



Republic of the Philippines

Supreme Court

Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE

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**HUMPHREY T. MONTEROSO,**  
*Petitioner,*

**G.R. Nos. 235274-75,**

- versus -

**SPECIAL PANEL NO. 13-01-IAB,**  
represented by **DONABEL**  
**ATIENZA,**

*Respondent.*

Members:

**GESMUNDO, C.J. Chairperson,**  
**CAGUIOA,**  
**LAZARO-JAVIER,**  
**M. LOPEZ,\* and**  
**J. LOPEZ, JJ.**

Promulgated:

**OCT 13 2021**

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**DECISION**

**LAZARO-JAVIER, J.:**

**The Cases**

Separate complaints were filed by Spouses Jesus and Meljurena Osabel (Spouses Osabel), Emmanuel Arquellano (Arquello), and Amelia O. Peligro (Peligro), respectively, against petitioner Humphrey T. Monteroso, former Deputy Ombudsman of the Office of the Ombudsman for Mindanao (OMB-MIN), with salary grade 30,<sup>1</sup> viz.: (a) OMB-C-A-13-0374 for Gross Neglect of Duty, Gross Insubordination, and Conduct Prejudicial to the Best Interest

\* On official leave.

<sup>1</sup> Rollo, p. 258.

of the Service;<sup>2</sup> and (b) OMB-C-A-13-0375 for Grave Misconduct and Grave Abuse of Authority.<sup>3</sup>

### **OMB-C-A-13-0374**

Gross Neglect of Duty, Gross Insubordination, and Conduct Prejudicial to the Best Interest of the Service

On June 1, 2009, Spouses Osabel filed before the OMB-MIN a criminal complaint under OMB-M-C-09-0262-F against then General Santos Mayor Pedro Acharon, Jr. and other city officials for alleged tampering of land titles in General Santos City.<sup>4</sup> The case got assigned to the office of petitioner Humprey Monteroso, then Deputy Ombudsman of OMB-MIN. Despite several motions for early resolution and follow ups,<sup>5</sup> however, the complaint did not move as it remained at the preliminary investigation level for two (2) years.

Consequently, on December 2, 2011, Assistant Ombudsman Asryman T. Rafanan (AO Rafanan) indorsed Spouses Osabel's complaint to petitioner for appropriate action, with a request that AO Rafanan and Spouses Osabel be informed of the action taken on the matter within seven (7) days from notice. But petitioner failed to respond.<sup>6</sup>

A month later or on January 3, 2012, Spouses Osabel informed then President Benigno Aquino of the status of their complaint before OMB-MIN. The Office of the President (OP) referred the letter to the OMB's Public Assistance Bureau (PAB). By Memorandum dated February 20, 2012, the PAB reiterated the directive for petitioner to act on the complaint with dispatch.<sup>7</sup>

Again, petitioner did not respond. Four (4) years after the case got filed though, the OMB-MIN eventually dismissed the complaint for lack of probable cause.<sup>8</sup>

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<sup>2</sup> *Id.* at 140.

<sup>3</sup> *Id.* at 862.

<sup>4</sup> *Id.* at 74.

<sup>5</sup> December 28, 2009 – Spouses Osabel filed their first Motion for Early Resolution.

April 18, 2011 – Spouses Osabel were informed by then Records Head Teofilo Q. Macatiog, Jr. that their complaint remained pending at the preliminary investigation stage.

On May 6, 2011 – Spouses Osabel filed a supplemental complaint which, among other things, prayed for the immediate resolution of their complaint.

August 31, 2011 – they were again advised that their complaint was still undergoing preliminary investigation.

September 12, 2011 – Spouses Osabel requested from the Ombudsman an early resolution of their complaint.

<sup>6</sup> *Rollo*, p. 861.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

On the basis of petitioner's prior inaction on Spouses Osabel's letters and directives of the OMB, the Internal Affairs Board (IAB), initiated an investigation headed by IAB Investigating Staff Atty. Reyvic Iringan who later on recommended an administrative adjudication on petitioner's culpability. IAB Administrative Officer Atty. Leilani Cabras approved the recommendation and ordered the creation of a special panel of investigators comprised by respondents Donabel D. Atienza, Ryan P. Medrano, and Maria Melinda Mananghaya-Henson, as members. In its subsequent Fact-Finding Report captioned as "complaint-affidavit," the special panel recommended that petitioner be held liable for Gross Neglect of Duty, Gross Insubordination, and Conduct Prejudicial to the Best Interest of the Service.<sup>9</sup> The Report was forwarded to the IAB for action.<sup>10</sup>

Through his Counter-Affidavit dated December 4, 2013,<sup>11</sup> petitioner denied the accusations against him. He averred that he did not intentionally refuse to act on Spouses Osabel's complaint, let alone defy the OMB's directives. All communications regarding the complaint were referred to the assigned handling lawyer Atty. Noel Gelito (Atty. Gelito). He himself, nonetheless, failed to respond to the communications sent by Spouses Osabel because he was understaffed. At any rate, his office eventually dismissed the complaint for lack of probable cause.

#### **The IAB's Report and Recommendation in OMB-C-A-13-0374**

By Decision<sup>12</sup> dated March 5, 2015, the IAB found petitioner liable for Simple Neglect of Duty and Conduct Prejudicial to the Best Interest of the Service but exonerated him of gross insubordination.<sup>13</sup>

On petitioner's liability for **simple neglect of duty**, the IAB held that it was petitioner's duty, as overall head of OMB-MIN to ensure that all cases filed and pending with his office were timely resolved. Otherwise, OMB-MIN's inexplicable failure to resolve cases within a reasonable period may be considered an infringement of the litigant's right to speedy trial. Any formal charge resulting from an unduly protracted preliminary investigation may be dismissed outright by the trial court. His supposed heavy workload was not an excuse.<sup>14</sup>

The IAB noted that despite the repeated follow ups and motions for immediate resolution coming from Spouses Osabel, petitioner took no action, until four (4) years later.<sup>15</sup>

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<sup>9</sup> *Id.* at 861-862.

<sup>10</sup> *Id.* at 256-265.

<sup>11</sup> *Id.* at 140.

<sup>12</sup> *Id.* at 137-151.

<sup>13</sup> *Id.* at 20.

<sup>14</sup> *Id.* at 145.

<sup>15</sup> *Id.* at 144.

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He was also duty-bound to respond to letters and requests addressed to him within fifteen (15) days from notice.<sup>16</sup> He neither formally replied to Spouses Osabel's letters and the PAB Memorandum nor informed AO Rafanan and Spouses Osabel of the action taken on the complaint despite direct order.<sup>17</sup>

With respect to **Conduct Prejudicial to the Best Interest of the Service**, the IAB held that the lengthy delay in the resolution of Spouses Osabel's complaint, along with the inexplicable refusal to acknowledge the litigants' written requests, AO Rafanan's indorsement, and the PAB memorandum spoke volumes of petitioner's lack of concern for OMB-MIN's role in the speedy and efficient administration of justice. This eroded the people's faith in his office and tarnished the integrity of his office.<sup>18</sup>

The IAB, however, found petitioner not liable for **gross insubordination**. Petitioner's non-compliance with AO Rafanan's Indorsement sprang from his lackadaisical attitude toward the case and not from an intentional defiance from the orders of his superiors.<sup>19</sup>

The IAB held that for **simple neglect of duty**, the 2011 Revised Rules on Administrative Cases in the Civil Service (RRACCS), provides for the penalty of suspension for one (1) month and one (1) day to six (6) months for the first offense.<sup>20</sup> On the other hand, **Conduct Prejudicial to the Best Interest of the Service** is punishable with suspension for a period of six (6) months and one (1) day to one (1) year for the first offense and dismissal from the service for the second offense.

