



Republic of the Philippines
Supreme Court
Manila

EN BANC

RE: POST OF ATTY. ERWIN
ERFE ON SOCIAL MEDIA
ACCUSING THE COURT OF
JUDICIAL TYRANY

A.M. No. 23-07-26-SC

Present:

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.

Promulgated:

February 27, 2024

X-----X

RESOLUTION

SINGH, J.:

This resolves the Verified Compliance (Re: Show Cause Order dated 25 July 2023)¹ filed by respondent Atty. Erwin P. Erfe (**Atty. Erfe**) in response to the Court's Resolution,² dated July 25, 2023, in which the Court directed him to show cause why he should not be cited in indirect contempt and why he should not be disciplined as a member of the Bar for violation of Sections 2, 14, and 19 of Canon II of the Code of Professional Responsibility and Accountability (**CPRA**).

The Facts

On July 11, 2023, the Court in its Resolution in A.M. No. 25-05-05-SC, *Re: Request of the Public Attorney's Office to Delete Section 22, Canon III of the Proposed Code of Professional Responsibility and Accountability*, denied the said request of the Public Attorney's Office (**PAO**). The Court likewise directed Atty. Persida V. Rueda-Acosta (**Atty. Acosta**), Chief of the PAO, to show cause why she should not be cited in indirect contempt and disciplined as a member of the Bar for her public statements on social media and other actions in relation to the said request of the PAO.

When the Court's ruling in its July 11, 2023 Resolution was disseminated to the public through a press release, Atty. Erfe posted on his Facebook account the following statement: "The Supreme Court's threat to cite in contempt the PAO Chief for defending the PAO cannot be called any other name other than judicial tyranny" (**Facebook post**).³

For this reason, the Court issued the Resolution, dated July 25, 2023. The Court stated that "Atty. Erfe's public characterization of the Court's action as 'judicial tyranny' degrades the administration of justice, as contemplated in Section 3(d), Rule 71 of the Rules of Court," which tended "to bring the authority of the Court into disrepute."⁴ Atty. Erfe was likewise ordered to show cause why he should not be disciplinary dealt with as a member of the Bar for violating the CPRA.⁵

In his Verified Compliance,⁶ Atty. Erfe submitted his Most Humble Apology,⁷ dated August 24, 2023,⁸ expressing his "most heartfelt and sincere apology to [the Justices of the Court], to the Supreme Court, and the entire judiciary."

¹ *Rollo*, pp. 16-22.

² *Id.* at 4-7.

³ *Id.* at 4.

⁴ *Id.* at 4-5.

⁵ *Id.* at 5.

⁶ *Id.* at 16-22.

⁷ *Id.* at 23-24.

⁸ The document states that it is also "dated 22 August 2023."



Atty. Erfe explained that the Facebook post was “spurred by the uncontrollable and sudden emotional feeling that [he] felt” upon learning about the denial of the PAO’s request to delete Section 22, Canon III and the show cause order against Atty. Acosta. He averred that he later realized that he should not have been overcome by emotions and thus deleted the Facebook post. He added that he saw the rationale behind Section 22, Canon III and expressed his intention to fully comply with the said provision.⁹

The Issue

Should Atty. Erfe be held guilty of indirect contempt and disciplined as a member of the Bar?

The Court’s Ruling

Atty. Erfe is guilty of indirect contempt

The Court holds that Atty. Erfe’s Facebook post amounts to “improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice,” punishable as indirect contempt under Section 3(d), Rule 71 of the Rules of Court.

Time and again, the Court, when confronted with actions and statements that tend to promote distrust and undermine public confidence in the Judiciary, has not hesitated to wield its inherent power to cite persons in contempt.¹⁰ In so doing, the Court preserves the Judiciary’s honor and dignity and the trust and confidence of the public which is critical for the stability of democratic government.¹¹

Here, Atty. Erfe, without providing any basis in fact or law, accused the Court of tyranny for ordering Atty. Acosta to show cause why she should not be cited in contempt. Atty. Erfe’s statement, which suggested that the Court, in exercising its contempt power, acted in an oppressive manner, impaired public confidence in the Court and, consequently, degraded the administration of justice. It is an unwarranted attack on the dignity of the Court constitutive of indirect contempt.

