EN BANC

JIB FPI No. 23-118-MTJ — ANONYMOUS, Complainant, **v. HON. JUDGE ELMER R. BERNARDO,** Respondent.

Promulgated:

February 4, 2026

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DISSENTING OPINION

LEONEN, *SAJ*:

I dissent. Judges are arbiters of the law – not its executioners. Having been entitled by their oath to dispense justice, no judge should abuse their stature. Throwing objects at other vehicles, being drunk, and attempting to erase police blotter entries are not actions of a judge. Respondent Judge Elmer R. Bernardo deserves dismissal from public service. His actions diminish the public's trust in the judiciary. If only to serve as an example of the high standard of conduct expected of a judge, I offer this opinion to emphasize that this Court has valid basis to dismiss Judge Bernardo from public service.

The administrative matter before this Court charges Judge Elmer R. Bernardo (Judge Bernardo) with "prejudicial conduct that gravely besmirches or taints the reputation of the public service."[1] According to the anonymous complaint filed with the Judiciary Public Assistance Section, Judge Bernardo caused harm to private persons and damaged private property while acting under the influence of alcohol. While drunk, Judge Bernardo allegedly: (1) caused a road collision with a tricycle and injured its operator; (2) threw objects at his neighbors' vehicles; (3) used his vehicle to push another vehicle into a ditch; and (4) failed to settle the damage caused by his actions and even convinced the police to manipulate the blotter entry recording the relevant incidents.[2]

The anonymous complaint was forwarded to the Office of the Court Administrator for investigation, which examined the police blotter records of the alleged incidents and interviewed the persons involved.[3] The investigation confirmed an incident in Barangay Ablan, Batac, Ilocos Norte, where Judge Bernardo damaged two of his neighbors' vehicles by throwing

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1 *Ponencia*, p. 1.
2 *Id.* at 2.
3 *Id.*

pieces of wood and stone while the same vehicles were parked along the road leading to Judge Bernardo's residence.[4]

The Office of the Court Administrator then submitted a Memorandum discussing these findings to this Court En Banc, which referred the Memorandum to the Judicial Integrity Board for appropriate action.[5]

Thus, the Judicial Integrity Board, through the Office of the General Counsel, filed a formal Complaint charging Judge Bernardo with "prejudicial conduct that gravely besmirches or taints the reputation of the service" by causing damage to his neighbors' property while under the influence of alcohol.[6]

Judge Bernardo's Comment denied the charges. He argued that he carefully maneuvered his vehicle to avoid his neighbors' "illegally parked" vehicles.[7] As to the allegation that he threw objects at his neighbors' vehicles, Judge Bernardo insists that he did only to chase away a large rodent that happened to be within their vicinity. The resulting damage was, therefore, not intentional but accidental. He then asserted that after he had settled the damage caused by this incident, he learned that unrelated vehicular damages were included in the blotter records used as basis for repairs.[8] Finally, Judge Bernardo claimed that his neighbors complained to the police because they resented his repeated requests for them to move their vehicles out of the narrow road in front of their respective residences.[9]

Considering the circumstances, the Judicial Integrity Board's Office of the Executive Director recommended that Judge Bernardo be fined PHP50,001.00 and be sternly reminded and warned not to repeat his failure to maintain the dignity of his public office.[10]

> IN VIEW OF THE FOREGOING, it is respectfully submitted for the consideration of the Honorable Board that the following recommendations be made to the Supreme Court:
>
> (1) The instant matter be RE-DOCKETED as a regular administrative matter against respondent Presiding Judge Elmber R. Bernardo, Municipal Trial Court in Cities, Batac City, Ilocos Norte;
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> (2) Respondent Judge Bernardo be found GUILTY of prejudicial conduct that gravely besmirches or taints the reputation of the service and be FINED in the amount of

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4 *Id.*
5 *Id.*
6 *Id.* at 4.
7 *Id.* at 4–5.
8 *Id.*
9 *Id.* at 6.
10 *Id.* at 6–7.

> PHP50,001.00, payable within 3 months from receipt of the Decision or Resolution of the Supreme Court;
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> (3) Respondent Judge Bernardo be STERNLY REMINDED, as a member of the Philippine Bar, to maintain a dignified conduct and strictly observe Canon II, Section 2 of the Code of Professional Responsibility and Accountability; and
>
> (4) Respondent Judge Bernardo be STRENLY WARNED that a repeat of the same or similar offense shall be dealt with more severely by the Supreme Court.[11]

The Judicial Integrity Board adopted the Executive Director's findings that Judge Bernardo "exposed himself to public scrutiny" and gave the public a reason and opportunity to doubt "the dignity of persons wearing the robe in the judiciary[.]" According to the Judicial Integrity Board, these actions violate Canon IV, Sections 1 and 2 of the New Code of Judicial Conduct, which require judges to be "above reproach[,]" to "avoid impropriety and the appearance of impropriety," and to act in a manner "consistent with the dignity" of their office.[12]

I agree with the *ponencia's* adoption of these findings by the Judicial Integrity Board and its Executive Director. However, I respectfully submit that this Court may and should exercise its discretion in dismissing Judge Bernardo from public service, despite the present charge constituting his first offense.