Petitioner having been found guilty of these two infractions, the penalty should be that corresponding to the more serious charge which is Conduct Prejudicial to the Best Interest of the Service. Simple neglect of duty, on the other hand shall be considered as an aggravating circumstance.<sup>21</sup> The IAB, nonetheless considered petitioner's length of government service as a mitigating circumstance. Hence, following Section 49<sup>22</sup> of the RRACCS, the

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<sup>16</sup> *Id.* at 143.

<sup>17</sup> *Id.* at 144.

<sup>18</sup> *Id.* at 148.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 149.

<sup>21</sup> *Id.*

<sup>22</sup> Section 49. Manner of Imposition. – When applicable, the imposition of the penalty may be made in accordance with the manner provided herein below:

- a. The minimum of the penalty shall be imposed where only mitigating and no aggravating circumstances are present.
- b. The medium of the penalty shall be imposed where no mitigating and aggravating circumstances are present.
- c. The maximum of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.
- d. Where aggravating and mitigating circumstances are present, paragraph [a] shall be applied where there are more mitigating circumstances present; paragraph [b] shall be applied when the circumstances equally offset each other; and paragraph [c] shall be applied when there are more aggravating circumstances.

IAB imposed on petitioner the medium period of the prescribed penalty which is nine (9) months suspension.<sup>23</sup>

But since petitioner's term as Deputy Ombudsman had already expired during the pendency of the administrative cases, instead of suspension, the OMB imposed a single penalty of fine in the amount equivalent to respondent's salary for six (6) months deductible from his retirement benefits, accrued leave credits and any other receivables due him.<sup>24</sup>

On April 30, 2015, then Ombudsman Conchita Carpio Morales approved the IAB's decision.<sup>25</sup>

Petitioner moved for reconsideration which was denied under Order dated October 29, 2015.<sup>26</sup>

### **OMB-C-A-13-0375**

Grave Misconduct and Grave Abuse of Authority

#### **Grave Misconduct**

Per *Sinumpaang Salaysay* dated November 13, 2012,<sup>27</sup> Arquellano narrated that sometime in July 2011, petitioner's brother-in-law Christopher Lindo recruited him to work as petitioner's personal aide. His duties included assisting petitioner in his work at the OMB-MIN and performing household chores for petitioner's family specifically looking after petitioner's various pets, cleaning petitioner's cars, and accompanying petitioner to the market. Everyday, he woke up at 3 o'clock in the morning to perform his chores after which he went directly to the OMB-MIN to render administrative tasks. The agreement was that petitioner's salary will be sourced from petitioner's office at OMB-MIN as his name will be entered in petitioner's *plantilla* as Administrative Aide II (Salary Grade 2).<sup>28</sup>

One day, petitioner gave him P10,000.00 and ordered him to open a bank account under his (Arquellano's) name with Metrobank, Sta. Ana, Davao Branch. He did, as instructed. Sometime later, the bank informed him of a P300,000.00 deposit made in the account, the source of which he failed to substantially explain upon the bank's inquiry. Thus, the bank closed the account. Petitioner, however, ordered him to open a new account, this time with Banco de Oro (BDO). The initial deposit of P200,000.00 was taken from the P300,000.00 drawn from the closed Metrobank account. The remaining P100,000.00 was remitted to petitioner. From time to time, he withdrew

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

<sup>24</sup> *Id.* at 149-150.

<sup>25</sup> *Id.* at 150.

<sup>26</sup> *Id.* at 164-174.

<sup>27</sup> *Id.* at 552-556.

<sup>28</sup> *Id.* at 862.

significant amounts of money from the BDO account which he handed over to petitioner.<sup>29</sup>

He became increasingly bothered by this kind of arrangement so he decided to leave petitioner's employ on March 6, 2012. Before he resigned, he withdrew the remaining funds from the BDO account and turned them over to petitioner. He never saw petitioner again. While he had properly disclosed the BDO funds in his exit Statement of Assets Liability and Networth (SALN), petitioner was the actual and beneficial owner of these funds. He subsequently reported the matter to the IAB.<sup>30</sup>

To aid respondent in its inquiry, Arquellano submitted the following documents: (a) BDO Statement of Account dated March 6, 2012; (b) Certifications dated December 7, 2012 issued by BDO; (c) his SALN dated March 6, 2012; and (d) Consent to Examine Bank Account with Waiver dated November 14, 2012.<sup>31</sup>

Petitioner, in his Counter-Affidavit<sup>32</sup> admitted hiring Arquellano as a house help. He allowed Arquellano to simultaneously work as his house help and as an employee of OMB-MIN to accommodate Arquellano's desire for additional income. He did not discuss financial matters with Arquellano, let alone instruct him to open bank accounts for his benefit. No one of sound mind would entrust to a construction worker (Arquellano) significant amounts of money, as what Arquellano claims he did when he made Arquellano open bank accounts for him. It is of public knowledge that many construction workers are drug addicts, smokers, and gamblers and oftentimes, they are primary suspects of theft, robbery, and other criminalities.<sup>33</sup> The funds in the questioned bank accounts belonged to Arquellano who only invented this story against him to cover up his (Arquellano) involvement in the embezzlement incident involving the business of his brother-in-law.<sup>34</sup>

### **Grave Abuse of Authority or Oppression**

During a fact-finding inquiry relative to other IAB administrative cases against petitioner,<sup>35</sup> the IAB issued a *subpoena duces tecum* dated December 3, 2012 to Amelia O. Peligro (Peligro), Chief Administrative Officer of OMB-MIN, directing her to submit the Human Resource files (HR files) from the OMB-MIN's Human Resource Management Office (HRMO) specifically Personal Data Sheet, Position Description Form, updated service record, appointment/designation papers, SALNs and Performance Appraisal Reports of petitioner, one John Philip Jay P. Garte, and one Concepcion Bartolata.<sup>36</sup>

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<sup>29</sup> *Id.* at 862-863.

<sup>30</sup> *Id.* at 863.

<sup>31</sup> *Id.* at 404.

<sup>32</sup> *Id.* at 586-596.

<sup>33</sup> *Id.* at 589.

<sup>34</sup> *Id.* at 591.

<sup>35</sup> IAB-10-0024, IAB-11-0004 and IAB-12-0046.

<sup>36</sup> *Rollo*, pp. 77-78.