⁹ *Id.* at 23–24.

¹⁰ See *Zaldivar v. Sandiganbayan*, 248 Phil. 542 (1988) [*Per Curiam, En Banc*]; *In Re: Published Alleged Threats Against Members of the Court in the Plunder Law Case Hurlled by Atty. Leonard De Vera*, 434 Phil. 503 (2002) [*Per J. Kapunan, En Banc*]; *Re: Letter dated 21 February 2005 of Atty. Noel S. Sorreda*, 502 Phil. 292 (2005) [*Per J. Garcia, En Banc*]; *Roxas v. De Zuzuarregui, Jr.*, 516 Phil. 605 (2006) [*Per J. Chico-Nazario, First Division*]; and *Garcia, Jr. v. Manrique*, 697 Phil. 157 (2012) [*Per J. Reyes, First Division*].

¹¹ *Zaldivar v. Sandiganbayan*, 248 Phil. 542, 583 (1988) [*Per Curiam, En Banc*].



At this juncture, the Court underscores the importance of maintaining the people's trust in the Judiciary, particularly, the Court. If the public loses their confidence in the Court, which is the last bulwark to which the Filipino people may repair to obtain relief for their grievances or protection of their rights when these are trampled upon, and believe that they cannot expect justice from the Court, they might be driven to take the law into their hands, and disorder and perhaps chaos might be the result.¹²

This is not to say that the courts are sacrosanct and thus should be shielded from any form of criticism. In *People v. Godoy*,¹³ the Court explained that fair criticism of a court's rulings or decisions is not improper. So long as critics confine their criticisms to facts and base them on the decisions of the court, they commit no contempt no matter how severe the criticism may be; but when they pass beyond that line and charge that judicial conduct was influenced by improper, corrupt, or selfish motives, or that such conduct was affected by political prejudice or interest, the tendency is to create distrust and destroy the confidence of the people in their courts. Clearly, Atty. Erfe's derogatory remark against the Court falls outside the ambit of fair criticism.

What makes the present case more reprehensible is that the contumacious statement came from a member of the Bar, who as an officer of the court, has the sworn and moral duty to help build and not destroy unnecessarily that high esteem and regard towards the courts that is so essential to the proper administration of justice. Thus, Atty. Erfe must likewise be disciplined as a member of the Bar.

Atty. Erfe violated Sections 2, 14, and 19, Canon II of CPRA

In making the Facebook post, Atty. Erfe also violated the CPRA,¹⁴ particularly the following provisions:

SECTION 2. Dignified conduct. — A lawyer shall respect the law, **the courts**, tribunals, and other government agencies, their officials, employees, and processes, and act with courtesy, civility, fairness, and candor towards fellow members of the bar.

¹² See *In re: Sotto*, 82 Phil. 595, 602 (1949) [Per J. FERIA, *En Banc*].

¹³ 312 Phil. 977, 1018 (1995) [Per J. REGALADO, *En Banc*].

¹⁴ Section 1 of the General Provisions provides:

SECTION 1. Transitory provision. — The CPRA shall be applied to all pending and future cases, except to the extent that in the opinion of the Supreme Court, its retroactive application would not be feasible or would work injustice, in which case the procedure under which the cases were filed shall govern.



A lawyer shall not engage in conduct that adversely reflects on one's fitness to practice law, nor behave in a scandalous manner, whether in public or private life, to the discredit of the legal profession.

....

SECTION 14. *Remedy for grievances; insinuation of improper motive.* — A lawyer shall submit grievances against any officer of a court, tribunal, or other government agency only through the appropriate remedy and before the proper authorities.

Statements insinuating improper motive on the part of any such officer, which are not supported by substantial evidence, shall be ground for disciplinary action.

....

