Republic of the Philippines
Supreme Court
Manila

EN BANC

OFFICE OF THE COURT ADMINISTRATOR, Complainant, -versus- **Retired Judge PABLO R. CHAVEZ, Former Presiding Judge, Regional Trial Court, Branch 87, Rosario, Batangas, Atty. TEOFILO A. DIMACULANGAN, JR., Clerk of Court VI, Mr. ARMANDO ERMELITO M. MARQUEZ, Court Interpreter III, Ms. EDITHA E. BAGSIC, Court Interpreter III, and Mr. DAVID CAGUIMBAL, Process Server, all of Regional Trial Court, Branch 87, Rosario, Batangas,** Respondents.	**A.M. No. RTJ-10-2219**
Re: Undated Anonymous Letter-Complaint against the Presiding Judge, Clerk of Court and Court Stenographer of the Regional Trial Court, Branch 87, Rosario, Batangas.	**A.M. No. 12-7-130-RTC**

Present:

SERENO, *C.J.*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
MENDOZA,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,*
MARTIRES,

* On leave.

TIJAM, and
REYES, JR., ***JJ***.

Promulgated:

August 1, 2017

x - x

RESOLUTION

***PER CURIAM*:**

For resolution is the motion for reconsideration[1] filed by respondent retired Judge Pablo R. Chavez (Judge Chavez) of our Decision[2] dated March 7, 2017.

We adjudged Judge Chavez guilty of gross neglect of duty and undue delay in rendering decisions and imposed on him the penalty of forfeiture of all his retirement benefits, except accrued leave credits, in lieu of dismissal from service which can no longer be imposed due to Judge Chavez's retirement.

In his motion, Judge Chavez explains that the acts of omission attributed to him, far from being committed willfully and intentionally, betray his good faith and that his failure to meet the exacting standards of performance required of a Presiding Judge in the supervision of his personnel and management of his case load was borne merely of his misplaced trust on his Clerk of Court, Atty. Teofilo Dimaculangan (Atty. Dimaculangan), and other court staff. He laments that he himself was a victim of Atty. Dimaculangan's betrayal and regrets his inability to pursue disciplinary actions on his court staff for their failure and refusal to observe and follow his instructions.

In any event, Judge Chavez begs the magnanimity and compassion of this Court and implores that we extend him leniency by mitigating the penalty imposed and reducing it to a fine. Judge Chavez requests that the following mitigating circumstances be considered in his favor: (1) his almost 31 years of continuous government service; (2) unblemished record as he is a first time offender; and (3) his good faith and extreme remorse for his infraction.

Also, Judge Chavez appeals that he is already 77 years old and experiencing various illnesses. He pleads that his retirement benefits would be used to support his daily needs and medication.

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1 *Rollo* (A.M. No. 12-7-130-RTC), pp. 43-50.

2 *Id.* at 22-42.

I

We hold that Judge Chavez's claims of acting in good faith and being a victim of the betrayal of Atty. Dimaculangan and his court staff do not excuse him from liability.

In *Office of the Court Administrator v. Sumilang*,[3] respondent judge was administratively charged in relation to an anomalous transaction involving misappropriation of funds committed by his court staff. In rejecting respondent judge's defense of lack of knowledge of the irregularities committed by his own staff and finding him guilty of gross negligence, we held:

> A judge must always remember that as the administrator of his court, he is responsible for the conduct and management thereof. He has the duty to supervise his court personnel to ensure prompt and efficient dispatch of business in his court. The ignorance of respondent Judge as to the irregularities occurring in his own backyard constitutes serious breach of judicial ethics.
>
> Judge Sumilang's excuse, that upon learning of the irregularities being committed by his court personnel, he immediately acted with haste and instructed Malla to turn over the money, is specious and unconvincing. His admission that he had no knowledge regarding the anomalies going on in his court underscores his inefficiency and incompetence. It clearly demonstrates a lack of control expected of a judge exercising proper office management.[4] (Citations omitted.)

We emphasize that judges must not only be fully cognizant of the state of their dockets, likewise, they must keep a watchful eye on the level of performance and conduct of the court personnel under their immediate supervision who are primarily employed to aid in the administration of justice. The leniency of a judge in the administrative supervision of his employees is an undesirable trait.[5]

Here, Judge Chavez's failure to meet the exacting standards of his position, as evidenced by the number and different irregularities discovered to have been occurring in his court, as well as his failure to eliminate these irregularities, establish that he was grossly negligent in the performance of his duties.

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3 A.M. No. MTJ-94-989, April 18, 1997, 271 SCRA 316.
4 *Id.* at 321.
5 *Dysico v. Dacumos*, A.M. No. MTJ-94-999, September 23, 1996, 262 SCRA 275, 282.