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By letter-reply dated December 26, 2012, Peligro informed the IAB that she cannot submit the required documents because she was refused access to all HR files which were already in the custody of Mary Sol Ariarte (Ariarte), whom petitioner assigned "to handle HR matters in the meantime that the HRMO III position is still vacant." Petitioner warned her not to get records without first asking permission, even if it pertained to an IAB case. Petitioner further berated her saying she had no authority over the files because she was a mere chief administrative officer ("*admin chief ka lang dito!*"). She felt humiliated because she had been scolded by petitioner in front of a colleague, Executive Assistant Raymundo Go.<sup>37</sup>

Petitioner denied suppressing the documentary evidence requested by the IAB and berating Peligro for processing the IAB's request for HR files. The truth is, he immediately submitted all the documents to the IAB because he "is not hiding anything."<sup>38</sup>

Finding basis to proceed with the administrative adjudication, the IAB ordered the special panel to investigate and submit its report and recommendation. In its subsequent Fact-Finding Report captioned as "complaint," the special panel recommended that petitioner be held liable for grave misconduct and grave abuse of authority or oppression.<sup>39</sup> IAB Chairperson Gerard Mosquera approved the Report and Recommendation and forwarded the same to the IAB for appropriate action.<sup>40</sup>

### **The IAB's Report and Recommendation OMB-C-A-13-0375**

By Decision<sup>41</sup> dated March 5, 2015, the IAB found petitioner guilty of Grave Misconduct and Grave Abuse of Authority or Oppression.

For **grave misconduct**, the IAB held that petitioner unfairly took advantage of Arquellano when he made him perform household chores for him and his family without any compensation. His salary as such was drawn from the OMB-MIN which employed him as Administrative Aide II.<sup>42</sup>

As Administrative Aide II, Arquellano should have only performed the official functions attached to his position, not inside petitioner's home. As it was, petitioner and his family solely benefitted from the domestic chores performed by a government employee.<sup>43</sup>

Petitioner's bare denial that he used Arquellano as a dummy in his monetary transactions cannot prevail over Arquellano's sworn statement supplied by numerous financial records, including bank statements and

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<sup>37</sup> *Id.* at 78.

<sup>38</sup> *Id.* at 406.

<sup>39</sup> *Id.* at 518-534.

<sup>40</sup> *Id.* at 256-265.

<sup>41</sup> *Id.* at 398-417.

<sup>42</sup> *Id.* at 408-409.

<sup>43</sup> *Id.* at 409.

certifications. Notably, Arquellano had no qualms at all in allowing the special panel to look into and examine the bank accounts in question.<sup>44</sup> The salaries and emoluments he received from OMB-MIN supported Arquellano's claim that he had no means or capacity to deposit the huge amount of funds contained in the bank accounts.<sup>45</sup>

As for **grave abuse of authority**, the IAB found that it was oppressive for petitioner to have Arquellano perform domestic chores early in the morning aside from his duties as an administrative aide at the OMB-MIN, without paying him a separate compensation for these domestic chores.<sup>46</sup>

Petitioner's statement that since Arquellano was a mere construction worker, his version of events was nothing more than a figment of his imagination, bore his utter lack of respect for Arquellano.<sup>47</sup>

Petitioner, too gravely abused his authority when he required Peligro, the Chief Administrative Officer of OMB-MIN to first obtain clearance from him before she could access the files pertaining to administrative matters in their office. He even berated her for her supposed "low position" and for previously assisting the IAB in obtaining copies of HR files without his permission.<sup>48</sup>

Petitioner did not deny having assigned Ariarte, a contractual employee, to act as custodian of the HR files; nor refute Peligro's allegation that he issued an instruction that all requests for copies of HR files should first be cleared by him prior to release.<sup>49</sup>

As for the penalty, the IAB noted that under the RRACCS, **grave misconduct** is a serious administrative offense and is punishable by dismissal from service, even on the first offense. **Grave Abuse of Authority or Oppression**, on the other hand is punishable by suspension for a period of six (6) months and one (1) day to one (1) year for the first offense and dismissal from service for the second offense.<sup>50</sup>

Grave misconduct being the more serious offense, grave abuse of authority becomes an aggravating circumstance. Verily, petitioner should be dismissed from service with accessory penalties of cancellation of civil service eligibility, forfeiture of retirement benefits, and perpetual disqualification from holding public office. Considering, however, that petitioner's term of office as Deputy Ombudsman expired during the pendency of the case, his dismissal from the service is no longer feasible,

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<sup>44</sup> *Id.* at 409.

<sup>45</sup> *Id.* at 413.

<sup>46</sup> *Id.* at 410.

<sup>47</sup> *Id.* at 411.

<sup>48</sup> *Id.* at 87.

<sup>49</sup> *Id.* at 411.

<sup>50</sup> *Id.* at 414.

hence, the IAB recommended that he instead be fined in an amount equivalent to his salary for six (6) months.<sup>51</sup>

On April 30, 2015, Ombudsman Conchita Carpio Morales approved the IAB's recommendation.<sup>52</sup>

Petitioner's motion for reconsideration was denied under Order dated October 29, 2015.

Petitioner consequently went to the Court of Appeals via **CA-G.R. SP No. 143404** (simple neglect of duty and conduct prejudicial to the best interest of the service) which was subsequently consolidated with **CA-G.R. SP No. 143405** pertaining to petitioner's alleged liability for grave misconduct and grave abuse of authority.<sup>53</sup>

### Proceedings before the Court of Appeals

Petitioner reiterated his arguments before the OMB. He further argued that following Section III (N) of Administrative Order No. 16-2003 (AO 16-2003), the IAB members should have been automatically disqualified from participating in the cases because they were the ones who initiated the filing of the complaints.<sup>54</sup>

### The Ruling of the Court of Appeals

#### CA-G.R. SP No. 143404

Simple neglect of duty and  
Conduct Prejudicial to the Best  
Interest of the Service

By Decision<sup>55</sup> dated July 20, 2017, the Court of Appeals affirmed.

The appellate court found petitioner guilty of **simple neglect of duty** for his delayed resolution of OMB-M-C-09-0262-F. Petitioner may not pass

<sup>51</sup> *Id.* at 21.

<sup>52</sup> *Id.* at 150.

<sup>53</sup> *Id.* at 79.

