in the individuals who dispense justice. The image of the Judiciary must remain unsullied by the misconduct of its officials. The Court will not shirk from its duty of removing from the Bench any Judge or Justice who has stained the integrity and dignity of the Judiciary.<sup>271</sup> This is what must be done now in these consolidated cases.

**WHEREFORE**, the Court **FINDS** and **PRONOUNCES** respondent **JUDGE ELIZA B. YU GUILTY** of **GROSS INSUBORDINATION; GROSS IGNORANCE OF THE LAW; GROSS MISCONDUCT; GRAVE ABUSE OF AUTHORITY; OPPRESSION; and CONDUCT UNBECOMING OF A JUDICIAL OFFICIAL;** and, **ACCORDINGLY, DISMISSES** her from the service **EFFECTIVE IMMEDIATELY**, with **FORFEITURE OF ALL HER BENEFITS**, except accrued leave credits, and further **DISQUALIFIES** her from reinstatement or appointment to any public office or employment, including to one in any government-owned or government-controlled corporations.

<sup>270</sup> *Dagudag v. Paderanga*, A.M. No. RTJ-06-2017, June 19, 2008, 555 SCRA 217, 237.

<sup>271</sup> *Edaño v. Asdala*, A.M. No. RTJ-06-1974, July 26, 2007, 528 SCRA 212, 226.

*J. B. Paderanga*

Respondent **JUDGE ELIZA B. YU** is directed to show cause in writing within ten (10) days from notice why she should not be disbarred for violation of the Lawyer's Oath, the Code of Professional Responsibility, and the Canons of Professional Ethics as outlined herein.

Let a copy of this decision be furnished to the Office of the Court Administrator for its information and guidance.

**SO ORDERED.**



**MARIA LOURDES P.A. SERENO**  
Chief Justice



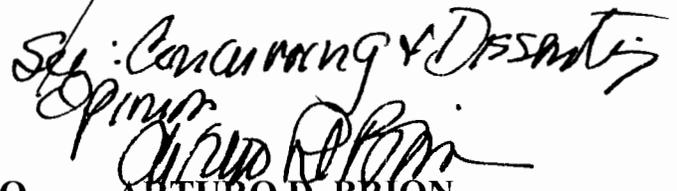
**ANTONIO T. CARPIO**  
Associate Justice



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

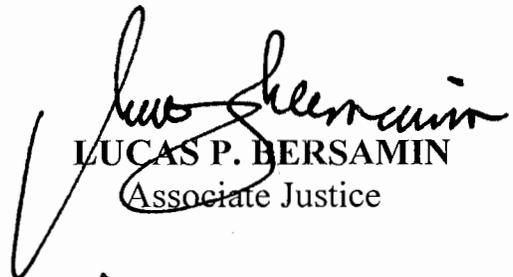


**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice



**ARTURO D. BRION**  
Associate Justice

(On Official Leave)  
**DIOSDADO M. PERALTA**  
Associate Justice



**LUCAS P. BERSAMIN**  
Associate Justice



**MARIANO C. DEL CASTILLO**  
Associate Justice



**JOSE PORTUGAL PEREZ**  
Associate Justice

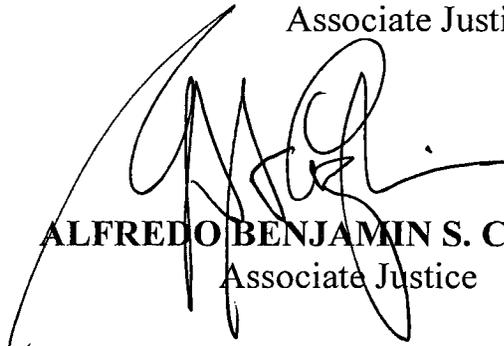
  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

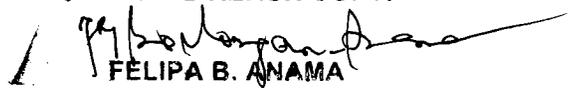
(On Official Leave)  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

  
  
**MARVIC M.V.F. LEONEN**  
Associate Justice

  
**FRANCIS H. JARDELEZA**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

**CERTIFIED XEROX COPY:**

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