SECTION 19. *Sub-judice rule.* — A lawyer shall not use any forum or medium to comment or publicize opinion pertaining to a pending proceeding before any court, tribunal, or other government agency that may:

- (a) cause a pre-judgment, or
- (b) **sway public perception so as to impede, obstruct, or influence the decision of such court, tribunal, or other government agency, or which tends to tarnish the court's or tribunal's integrity, or**
- (c) **impute improper motives against any of its members, or**
- (d) create a widespread perception of guilt or innocence before a final decision. (Emphasis supplied)

The Court in *Re: Disturbing Social Media Posts of Lawyers/Law Professors*¹⁵ emphasized its ruling in *Tiongco v. Hon. Aguilar*,¹⁶ which elaborated on the duty of lawyers to give respect to the courts. This responsibility was then outlined in Canon 11 of the old Code of Professional Responsibility, in connection with Section 20(b), Rule 138 of the Rules of Court. The Court reiterated:

Going now to analogous disciplinary measures meted under Canon 11, **it is a lawyer's sworn duty to maintain a respectful attitude towards the courts. A lawyer must not sow hate or disrespect against the court and its members.** He or she must be at the forefront in upholding its dignity. *Tiongco v. Hon. Aguilar* outlines the intricacies of a lawyer's obligation under Canon 11, *viz.*:

This duty is closely entwined with his vow in the lawyer's oath "to conduct himself as a lawyer with all good fidelity to the courts;" his duty under Section 20 (b), Rule 138 of the Rules of Court "[t]o observe and maintain the

¹⁵ A.M. No. 21-06-20-SC, April 11, 2023 [*Per Curiam, En Banc*].

¹⁶ 310 Phil. 652 (1995) [Per J. Davide, Jr., First Division].

respect due to the courts of justice and judicial officers;” and his duty under the first canon of the Canons of Professional Ethics “to maintain towards the courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its incumbent of the judicial office, but for the maintenance of its supreme importance.”

Indubitably, violation of Canon 11 **warrants the imposition of an administrative penalty.**¹⁷ (Emphasis supplied; citations omitted)

The pronouncement of the Court in *Genato v. Atty. Mallari*¹⁸ instructs:

It is a lawyer’s sworn duty to maintain a respectful attitude towards the courts. There is, thus, no rhyme or reason for respondent’s reprehensible and arrogant behavior in challenging a Justice of the Court of Appeals to a public debate. Even assuming that the decision rendered by a magistrate is, according to the losing lawyer, erroneous and completely devoid of basis in law, evidence, and jurisprudence, a person, let alone a lawyer, should not act contemptuously by challenging the judge or justice concerned to a public debate **that would unavoidably expose him or her and the entire Judiciary which he or she represents, to public ridicule and mockery.**¹⁹ (Emphasis supplied)

Aguilar further enlightens:

Elsewise stated, the right to criticize, which is guaranteed by the freedom of speech and of expression in the Bill of Rights of the Constitution, must be exercised responsibly, for every right carries with it a corresponding obligation. Freedom is not freedom *from* responsibility, but freedom *with* responsibility. In *Zaldivar vs. Gonzales*, it was held:

“Respondent Gonzales is entitled to the constitutional guarantee of free speech. No one seeks to deny him that right, least of all this Court. What respondent seems unaware of is that freedom of speech and of expression, like all constitutional freedoms, is not absolute and that freedom of expression needs an occasion to be adjusted to and accommodated with the requirements of equally important public interests. One of these fundamental public interests is the maintenance of the integrity and orderly functioning of the administration of justice. There is no antimony between free expression and the integrity of the system of administering justice. For the protection and maintenance of freedom of expression itself can be secured only within the context of a functioning and orderly system of dispensing justice, within the context, in other words, of viable

¹⁷ *Re: Disturbing Social Media Posts of Lawyers/Law Professors*, A.M. No. 21-06-20-SC, April 11, 2023 [*Per Curiam, En Banc*].

¹⁸ 865 Phil. 247 (2019) [*Per Curiam, En Banc*].

¹⁹ *Id.* at 259.

independent institutions for delivery of justice which are accepted by the general community.”

Proscribed then are, *inter alia*, the use of unnecessary language which jeopardizes high esteem in courts, creates or promotes distrust in judicial administration, or tends necessarily to undermine the confidence of the people in the integrity of the members of this Court and to degrade the administration of justice by this Court; or of offensive and abusive language; or abrasive and offensive language; or of disrespectful, offensive, manifestly baseless, and malicious statements in pleadings or in a letter addressed to the judge; or of disparaging, intemperate, and uncalled-for remarks.