<sup>54</sup> III. PROCEDURES IN HANDLING COMPLAINTS

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#### N. Disqualifications

The Chairman, Vice Chairman or any member of the IAB, as well as any member of the IAB Investigating Staff, shall be automatically disqualified from acting on a complaint or participating in a proceeding under the following circumstances:

1. He is a party to the complaint, either as a respondent or complainant;

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<sup>55</sup> Penned by Now Supreme Court Justice Ricardo R. Rosario and concurred in by Associate Justices Edwin D. Sorongon and Maria Elisa Sempio-Diy; *Rollo*, pp. 73-91.

the blame on the assigned handling lawyer because pursuant to Section 13 of Republic Act No. 6770 (RA 6770), as then Deputy Ombudsman, petitioner had the primary duty to make sure all complaints are acted upon promptly. Unlike pleadings and communications on pending cases which are automatically referred to the assigned lawyers, the Indorsement of AO Rafanan and the Memorandum of the Director of the PAB were both addressed to petitioner himself. These are internal office memoranda which petitioner had the duty to read and acknowledge firsthand.<sup>56</sup>

Petitioner was also found guilty of **Conduct Prejudicial to the Best Interest of the Service**. As then Deputy Ombudsman, petitioner was duty-bound to comply with laws and rules on speedy disposition of cases pending before the OMB as well as immediate action on written communications addressed to him. As it was, however, petitioner violated the very laws and rules he swore to uphold when he delayed the disposition of a case and failed to acknowledge the official communications addressed to him. His actions tarnished the image of his office and for which he should be held accountable.<sup>57</sup>

The Court of Appeals affirmed the OMB's ruling that in view of the expiration of petitioner's term as Deputy Ombudsman, in lieu of suspension, he should be fined in the amount equivalent to petitioner's salary for six (6) months deductible from his retirement benefits, accrued leave credits, and any other receivables due him.<sup>58</sup>

#### **CA-G.R. SP No. 143405**

Grave Misconduct and Grave Abuse of Authority or Oppression

The Court of Appeals affirmed petitioner's guilt for **grave misconduct**. He took advantage of OMB-MIN by facilitating Arquellano's appointment as an Administrative Aide II despite the latter actually working as his house boy. He failed to show proof that he paid a separate compensation for the housework done for him and his family.<sup>59</sup> He also instructed Arquellano to open bank accounts for his questionable transactions.<sup>60</sup>

Petitioner, as well, is guilty of **grave abuse of authority** when he required Peligro to obtain clearance from him prior to accessing the records of employees involved in the IAB's investigation.<sup>61</sup> There was no reason for him to deny Peligro access to the HR files. Peligro had the duty to comply with the *subpoena* – her failure to do so will subject her to administrative

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<sup>56</sup> *Id.* at 85.

<sup>57</sup> *Id.* at 86.

<sup>58</sup> *Id.* at 149-150.

<sup>59</sup> *Id.* at 88.

<sup>60</sup> *Id.* at 87.

<sup>61</sup> *Id.*

disciplinary action. This duty cannot be made subject to the whims of a higher officer, in this case, petitioner.<sup>62</sup>

The Court of Appeals further affirmed the OMB's ruling that in view of the expiration of petitioner's term as Deputy Ombudsman, his dismissal from service is no longer feasible, hence, in lieu thereof, he should be fined in the amount equivalent to petitioner's salary for six (6) months with accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and bar from taking civil service examinations.<sup>63</sup>

Lastly, the Court of Appeals rejected petitioner's claim that the special panel should have inhibited in the cases below in view of its participation therein as a party. Too, the Court of Appeals clarified that the special panel is not covered by Section III (N) of AO 16-2003 because it is merely a nominal party in the subject cases being the one which investigated the cases, and based on the results of the investigation, recommended that petitioner be made liable for the infractions charged. Its members had no personal interest in the complaints against petitioner.<sup>64</sup>

Under Resolution<sup>65</sup> dated October 23, 2017, petitioner's motion for reconsideration was denied.

### The Present Petitions

Petitioner now seeks affirmative relief from the Court *via* G.R. Nos. 235274 and 235275.

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<sup>62</sup> *Rollo*, p. 89.

<sup>63</sup> *Id.* at 149-150.

<sup>64</sup> III. PROCEDURES IN HANDLING COMPLAINTS

H. Action on the Intelligence or Fact-Finding Investigation Report

1. Where the Intelligence or Fact-Finding Report recommends the conduct of a preliminary investigation and/or administrative adjudication against an official or employee of the Office of the Ombudsman, the Chairman shall approve the same and direct the investigator or panel of IAB-IS investigators to prepare the necessary complaint. The case shall immediately be docketed and assigned by raffle, with the assistance of the IAB Administrative Officer, to another IAB investigator or panel, or to the IAB, either in division or en banc, when proper.
2. In case the IAB Chairman disagrees with the recommendation to conduct preliminary investigation and/or administrative adjudication, the decision of the Board Chairman shall prevail. The report shall be approved by the following:
  - a. The IAB Chairman, where the respondent or the highest ranking respondent occupies a position belonging to the first level in the career service, or who is in the non-career service with Salary Grade 13 and below;
  - b. The IAB en banc, where the respondent or the highest ranking respondent occupies a position belonging to the second level of the career service with Salary Grade not higher than 24, or who is in the non-career service with Salary Grade 14 to 24;
  - c. The Ombudsman, upon recommendation of the IAB, where the respondent or the highest ranking respondent occupies a position with Salary Grade 25 or above.
3. The preventive suspension order, when proper, shall be approved in accordance with the immediately preceding section.
4. Where the intelligence or fact-finding report recommends any action other than the conduct of preliminary investigation and/or administrative adjudication, the approval required in part (IV)(H)(2) above should likewise be obtained.

<sup>65</sup> *Rollo*, p. 94.



**G.R. No. 235274**  
**Simple Neglect of Duty**

Petitioner argues that he is similarly situated with Former Deputy Ombudsman Emilio Gonzales III in *Gonzales III v. Office of the President*,<sup>66</sup> hence, the manner by which his case should be resolved must be similar to how the Gonzales case was resolved by the Court. He asserts that he and Gonzales had the same duties and functions, volume of work, and degree of pressure brought about by their respective positions.<sup>67</sup>

**Conduct Prejudicial to the  
Best Interest of the Service**

Petitioner posits that he did not commit inordinate delay in the resolution of the complaint of Spouses Osabel since there was no specific period of delay alleged by respondent except for the general period counted from the filing up to the approval of the resolution by the Ombudsman.<sup>68</sup>

Delay in the resolution of the complaint of Spouses Osabel is punishable under Section 23 of RA 6770 and not under the RRACCS. He only ought to pay a fine not exceeding P5,000.00.<sup>69</sup>

**G.R. No. 235275**

**Grave Misconduct**

He claims to have hired Arquellano in July 2011 as a house boy, with a monthly salary of P2,000 including free food and lodging. But to have additional income to tide his family over, he allowed him to apply as an administrative aide in his office at the OMB-MIN sometime in September 2011.<sup>70</sup>

Arquellano's testimony is riddled with inconsistencies. He claims that he declared in his exit SALN the amount of P15,000.00 as his money in the bank. Upon verification, however, said BDO account only had loose change left at the time he left OMB-MIN. The P15,000.00 Arquellano claims to have in his account is another figment of his imagination.<sup>71</sup> Arquellano never said petitioner gave him a share, commission, or reward for keeping the Metrobank and BDO accounts. This is contrary to human experience.<sup>72</sup>

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<sup>66</sup> 725 Phil. 380, 411 (2014).

<sup>67</sup> *Rollo*, p. 38.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 59.

<sup>70</sup> *Id.* at 42.

<sup>71</sup> *Id.* at 53.