Judge Bernardo is clearly liable under Rule 140, Section 14(l) of the Rules of Court:

> SECTION 14. *Serious Charges.*— Serious charges include:
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> . . . .
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> (l) Grave abuse of authority, and/or prejudicial conduct that gravely besmirches or taints the reputation of the service;

Jayme v. Roco clarifies that "prejudicial conduct that gravely besmirches or taints the reputation of the service" pertains to misconduct that is unrelated to the public official's duties and functions:[13]

> *Thus, pursuant to Rodil, if the act of misconduct does not relate or is not connected with the official functions and duties of the respondent-public officer, then the proper designation of the administrative offense should be Conduct Prejudicial to the Best Interest of the Service.* Notably,

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11 *Id.*

12 *Id.* at 7.

13 *Jayme v. Roco*, 945 Phil. 345 (2023) [Per Curiam, En Banc].

this specific offense has been *reformulated under the Rules and now falls under the serious charge of "Grave Abuse of Authority and/or Prejudicial Conduct that Gravely Besmirches or Taints the Reputation of the Service" under Section 14 (l) of the same.* To further understand this new designation, the Court's annotations thereto is instructive, to wit:

> **NOTES:** This charge is added to cover acts or omissions which are not strictly part of the performance of one's official functions, but nonetheless are punished as they diminish or tend to diminish the people's faith in the Judiciary.
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> This covers *oppression,* as well as *conduct prejudicial to the best interest of the service* under the 2017 RACCS. "Oppression is also known as grave abuse of authority, which is a misdemeanor committed by a public officer, who under color of his office, wrongfully inflict[s] upon any person any bodily harm, imprisonment or other injury. It is an act of cruelty, severity, or excessive use of authority." (See *Ombudsman v. Caberoy*, G.R. No. 188066, October 22, 2014)
>
> On the other hand, *conduct prejudicial to the best interest of the service* refers to acts that "tarnish the image and integrity of [a] public office" without a "direct relation to or connection with the performance of [one's] official duties." (*Office of the Ombudsman-Visayas v. Castro*, 759 Phil. 68 [2015]) It must be noted, however, that based on existing jurisprudence, "conduct prejudicial to the best interest of the service" tends to become some sort of a blanket offense to cover all other misdeeds not falling under any specific offense already listed in the Rule. To remedy this situation, the offense is reformulated to "prejudicial conduct that gravely besmirches or taints the reputation of the service."

Verily, the Court's own annotations to the Rules instruct that to fall under *Prejudicial Conduct that Gravely Besmirches or Taints the Reputation of the Service*, the act complained of should: *(a)* be without a direct relation or connection with the performance of the respondent-public officer's official duties; and *(b)* not be covered by any other specific offense already listed in the Rules.[14] (Citations omitted; Emphasis supplied)

Judge Bernardo was not acting in his official capacity as a judge when he damaged his neighbor's vehicles by throwing objects at or toward their general direction. These actions fall gravely short of the exacting standard of conduct required of judges.[15]

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14 *Id.* at 354–355.

15 *Office of the Court Administrator v. Capistrano*, 738 Phil. 1 (2014) [Per J. Perlas-Bernabe].

I further join the *ponencia* in referring to the exacting standard of judicial conduct and behavior discussed in *Re: Anonymous Complaint Against Judge Edmundo T. Acuña* (*Re: Judge Acuña*):[16]

> Judges are demanded to be always temperate, patient and courteous both in conduct and in language. Indeed, a judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary. *Propriety and the appearance of propriety are essential to the performance of all the activities of a judge. We recognize, of course, that judges are also human beings, with their own burdens and private affairs. However, having accepted the esteemed position of judge, the respondent ought to have known that more is expected of him than an ordinary citizen.* As subjects of constant public scrutiny, personal restrictions that might be viewed as burdensome by the ordinary citizen should be freely and willingly accepted by a judge. In particular, he or she must exhibit conduct consistent with the dignity of the judicial office. *Indeed, a judge's personal behavior, not only while in the performance of official duties, must be beyond reproach, being the visible personification of law and of justice.*[17] (Citations omitted; Emphasis supplied)

Thus, *Re: Judge Acuña* provides that a judge carries an exceptional burden to act in a manner "beyond reproach" at all times and in all situations. Here, Judge Bernardo's actions, as confirmed by his admissions and by the police blotter, are anything but "beyond reproach." He is clearly liable for the penalties provided by Rule 140, Sections 19 and 20.