That Atty. Tiongco had exceeded the bounds of decency and propriety in making the false and malicious insinuation against this Court, particularly the Members of the First Division, and the scurrilous characterizations of the respondent judge is, indeed, all too obvious. Such could only come from anger, if not hate, after he was not given what he wanted. Anger or hate could only come from one who “seems to be of that frame of mind whereby he considers as in accordance with law and justice whatever he believes to be right in his own opinion and as contrary to law and justice whatever does not accord with his views”. When such anger or hate is coupled with haughtiness or arrogance as when he even pointed out other intemperate words in his petition which this Court failed to incorporate in the resolution of 26 September 1994, and with seething sarcasm as when he prays that this Court “forebear[s] from turning . . . [him] into a martyr to his principles” and ends up his Compliance with the “RESPECTFUL APOLOGIES — AND UNDYING LOVE” (Constitution — Preamble, 66th word),” nothing more can extenuate his liability for gross violation of Canon 11 of the Code of Professional Responsibility and of his other duties entwined therewith as earlier adverted to.²⁰ (Italics in the original; emphasis supplied; citations omitted)

Here, by accusing the Court of “judicial tyranny,” Atty. Erfe failed to observe the fealty and respect he owes to the Court. Instead of upholding its dignity, he became a catalyst for fostering disrespect for the Court. As in the case of *Mallari*, he subjected the Court to public ridicule and mockery. Like in the case of *Aguilar*, Atty. Erfe exceeded the bounds of decency and propriety in making a baseless and malicious accusation against the Court.

Not only was there no basis for his claim, there was likewise an imputation of improper motive on the part of the Members of the Court by calling their collective act a “tyranny.” As expounded by the Court in its July 11, 2023 Resolution, the promulgation of the CPRA, including Section 22, Canon III, was made in the exercise of its power to regulate the practice of law, as well as its constitutional prerogative to promulgate rules concerning legal assistance to the privilege. Thus, it is not true that the Court acted as a tyrant when it sustained the validity of Section 22, Canon III of the CPRA, and denied the PAO’s request to delete the same.

²⁰ *Tiongco v. Hon. Aguilar*, 310 Phil. 652, 662-664 (1995) [Per J. Davide, Jr., First Division].



For the same reason, Atty. Erfe likewise violated the *sub judice* rule, as defined under Section 19, Canon II of the CPRA. When the July 11, 2023 Resolution of the Court was announced through a press release, Atty. Erfe immediately made the Facebook post. Even assuming that he was simply sharing his opinion, there was no doubt that the intention was to sway the perception of the public so as to influence the decision of the Court.

In light of the foregoing, the Court finds Atty. Erfe's violation of Sections 2 and 24, Canon II to constitute Grossly Undignified Conduct Prejudicial to the Administration of Justice under Section 33(i), Canon VI of the CPRA. His violation of the *sub judice* rule is punishable under Section 34(j), Canon VI.

*The penalties to be imposed on Atty.
Erfe*


Section 7, Rule 71 of the Rules of Court provides that a person found guilty of indirect contempt against a Regional Trial Court or a court of equivalent or higher rank may be punished by a fine not exceeding PHP 30,000.00 or imprisonment not exceeding six months or both.

Under the circumstances, the Court finds that Atty. Erfe's contumacious conduct warrants the imposition of a fine in the amount of PHP 10,000.00.

As to the administrative liability of Atty. Erfe, violation of Sections 2 and 14, Canon II constitute Grossly Undignified Conduct Prejudicial to the Administration of Justice, a serious offense under Section 33, Canon VI. On the other hand, violation of Section 19, the *sub judice* rule, is a less serious offense under Section 34, Canon VI.

Under Section 37, Canon VI, a serious offense may be sanctioned with (a) disbarment; (b) suspension from the practice of law for a period exceeding six months; (c) revocation of notarial commission and disqualification as notary public for not less than two years; or (d) a fine exceeding PHP 100,000.00.

Under the same section, a less serious offense is punishable by (a) suspension from the practice of law for a period within the range of one month to six months, or revocation of notarial commission and disqualification as notary public for less than two years; or (b) a fine within the range of PHP 35,000.00 to PHP 100,000.00.