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

### Grave Abuse of Authority

There was no evidence or at least affidavit from other people who were allegedly present when he supposedly berated Peligro for her “low position” and her effort in assisting the IAB get HR files. The truth is, Peligro merely wrote a letter addressed to the IAB justifying her inaction.<sup>73</sup>

The amount of fine imposed on him equivalent to six (6) month salary in lieu of dismissal as well as forfeiture of retirement benefits are too grave a penalty and is an overkill on the part of the Ombudsman.<sup>74</sup>

Lastly, petitioner reiterates that the special panel members should have inhibited themselves from participating in the cases against him.<sup>75</sup>

Through its **Comment**<sup>76</sup> dated May 18, 2018, the special panel counters that it is not covered by AO 16-2003 since it is merely a nominal complainant in the cases against petitioner. Its members had no personal interest in the complaints they were required to file against him pursuant to Section III (H) of AO 16.

The Court of Appeals correctly affirmed that petitioner is guilty of **simple neglect of duty and Conduct Prejudicial to the Best Interest of the Service**. Citing Section 13<sup>77</sup> of RA 6770, it is the duty of petitioner to act promptly on complaints filed against government officials and employees.<sup>78</sup>

Too, for **simple neglect of duty, Gonzales III** is not on all fours with the case. In *Gonzales III*, Deputy Ombudsman Gonzales III was not held administratively liable for gross neglect of duty because there was no evidence showing inordinate and unjustified delay on his part in resolving the motion for reconsideration then pending before his office. In stark contrast, petitioner failed to satisfactorily explain why it took his office almost four (4) years to resolve Spouses Osabel’s complaint. Petitioner also failed to act on the numerous letters sent by Spouses Osabel and the internal indorsements forwarded to him for action.<sup>79</sup>

Petitioner is guilty of **conduct prejudicial to the best interest of the service**. Under Section 13<sup>80</sup> of RA 6770, it was the duty of petitioner to act promptly on complaints filed against government officials and employees. His

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<sup>73</sup> *Id.* at 46.

<sup>74</sup> *Id.* at 62.

<sup>75</sup> *Id.* at 30.

<sup>76</sup> *Id.* at 860-875.

<sup>77</sup> **Section 13. Mandate.** — The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against officers or employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people.

<sup>78</sup> *Rollo*, p. 866.

<sup>79</sup> *Id.* at 868.

<sup>80</sup> *Supra*, note 77.

inaction or omission to perform this duty, nay, his indifference, tarnished the image of his public office.<sup>81</sup>

Respondent also insists that petitioner is liable for **grave misconduct** for taking advantage of his position when he (1) facilitated Arquellano's appointment as Administrative Aide II despite the fact that the latter was already working as his house help; and (2) instructed Arquellano to open bank accounts under the latter's name to facilitate petitioner's illegal transactions.<sup>82</sup>

Further, petitioner, is guilty of **grave abuse of authority** for requiring Peligro to first obtain clearance from him before she may secure copies of the HR files pertaining to ongoing fact-finding investigations in the OMB-MIN.<sup>83</sup>

### Issues

1. Should the special panel members (IAB members) be disqualified from participating in the administrative cases against petitioner?
2. In G.R. No. 235274, is petitioner liable for simple neglect of duty and conduct prejudicial to the best interest of the service?
3. In G.R. No. 235275, is petitioner liable for grave misconduct and grave abuse of authority?

### Our Ruling

The petitions are devoid of merit.

***The special panel members (IAB members) are not disqualified from participating in the complaints against petitioner***

The first issue: are the special panel members disqualified from participating in the cases against petitioner?

To begin with, respondent special panel members were investigators, and not complainants in the context of Section III (N) of AO 16-2003. Created by virtue of AO 16-2003,<sup>84</sup> the special panel was tasked to conduct a fact-

<sup>81</sup> *Rollo*, p. 866.

<sup>82</sup> *Id.* at 867-868.

<sup>83</sup> *Id.* at 867.

<sup>84</sup> III. PROCEDURES IN HANDLING COMPLAINTS

E. Conduct of Evaluation. Upon receipt of the complaint, the investigator shall evaluate the complaint and submit to the IAB Chairman, within five (5) days from receipt thereof, an evaluation report, which shall contain, among others, the following:

3. The actions recommended to be taken, which may be any of the following:
 

xxx	xxx	xxx
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finding investigation of the complaints filed against petitioner and submit its recommendation whether to proceed with the administrative adjudication or to dismiss the complaints.

Here, the document captioned as "complaint-affidavit" was actually the Report of the special panel containing its factual findings as well as its recommendation for administrative adjudication of the complaints against petitioner. To repeat, it was not a party to the case either as complainant or respondent. As aptly ruled by the Court of Appeals, it was Spouses Osabel, Arquellano, and Peligro who were the real complainants against petitioner.

To emphasize, the disqualification under Section III (N) of AO 16-2003 does not refer to the special panel as a body but to an individual member who is either a complainant or respondent in the case.

#### **G.R. No. 235274**

#### ***Petitioner is guilty of simple neglect of duty***

Under Section 5 (a) of Republic Act No. 6713<sup>85</sup> otherwise known as Code of Conduct and Ethical Standards for Public Officials and Employees, every public officer or employee must respond to letters and requests addressed to him or her within fifteen (15) working days from notice. In the case of petitioner, he does not deny that he failed to formally reply to the Indorsement of AO Rafanan, to the letters of Spouses Osabel and to the PAB

- b. To conduct a **fact-finding investigation or intelligence operations;**  
xxx            xxx            xxx

#### G. Conduct of Fact-Finding Investigation or Intelligence Operation

1. **Where the conduct of a fact-finding investigation or intelligence operation is found to be proper on the basis of a complaint, or at the instance of the IAB Chairman, IAB en banc or the Ombudsman, the IAB Chairman, with the assistance of the IAB Administrative Officer, shall assign the case by raffle to an IAB-IS investigator or to a panel of IAB-IS investigators.**
2. The IAB-IS investigator or panel of IAB-IS investigators shall submit an **Intelligence or Fact-Finding Report, together with his/its recommendation,** to the IAB Chairman within sixty (60) days from his/its receipt of the complaint.

#### H. Action on the Intelligence or Fact-Finding Investigation Report

4. Where the Intelligence or Fact-Finding Report recommends the conduct of a preliminary investigation and/or **administrative adjudication** against an official or employee of the Office of the Ombudsman, the **Chairman shall approve the same and direct the investigator or panel of IAB-IS (IAB Investigating Staff) investigators to prepare the necessary complaint.** xxx (Emphases supplied.)

<sup>85</sup> **Section 5. Duties of Public Officials and Employees.** - In the performance of their duties, all public officials and employees are under obligation to:

- (a) Act promptly on letters and requests. - All public officials and employees shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain the action taken on the request.

Memorandum. Neither does he deny that he failed to inform AO Rafanan and Spouses Osabel of the action so far taken on Spouses Osabel's complaint under OMB-M-C-09-0262-F despite a directive from AO Rafanan and the PAB to do so or at least acknowledge his receipt of the directive either by himself or through the assigned handling lawyer Atty. Gelito.<sup>86</sup>

In other words, he failed to give proper attention to a task expected of him, signifying a disregard of his duty resulting from either carelessness or indifference.<sup>87</sup> This constitutes simple neglect of duty.<sup>88</sup>

In *Felix v. Vitriolo*,<sup>89</sup> respondent Vitriolo, former Executive Director of the Commission on Higher Education (CHED) was held liable for neglect of duty when he ignored the letters a former faculty member of the Pamantasan ng Lungsod ng Maynila (PLM) sent him relative to the alleged diploma-mill operations and other anomalies surrounding the programs offered by PLM, in violation of Section 5 (a) of Republic Act No. 6713. He was not only guilty of simple neglect of duty but gross neglect of duty because even after he acknowledged Felix's letters three (3) years later and thereafter promised to investigate the matter, he still failed to update Felix about the results of the supposed investigation, if indeed one was conducted.