The *ponencia* and the Judicial Integrity Board found the existence of a mitigating circumstance, as the present charge constitutes Judge Bernardo's first offense.[18] I disagree. Rule 140, Section 20, in relation to Section 19, provides that applying any circumstance that modifies administrative liability is always discretionary upon this Court:

> SECTION 19. *Modifying Circumstances.* — In determining the appropriate penalty to be imposed, *the Court may, in its discretion, appreciate the following mitigating and aggravating circumstances*:
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> (1) Mitigating circumstances:
> (a) First offense;
> (b) Length of service of at least ten (10) years with no previous disciplinary record where respondent was meted with an administrative penalty;
> (c) Exemplary performance;
> (d) Humanitarian considerations; and
> (e) Other analogous circumstances.
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> (2) Aggravating Circumstances:

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[16] *Re: Anonymous Complaint Against Judge Edmundo T. Acuña,* A.M. No. RTJ-04-1891 (Formerly OCA IPI No. 04-2093-RTJ), July 28, 2005 [Per J. Callejo, Sr., Second Division].

[17] *Id.*

[18] *Ponencia*, p. 9.

> (a) Finding of previous administrative liability where a penalty is imposed, regardless of nature and/or gravity;
> (b) Length of service facilitated the commission of the offense;
> (c) Employment of fraudulent means to conceal the offense; and
> (d) Other analogous circumstances.
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> SECTION 20. *Manner of Imposition.*— If one (1) or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court *may* impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule.
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> If one (1) or more mitigating circumstances and no aggravating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not less than half of the minimum prescribed under this Rule.
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> If there are both aggravating and mitigating circumstances present, the Supreme Court may offset each other. (Emphasis supplied)

I maintain that a single instance of misconduct may be grave enough to cause irreparable harm to the judiciary's image, warranting the imposition of a harsher penalty despite the violation being a first offense. In my opinion, Judge Bernardo's incredible excuse and lack of remorse for his actions belie his own resentment, which caused him to act in a manner grossly inappropriate for his station.

Specifically, his defense against the serious charge of conduct prejudicial to the public service consisted of claims that his neighbors illegally parked along the narrow street leading to his residence. He detailed how he repeatedly requested them to remove their vehicles to allow passage through the narrow street, supposedly to no avail.[19] After the incident, he admitted to convincing the police to make changes to the blotter entry to reflect his own version of events.[20] It is reasonable to conclude, as the *ponencia* did, that this resentment led to the "absence of restraint" that caused incident Judge Bernardo to damage his neighbors' vehicles.[21]

Frustrating as Judge Bernardo's situation may have been, it was no reason for a judge—a public officer expected to act with utmost professionalism and impartiality in all respects and toward all persons—to act with indifference for how his actions may reflect upon himself and his office. He is an arbiter of the law, not its executioner. As importantly, he is subject to law and must be penalized according to the severity of his actions.

It is true that this Court has appreciated an erring judge's good faith, admission of error, and remorse for their actions in prior instances when

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19 *Id.* at 5–6.
20 *Id.* at 5.
21 *Id.* at 8.

mitigating circumstances lessened the administrative penalty for a serious charge under Rule 140 of the Rules of Court:

> In *Committee on Security and Safety, Court of Appeals v. Dianco*, we identified the instances where we imposed lesser penalties in the presence of mitigating factors:
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> > In *Judge Isidra A. Arganosa-Maniego v. Rogelio T. Salinas*, we suspended the respondent who was guilty of grave misconduct and dishonesty for a period of one (1) year without pay, taking into account the mitigating circumstances of: first offense, ten (10) years in government service, *acknowledgment of infractions and feeling of remorse,* and restitution of the amount involved.
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> > In *Alibsar Adoma v. Romeo Gatcheco and Eugenio Taguba*, we suspended one of the respondents for one (1) year without pay, after finding him guilty of grave misconduct, dishonesty, and conduct prejudicial to the best interests of the service. The respondent was a first-time offender.
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> > And, in *Horacio B. Apuyan, Jr. and Alexander O. Eugenio v. Alfredo G. Sta. Isabel*, we imposed the same penalty of one (1)-year suspension without pay to the respondent who was a first-time offender of the offenses of grave misconduct, dishonesty, and conduct grossly prejudicial to the best interests of the service.
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> As regards judges, in *Office of the Court Administrator v. Aguilar*, we imposed the penalty of six months suspension instead of dismissal from service after taking into consideration the mitigating circumstances of dismissal of related criminal cases for lack of probable cause, *good faith*, respondent judge's strong credentials for appointment as judge, length of government service, first time offense, and *remorse and promise to be more accurate and circumspect in future submissions before us.*
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> In *In Re: Petition for the Dismissal from Service and/or Disbarment of Judge Baltazar R. Dizon*, we reconsidered our earlier Decision dismissing from service the respondent judge and lowered the penalty to suspension from February 23, 1988 until the date of promulgation of the Resolution on May 31, 1989 after considering the mitigating circumstances of length of government service, lack of corrupt motives, environmental difficulties such as overloaded docket, unceasing strain caused by hearings on complex cases and lack of libraries, decent courtrooms, office equipment, supplies and other facilities, and *humble repentance.*
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> In *Rubin v. Corpus-Cabochan*, we considered the mitigating circumstances of first offense in respondent judge's almost 23 years of government service, frail health, case load and *candid admission of infraction* in determining that the appropriate penalty to be imposed on respondent judge who was found guilty of gross inefficiency was admonition.