Considering that Atty. Erfe committed a single act, the second paragraph of Section 40, Canon VI of the CPRA is applicable:

If a single act or omission gives rise to more than one (1) offense, the respondent shall still be found liable for all such offenses, but shall, nonetheless, only be meted with the appropriate penalty for the most serious offense.

Thus, the penalty to be imposed on Atty. Erfe must be taken from that prescribed for the serious offense.

Notwithstanding the foregoing, given the prevailing facts of this case and taking into consideration that this is Atty. Erfe's first offense and that he had shown extreme remorse for his actions and had immediately deleted the offending Facebook post, the Court deems the penalty of reprimand, with stern warning that a repetition of the same or a similar offense will be dealt with more severely, to be commensurate with the infraction committed by Atty. Erfe, which consist in letting his "uncontrollable and sudden emotional feeling" get the better of him. It is readily apparent that the Facebook post was caused by a momentary lapse of judgment on the part of Atty. Erfe, which he immediately realized as shown by his immediate deletion of the Facebook post.

FOR THESE REASONS, the Court finds respondent Atty. Erwin P. Erfe **GUILTY** of indirect contempt of court and orders him to **PAY** a **FINE** of PHP 10,000.00. The Court further finds him **GUILTY** of grossly undignified conduct prejudicial to the administration of justice and violation of the *sub judice* rule and he is **REPRIMANDED** with a **STERN WARNING** that a repetition of the same or similar offense will be dealt with more severely.

Let copies of this Resolution be furnished to the Office of the Bar Confidant, to be appended to the personal record of respondent Atty. Erwin P. Erfe, to the Integrated Bar of the Philippines, and to the Office of the Court Administrator for dissemination to all courts throughout the country for their guidance and information.

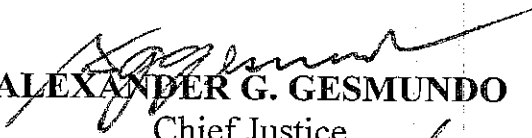
The Very Respectful Manifestation (On Full Compliance with Section 22, Canon III of the Code of Professional Responsibility and Accountability), dated February 2, 2024, filed by Atty. Erwin P. Erfe is **NOTED**.


SO ORDERED.





MARIA FILOMENA D. SINGH
Associate Justice

WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice

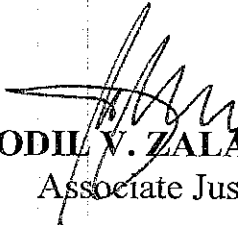

MARVIC M.V.F. LEONEN
Senior Associate Justice

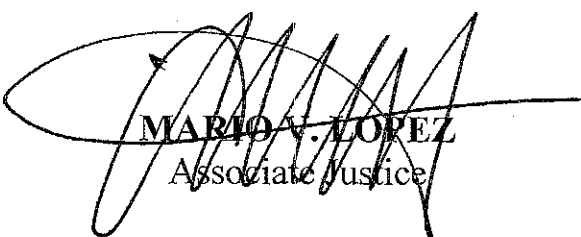

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

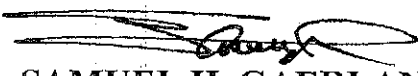

RAMON PAUL L. HERNANDO
Associate Justice

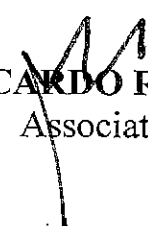

AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice



RODIL V. ZALAMEDA
Associate Justice


MARIA V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice



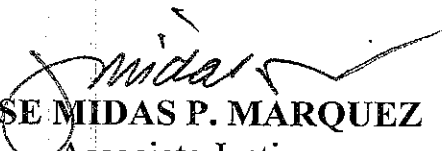
RICARDO R. ROSARIO
Associate Justice



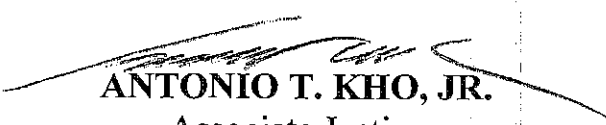
JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