Petitioner's invocation of *Gonzales III* is misplaced. In the first place, *Gonzales III* was not about simple neglect of duty but about gross neglect of duty which Deputy Ombudsman Gonzales III supposedly committed relative to his alleged inordinate delay in the resolution of a motion for reconsideration pending before his office. At any rate, the Court ruled that Deputy Ombudsman Gonzales III did not commit gross neglect of duty because there was no showing that he incurred inordinate delay in resolving the motion for reconsideration. In stark contrast, petitioner here was charged and found liable for simple neglect of duty because he inexplicably failed to respond to the communications of his superiors requiring him to inform them of his action on the case. He did not even acknowledge receipt of these communications.

***Petitioner is liable for conduct  
prejudicial to the best interest  
of the service***

OMB-M-C-09-0262-F was filed with OMB-MIN on June 1, 2009 and got dismissed for lack of probable cause almost **four (4) years** later or on May 12, 2013. It was precisely due to petitioner's delayed action that Spouses Osabel sought the intervention of AO Rafanan and then the Office of the President to get their case finally resolved. Notably, petitioner did not cite any complicated questions of fact or law which could have justified his delay in the disposition of the case for four (4) long years since it got filed. His indifference and negligence definitely tarnished the image of his office, for

<sup>86</sup> *Roilo*, pp. 85-86.

<sup>87</sup> *Civil Service Commission v. Catacutan*, G.R. No. 224651, July 3, 2019.

<sup>88</sup> *Office of the Ombudsman v. Tongson*, 531 Phil. 164, 191 (2006).

<sup>89</sup> G.R. No. 237129, December 09, 2020.

which he should be held liable for conduct prejudicial to the best interest of the service.<sup>90</sup>

In *Miranda v. CSC*,<sup>91</sup> the Court held petitioner Miranda guilty of Conduct Prejudicial to the Best Interest of the Service after she belatedly submitted to the Commission on Audit (COA) the financial reports of West Visayas Medical Center for four (4) fiscal years. The Court ruled that the delay resulted in prejudice to the government and the public in general as the purpose of prompt submission of financial reports to the COA is for the effective monitoring of the agency's compliance with the prescribed government accounting and auditing rules and regulations, essential in management's decision-making, planning and budgeting.

Under the Civil Service law and rules, there is no concrete description of what specific acts constitute the grave offense of conduct prejudicial to the best interest of the service. Jurisprudence, however, instructs that for an act to constitute such an administrative offense, the act need not be related to or connected with the public officer's official functions. As long as the questioned conduct tarnishes the image and integrity of his or her public office, the corresponding penalty may be meted on the erring public officer or employee.<sup>92</sup>

The next question is: May a single act or omission of a public officer or employee give rise to two or more infractions under the RRACCS?

We rule in the affirmative.

In *CSC v. Catacutan*,<sup>93</sup> the Court held respondent liable for both simple neglect of duty and Conduct Prejudicial to the Best Interest of the Service. For simple neglect of duty, the Court said that she incurred this liability when she failed to sort and attach a bar code to a trial court's decision declaring a marriage void, resulting in the OSG's failure to appeal the decision within the reglementary period; while for Conduct Prejudicial to the Best Interest of the Service, the Court ruled that Catacutan became liable therefor when her failure to properly discharge her duty led to the forfeiture of the state's right to appeal.

So must it be.

### **Imposable Penalty in G.R. No. 235274**

For simple neglect of duty, petitioner claims that his delayed action on the official correspondences in question is punishable under Section 23<sup>94</sup> of Republic Act No. 8770 (RA 8770), not the RRACCS.

<sup>90</sup> *Rollo*, p. 86.

<sup>91</sup> G.R. No. 213502, February 18, 2019.

<sup>92</sup> *Villanueva v. F/SINSP. Reodique*, G.R. No. 221647, November 27, 2018.

<sup>93</sup> G.R. No. 224651, July 3, 2019.

<sup>94</sup> **Section 23. Formal Investigation.** —

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Again, petitioner's invocation of Section 23 is misplaced. This provision does not refer to officers of the OMB like petitioner but to "the proper disciplinary authority to whom the OMB may refer certain complaints for the institution of appropriate administrative proceedings against erring public officers." A prescribed fine of not more than Five Thousand Pesos (P5,000.00) may be imposed on the proper disciplinary authority who incurs delay, without just cause in acting on any referral made by the OMB.

This brings us to the RRACCS, governing the infractions committed by petitioner between the years 2011 and 2012.

Under the RRACCS, **simple neglect of duty** is a less grave offense punishable by suspension for one (1) month and one (1) day to six (6) months for the first infraction.<sup>95</sup>

**Conduct prejudicial to the best interest of the service**, on the other hand, is a grave offense, for which, the penalty of suspension for six (6) months and one (1) day to one (1) year for the first offense and dismissal from service for the second offense, should be imposed.<sup>96</sup>

Under Section 50 of the RRACCS, if the respondent is found guilty of two (2) or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge and the rest shall be considered as aggravating circumstances.

To be sure, Conduct Prejudicial to the Best Interest of the Service is more serious than simple neglect of duty. Consequently, the penalty for Conduct Prejudicial to the Best Interest of the Service shall be imposed, with simple neglect of duty as an aggravating circumstance. Notably, this aggravating circumstance is deemed offset by the mitigating circumstance of twenty five (25) years of government service credited by the OMB in petitioner's favor pursuant to Section 48 of the RRACCS. Here, applying Section 49 paragraph (d) of the RRACCS,<sup>97</sup> petitioner shall suffer the medium period of the prescribed penalty *i.e.*, suspension from the service for nine (9)

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(1) Administrative investigations conducted by the Office of the Ombudsman shall be in accordance with its rules of procedure and consistent with due process.

(2) At its option, the Office of the Ombudsman may refer certain complaints to the proper disciplinary authority for the institution of appropriate administrative proceedings against erring public officers or employees, which shall be determined within the period prescribed in the civil service law. Any delay without just cause in acting on any referral made by the Office of the Ombudsman shall be a ground for administrative action against the officers or employees to whom such referrals are addressed and shall constitute a graft offense punishable by a fine of not exceeding Five thousand pesos (P5,000.00).

<sup>95</sup> *Office of the Ombudsman v. Tongson*, 531 Phil. 164, 191 (2006).

<sup>96</sup> Section 46 (B) of the RACCS.