II

Be that as it may, the presence of mitigating circumstances which should be appreciated in favor of Judge Chavez warrants the reduction of the penalty to be imposed on him.

Section 48, Rule X of the Revised Rules on Administrative Cases in the Civil Service (RRACCS) provides that in the determination of the penalties to be imposed, mitigating and/or aggravating circumstances attendant to the commission of the offense shall be considered. The following are to be considered:

a. Physical illness;
b. Good faith;
c. Malice;
d. Time and place of offense;
e. Taking undue advantage of official position;
f. Taking advantage of subordinate;
g. Undue disclosure of confidential information;
h. Use of government property in the commission of the offense;
i. Habituality;
j. Offense is committed during office hours and within the premises of the office or building;
k. Employment of fraudulent means to commit or conceal the offense;
l. First offense;
m. Education;
n. Length of service; or
o. Other analogous circumstances.

In previous cases, we have also imposed lesser penalties in the presence of these mitigating circumstances. This is consistent with precedent where we refrained from imposing the actual administrative penalties prescribed by law or regulation in the presence of mitigating factors.[6] Indeed, while we are duty-bound to sternly wield a corrective hand to discipline our errant employees and to weed out those who are undesirable, we also have the discretion to temper the harshness of its judgment with mercy.[7]

In *Committee on Security and Safety, Court of Appeals v. Dianco*,[8] we identified the instances where we imposed lesser penalties in the presence of mitigating factors:

> 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

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6 *Cabigao v. Nery*, A.M. No. P-13-3153, October 14, 2013, 707 SCRA 424, 434.
7 *Baculi v. Ugale*, A.M. No. P-08-2569, October 30, 2009, 604 SCRA 685.
8 A.M. No. CA-15-31-P, January 12, 2016, 779 SCRA 158.

> circumstances of: first offense, ten (10) years in government service, acknowledgment of infractions and feeling of remorse, and restitution of the amount involved.
>
> In *Alibsar Adoma v. Romeo Gatcheco and Eugenio Taguba,* we suspended one of the respondents for one (1) year without pay, after finding him guilty of grave misconduct, dishonesty, and conduct prejudicial to the best interests of the service. The respondent was a first-time offender.
>
> And, in *Horacio B. Apuyan, Jr. and Alexander O. Eugenio v. Alfredo G. Sta. Isabel,* 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.[9] (Italics in the original, citations omitted.)

As regards judges, in *Office of the Court Administrator v. Aguilar*,[10] 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.

In *In Re: Petition for the Dismissal from Service and/or Disbarment of Judge Baltazar R. Dizon*,[11] 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.

In *Rubin v. Corpus-Cabochan*,[12] 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.

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9 *Id.* at 168.
10 A.M. No. RTJ-07-2087, June 7, 2011, 651 SCRA 13.
11 A.C. No. 3086, May 31, 1989, 173 SCRA 719.
12 OCA I.P.I. No. 11-3589-RTJ, July 29, 2013, 702 SCRA 330.

In *Fernandez v. Vasquez*,[13] we appreciated the mitigating circumstances of unblemished judicial service and first offense in imposing the penalty of fine of ₱50,000 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.

In *Perez v. Abiera*,[14] 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.

Thus, we exercise the discretion granted by the RRACCS and prevailing jurisprudence in the imposition of penalty and reconsider the dismissal and forfeiture of Judge Chavez's retirement benefits in view of mitigating circumstances that were overlooked and not properly appreciated.

We apply to Judge Chavez the mitigating circumstances of: (1) remorse in committing the infractions; (2) length of government service; (3) first offense; and (4) health and age. These humanitarian considerations will mitigate Judge Chavez's penalty and remove him from the severe consequences of the penalty of dismissal and forfeiture of his retirement benefits. Taking into account these mitigating circumstances, together with the aggravating circumstance of being guilty of the lesser offense of undue delay in rendering decisions, we impose the penalty of fine equivalent to three months of Judge Chavez's last salary.

WHEREFORE, we **PARTIALLY GRANT** the motion for reconsideration filed by respondent retired Judge Pablo R. Chavez. The Decision dated March 7, 2017 is **MODIFIED**. Respondent retired Judge Pablo R. Chavez is ordered to pay a **FINE** equivalent to **THREE MONTHS** of his last salary, deductible from his retirement benefits.

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice

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[13] A.M. No. RTJ-11-2261, July 26, 2011, 654 SCRA 349.
[14] A.C. No. 223-J, June 11, 1975, 64 SCRA 302.

ANTONIO T. CARPIO
Associate Justice

Please see separate concurring opinion
PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

I join Justice Velasco's separate opinion

MARVIC M. V. F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

(*On Leave*)
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

SAMUEL R. MARTIRES
Associate Justice

NOEL GIMENEZ TIJAM
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

CERTIFIED XEROX COPY:

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