> In *Fernandez v. Vasquez*, we appreciated the mitigating circumstances of unblemished judicial service and first offense in imposing the penalty of fine of P50,000 against respondent judge who was held guilty of dishonesty, an offense punishable with dismissal even on the first commission. The fine was imposed in lieu of suspension from office which can no longer be imposed due to respondent judge's retirement.
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> In *Perez v. Abiera*, we imposed the penalty of fine equivalent to three-month salary of respondent judge, deductible from his retirement benefits, after appreciating the mitigating circumstances of length of service and poor health.[22] (Citations omitted; Emphasis in the original)

Here, however, Judge Bernardo failed to show any such good faith, remorse, or even a modicum of self-reflection. Instead, his unbelievable excuse of attempting to repel a large rodent and his casual disregard for the damage he caused show a lack of remorse and a disrespect for his own station. Even worse, he ascribed resentment upon his neighbors without any self-awareness that his own behavior caused damage not only to his neighbor's property, but to the judiciary's image as well.[23] The anonymous complaint lamented the possibility of systemic decay, as shown by how a judge can apparently evade accountability for their wrongdoings:

> *Ganito kabulok ang* justice system *po namin dito sa bayan namin lalo na pag ang akusado ay isang hukom* or member *ng* judiciary.[24]

These claims beg the question of whether the incident confirmed in the police blotter was, in fact, Judge Bernardo's first offense, or just the first of several that have remained unexamined and unpenalized. That he would offer such a flimsy excuse for a public outburst that not only demeaned himself and endangered his neighbors and their property, but also tarnished the judiciary's reputation, shows a serious defect of character that is inconsistent with the judiciary's high standard of conduct.

That this is supposedly Judge Bernardo's first offense should not render the decision to mitigate his administrative liability as a foregone conclusion. On the contrary, the judiciary cannot afford and should not even allow for the possibility of a second incident of this nature from Judge Bernardo or from any other member of the judiciary. The public must be assured that such conduct has no place in public service.

The judiciary, as a whole, endeavors to build and maintain a public image of trustworthiness and reliability through conscious and consistent action. Every member of the judiciary, "from the presiding judge to the lowliest clerk, must always be beyond reproach and must be circumscribed

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22 *Office of the Court Administrator v. Chavez*, 815 Phil. 41, 46–48 (2017) [Per Curiam, En Banc], citing *Committee on Security and Safety, Court of Appeals v. Dianco*, 777 Phil. 16 (2016) [Per J. Brion, En Banc].

23 *Ponencia*, p. 6.

24 *Id.* at 2.

with the heavy burden of responsibility as to let them be free from any suspicion that may taint the judiciary."[25] This Court should not tolerate any behavior from its judges that would undo or undermine these efforts and the judiciary stand only to benefit from removing from its ranks those unfit for this responsibility.

ACCORDINGLY, I vote to **AFFIRM** the Judicial Integrity Board's Recommendation that respondent Judge Elmer R. Bernardo be found **GUILTY** of prejudicial conduct that gravely besmirches or taints the reputation of the service, but with **MODIFICATION** of his penalty from fine and reprimand to **DISMISSAL** from public service.

MARVIC M.V.F. LEONEN
Senior Associate Justice

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25 *Re: Falsification of Daily Time Records of Maria Fe P. Brooks, Court Interpreter, Regional Trial Court, Quezon City, Br. 96 and Andria Forteza-Crisostomo, Clerk III, Regional Trial Court, Manila, Branch 39*, 510 Phil. 262 (2005) [Per J. Callejo Sr., Second Division].