<sup>97</sup> Section 49. Manner of Imposition. -- When applicable, the imposition of the penalty may be made in accordance with the manner provided herein below:

xxx    xxx    xxx

d. Where aggravating and mitigating circumstances are present, paragraph [a] shall be applied where there are more mitigating circumstances present; paragraph [b] shall be applied when the circumstances equally offset each other; and paragraph [c] shall be applied when there are more aggravating circumstances.

months. In view, however, of the expiration of petitioner's term of office as Deputy Ombudsman, the OMB, in lieu of suspension, appropriately imposed a fine equivalent to petitioner's salary for six (6) months.

**G.R. No. 235275**

***Petitioner is guilty of grave  
misconduct***

As aptly found by the OMB and the Court of Appeals, petitioner, taking undue advantage of his position as Deputy Ombudsman, facilitated the appointment of Arquellano (his family house boy) as an Administrative Aide II in the OMB and had him assigned to his office. Arquellano continued to work as his family house boy even after he already got employed with the government. His salaries supposedly as a government employee inured to the personal benefit of petitioner and his family as Arquellano continued to serve as a house boy, instead of rendering full time service to the government as Administrative Aide II.

We quote the pertinent findings of the OMB, *viz.*:

DO Monteroso admitted that he made Arquellano perform domestic chores for him and his family during the latter's tenure as a paid employee of OMB Mindanao. He said he allowed Arquellano to simultaneously work as his house helper and an Administrative Aide II of his office. He defended his decision, claiming that, among other things, Arquellano received separate compensation for both engagements. However, DO Monteroso failed to substantiate this claim of separate compensation by proof of payment of his salaries for Arquellano's domestic employment. Without this proof, it is quite clear that Arquellano was performing both his regular functions at the Office of the Ombudsman as Administrative Aide and as a domestic helper at the Monteroso household and solely compensated by the government.

Undoubtedly, DO Monteroso unfairly took advantage of Arquellano when he made his subordinate perform household chores for him and his family during the latter's tenure as a civil servant without proper compensation. As an employee of OMB Mindanao, Arquellano should have been only performing official functions during business hours. DO Monteroso should not have compelled Arquellano to perform domestic tasks such as taking care of his pets and cleaning private motor vehicles before and after office hours.

Not only were DO Monteroso's actions willful and intentional; these were clearly illegal, wrongful and improper, especially considering that OMB Mindanao was paying for Arquellano's salary. He likewise took advantage of OMB Mindanao when he facilitated the agency's appointment of Arquellano as an Administrative Aide II and the latter's inclusion in the office payroll, knowing fully well that Arquellano was already working as his house helper. In effect, DO Monteroso and his family benefitted from

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the services rendered by Arquellano, which, in turn, were paid for by OMB Mindanao using public funds.<sup>98</sup>

But this is not all. Petitioner further used Arquellano as a dummy to facilitate his shady transactions involving huge amounts of bank deposits. Per Arquellano's complaint affidavit and supporting documentary evidence, petitioner instructed him to open bank accounts in his name with Metro Bank and later, with BDO, to which accounts petitioner funneled a huge amount of deposit of P300,000.00.<sup>99</sup> Arquellano admitted to being questioned by Metro Bank regarding the source or sources of this deposit but he was not able to give a proper explanation. Even then and despite the closure of the bank account by Metro Bank itself, petitioner had him open another bank account, this time with BDO. He did the same thing to this account, using it to funnel huge amounts of deposit *i.e.*, P300,000.00, P300,000.00, P250,000.00 and P200,000.00 totaling P1,050,000.00. Arquellano stated under oath he never deposited a single centavo to the twin accounts. Each amount of deposit was extremely disproportionate to his financial capacity as a government clerical employee.<sup>100</sup> He asserted that since he could no longer bear how he was being used by petitioner, he was constrained to resign altogether as a government employee and as petitioner's family house boy.

On this score, we refer to the relevant findings of the OMB, *viz.*:

With regard to Arguellano's claim that DO Monteroso used him as a "dummy" to facilitate bank transactions, the latter simply denied the same, insisting that said testimony was hearsay.

This Board considers Do Monteroso's denial to be inherently weak because it is self-serving and unsubstantiated by clear and convincing evidence. In stark contrast, Arquellano, in addition to his sworn statement, submitted numerous financial records, including bank statements and certifications to support his allegations. In fact, he even opened the bank accounts for the Panel's examination, executing the written consent/waiver necessary therefor. Arquellano was clearly attesting to the relevant facts pertaining to the subject bank account from his own personal knowledge. Monteroso's claim of hearsay is simply baseless.<sup>101</sup>

In his defense, petitioner invokes a bare denial and a distorted hypothesis that since Arquellano was only a low ranking government employee, everything he said against him was just a figment of his imagination. He also harps on the fact that the questioned deposits were reported by Arquellano in his exit SALN.

We are not persuaded. Neither petitioner's bare denial nor his distorted hypothesis carries any probative value. It does not suffice to negate the incriminating evidence against him on record, specifically the credible and

<sup>98</sup> *Rollo*, pp. 408-409.

<sup>99</sup> *Id.* at 87.

<sup>100</sup> *Id.* at 413-414.

<sup>101</sup> *Id.* at 409.

positive statement of Arquellano and the supporting bank records he submitted to the special panel.

As for Arquellano's exit SALN where he reported the bank deposits in question, he convincingly explained:

*Nais kong ilahad na ang mga assets na naka-deklara sa aking exit SALN (kulakip ng salaysay na ito) n[ai] may petsang March 6, 2012 ay pawang totoo kasama na ang aetalye sa aking cash in bank na may halagang P15,000.00 lamang at ang lahat ng pera sa BDO Savings Account No. 3370049567 ay pag-auri ni Deputy Ombudsman Humprey T. Monteroso.<sup>102</sup>*

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior, or gross neglect of duty by a public officer. The misconduct is considered to be grave if it also involves other elements such as corruption or the willful intent to violate the law or to disregard established rules.<sup>103</sup>

To constitute an administrative offense, misconduct should relate to or be connected with the performance of the official functions and duties of a public officer. On the other hand, when the element of corruption or clear intent to violate the law or flagrantly disregard an established rule is manifest, the public officer shall be liable for grave misconduct.<sup>104</sup>

Corruption, as an element of grave misconduct, consists in the act or acts of officials or fiduciary persons who unlawfully and wrongfully use their stations or character to procure some benefit for themselves or for another person, contrary to duty and the rights of others.<sup>105</sup>

Here, the actions of petitioner are undoubtedly imbued with corruption. He unlawfully and wrongfully used his position to procure pecuniary and non-pecuniary benefit for himself, contrary to his duty and with flagrant disregard of the rights of others.<sup>106</sup> He is liable for grave misconduct.

***Petitioner is guilty of grave abuse of authority***

Oppression, also known as grave abuse of authority, is a misdemeanor committed by a public officer, who under color of his office, wrongfully inflict upon any person any bodily harm, imprisonment or other injury. It is an act of cruelty, severity, or excessive use of authority.<sup>107</sup>

<sup>102</sup> *Id.* at 556.

<sup>103</sup> *Office of the Ombudsman-Mindanao v. Martel*, 806 Phil. 649, 655 (2008).

<sup>104</sup> *Office of the Ombudsman v. Magno*, 592 Phil. 649, 658 (2017).

<sup>105</sup> *Domingo v. Civil Service Commission*, G.R. No. 236250, June 17, 2020.

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

<sup>107</sup> *Chua v. Cordova*, A.M. No. P-19-3960, September 7, 2009.

Acting under the color of his office and in excess of his authority, petitioner berated and humiliated Chief Administrative Officer Peligro when she assisted the special panel in obtaining copies of petitioner's HR files. He also assigned another person to take custody of the HR files and imposed as a condition for access or release thereof his prior permission. Notably, Peligro was able to request HR files from the Human Resource Management Office (HRMO) prior to petitioner assigning another person to handle the HR files. Even then, he made clear that even the request of the special panel for his HR records should not be allowed without his permission.

Evidently, he was using his authority to thwart the ongoing investigation of the cases against him especially the possible discovery of damaging evidence which his HR records might reveal. As a high-ranking official, he was expected to set a good example for his subordinates by cooperating with investigation conducted by the special panel for the purpose of unearthing the truth. As it was though, not only did he fail to cooperate with the investigation, his actions also appeared to have suppressed vital documentary evidence just because he feared the same may be used against him.

Verily, he is guilty of oppression or grave abuse of authority. Hiding under the color of his office, he humiliated, berated, and blocked Peligro from performing her duty as the Chief Administrative Officer of OMB-MIN tasked by the special panel to retrieve and submit to petitioner's HR files relative to their fact finding investigation on him. He acted as if the HR files were his private property. He abused and exceeded his authority obviously for the purpose of hiding the truth.<sup>108</sup>

The Court, in *Office of the Court Administrator v. Yu*,<sup>109</sup> held respondent Judge Eliza Yu guilty of grave abuse of authority when she issued a show cause order against her fellow Judges and court personnel who sought copies of her records for purposes of producing evidence against her in the administrative case her fellow Judges and the concerned court employees initiated against her. The issuance of the show-cause order represented clear abuse of court processes and revealed her arrogance in the exercise of her authority as a judicial officer. We emphatically clarified that only the Court has the power to issue directives to parties in an administrative case to appear and present their respective arguments in support of their position.

To be sure, violence or intimidation are not the only indicators of harassment and oppression. Any act which torments, pesters, annoys, irritates, and disturbs another and prejudices a person may constitute harassment and oppression.<sup>110</sup>

<sup>108</sup> *Chua v. Cordova*, A.M. No. P-19-3960, September 7, 2020.

<sup>109</sup> 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 & A.M. No. MTJ-13-1821, 800 Phil. 307-458 (2016).

<sup>110</sup> *Reyes, Jr. v. Belisario and Malicdem*, 612 Phil. 936, 962 (2009).

The government cannot tolerate in its service grave abuse of authority and grave misconduct, even if the public officers perform their duties correctly and well. For by reason of their government positions, they are given more opportunity to commit acts of oppression against their fellow men, even against offices and entities of the government other than the offices they are employed in. Too, by reason of their offices, they enjoy and possess certain influence and power which renders the victims of their grave misconduct and oppression less disposed to resist or counteract.<sup>111</sup>

### **Imposable Penalty in G.R. No. 235275**

**Grave misconduct** is punishable with dismissal from the service while **oppression or grave abuse of authority**, with suspension for six (6) months and one (1) day to one (1) year for the first offense and dismissal from the service for the second offense.<sup>112</sup>

Here, grave misconduct is the more serious offense. It carries the supreme penalty of dismissal from the service. In view, however, of the expiration of petitioner's term of office, he can no longer be dismissed from the service. Hence, in lieu of dismissal, a fine was correctly imposed on petitioner equivalent to his salary for six (6) months plus all the accessory penalties provided by law.

Hence, in addition to the imposed fine, petitioner should also suffer the accessory penalties of forfeiture of retirement benefits, cancellation of eligibility, perpetual disqualification from holding public office, and bar from taking the civil service examinations that the penalty of dismissal carried. A contrary holding would have the undesirable effect of giving the erring employee the opportunity to re-enter public office by the simple expedient of the expiration of his term of office as Deputy Ombudsman.<sup>113</sup>

**ACCORDINGLY**, the petitions are **DENIED**. The Decision dated July 20, 2017 of the Court of Appeals in **CA-G.R. SP No. 143404** and **CA-G.R. SP No. 143405** is **AFFIRMED**.

In **G.R. No. 235274**, petitioner **HUMPHREY T. MONTEROSO** is found **GUILTY** of **SIMPLE NEGLIGENCE OF DUTY** and **CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE**. In lieu of suspension, he shall pay a **FINE** equivalent to his salary for **SIX (6) MONTHS** within thirty (30) days from finality of this Decision. In case of delayed payment, the unpaid amount shall earn legal interest of six percent

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<sup>111</sup> See *Remolona v. Civil Service Commission*, 414 Phil. 590, 601 (2001).

<sup>112</sup> Section 47. Penalty of Fine. – The following are the guidelines for the penalty of fine:

xxx      xxx

6. The fine shall be paid to the agency imposing the same, computed on the basis of respondent's salary at the time the decision becomes final and executory.

<sup>113</sup> *Supra*, note 112.

(6%) *per annum*.

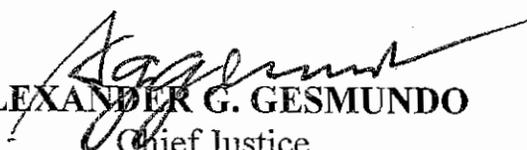
In **G.R. No. 235275**, petitioner **HUMPHREY T. MONTEROSO** is **GUILTY** of **GROSS MISCONDUCT** and **GRAVE ABUSE OF AUTHORITY**. He is ordered **DISMISSED** from the service. In view, however, of his retirement from the service, for which, the imposed penalty of **DISMISSAL** can no longer be implemented, he is ordered to pay a **FINE** equivalent to his salary for **SIX (6) MONTHS** within thirty (30) days from finality of this Decision. In case of delayed payment, the unpaid amount shall earn legal interest of six percent (6%) *per annum*.

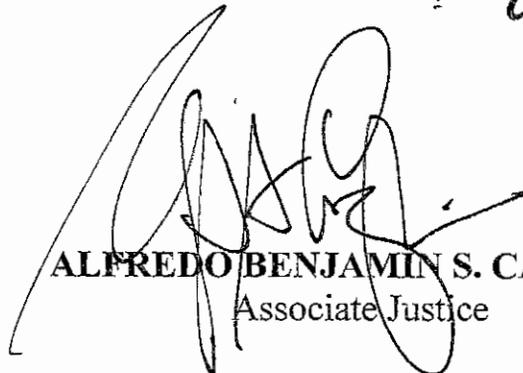
The **ACCESSORY PENALTIES** of forfeiture of retirement benefits, cancellation of eligibility, perpetual disqualification from holding public office, and bar from taking the civil service examinations **are imposed on petitioner**.

**SO ORDERED.**

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
Chief Justice  
Chairperson

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

On official leave  
**MARIO V. LOPEZ**  
Associate Justice

  
**JHOSEP V. LOPEZ**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

*J*

