



Republic of the Philippines
Supreme Court
 Manila

EN BANC

COURT OF APPEALS,
 Complainant,

A.M. No. CA-23-001-P
 [Formerly JIB FPI No. 22-013-
 CA-P]

Present:

- versus -

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

GARRY U. CALIWAN,
 MESSENGER, OFFICE OF
 THE DIVISION CLERK OF
 COURT, EDMUNDO T.
 MALIT, RECORDS OFFICER
 I, ARCHIVES SECTION,
 JUDICIAL RECORDS
 DIVISION, AND
 FREDERICK C. MAURICIO,
 UTILITY WORKER II, CIVIL
 CASES SECTION, JUDICIAL
 RECORDS DIVISION, all of
 the COURT OF APPEALS,
 MANILA

Promulgated:

Respondents.

January 30, 2024

X-----X

DECISION

PER CURIAM:

This administrative matter pertains to the Letter¹ dated October 7, 2022, of Presiding Justice Remedios A. Salazar-Fernando (Presiding Justice Salazar-Fernando), Court of Appeals (CA), Manila regarding the administrative cases that the CA initiated against three of its personnel for the use of prohibited drugs.

The Antecedents

On June 28, 2022, the CA conducted a random drug test in which Garry U. Caliwán (Caliwán), Edmundo T. Malit (Malit), and Frederick C. Mauricio (Mauricio) (collectively, respondents), all tested positive for methamphetamine [hydrochloride], also known as *shabu*, as confirmed by Labtox Analytical Laboratory, Inc., an accredited laboratory facility by the Department of Health – Dangerous Drugs Board.²

Consequently, the CA Committee on Ethics and Special Concerns recommended that respondents be held administratively liable for Grave Misconduct and accordingly dismissed from the service. For Mauricio, who opted for early retirement, the CA opined that he should be sanctioned instead with the forfeiture of the retirement benefits due to him as well as his perpetual disqualification from public service.³

The CA, through the Letter dated October 7, 2022, of Presiding Justice Salazar-Fernando, transmitted the case records to the Judicial Integrity Board (JIB) for appropriate action. Thereafter, the Office of the Executive Director (OED), JIB, required respondents to comment on the charges against them.⁴

In their separate Comments, Caliwán and Mauricio admitted to having used prohibited drugs, but they each prayed for the Court's leniency and benevolence in the disposition of their cases.⁵ For Caliwán, he cited his exemplary record as evidenced by his performance ratings and the fact that this is his first offense in order to temper the disciplinary sanction against him.⁶ As for Mauricio, he pointed to his 22-year government service in the CA as a mitigating circumstance in his favor.⁷

¹ *Rollo*, p. 4.

² *Id.* at 24–25, 132.

³ *Id.* at 132.

⁴ *Id.* at 131–132.

⁵ *Id.* at 132–133.

⁶ *Id.* at 132.

⁷ *Id.* at 132–133.

Malit, however, did not comply with the OED's directive to file a comment despite having sought several extensions of time to do so. Thus, the OED deemed the matter submitted for resolution based on the records at hand.⁸

Report and Recommendation of the JIB

In the Report and Recommendation⁹ dated March 16, 2023, the OED found respondents administratively liable for the Use of Illegal Drugs or Substances and recommended the following penalties: (i) dismissal from the service for Caliwan and Malit; and (ii) the forfeiture of all retirement benefits, except accrued leave credits, for Mauricio, whose retirement application had already been approved.¹⁰ The OED explained that respondents' dismissal from the service is justified as this is the second time that they have tested positive for prohibited drugs.¹¹

In its Report¹² dated August 4, 2023, the JIB adopted *in toto* the OED's findings and recommendations, *viz.*:

ACCORDINGLY, the Judicial Integrity Board respectfully **RECOMMENDS** to the Honorable Supreme Court that:

- 1) The Letter dated October 7, 2022 from Presiding Justice Remedios A. Salazar-Fernando, Court of Appeals (CA), Manila, be **RE-DOCKETED** as a regular administrative matter;
- 2) Respondent Garry U. Caliwan, Messenger, Office of the Division Clerk of Court, Court of Appeals, Manila, be found **GUILTY** of Use of Illegal Drugs or Substances and meted the penalty of **DISMISSAL FROM THE SERVICE**, with forfeiture of all benefits except accrued leave credits, if any, and perpetual disqualification from re-employment in any branch or instrumentality of the government including government-owned or controlled corporations;
- 3) Respondent Edmundo T. Malit, Records Officer I, Archives Section, Judicial Records Division, Court of

⁸ *Id.* at 133.

⁹ *Id.* at 131–136. Signed by Deputy Clerk of Court at-Large, Office of the Court Administrator and JIB Acting Executive Director James D.V. Navarrete.

¹⁰ *Id.* at 135–136.

¹¹ *Id.* at 133.

¹² *Id.* at 137–143. Issued by Third Regular Member Justice Cielito N. Mindaro-Grulla (Ret.) and concurred in by Chairperson Justice Romeo J. Callejo, Sr. (Ret.), Vice-Chairperson Justice Angelina Sandoval-Gutierrez (Ret.), First Regular Member Justice Sesinando E. Villon (Ret.), and Second Regular Member Justice Rodolfo A. Ponferrada (Ret.).

Appeals, Manila, be found **GUILTY** of Use of Illegal Drugs or Substances and meted the penalty of **DISMISSAL FROM THE SERVICE**, with forfeiture of all benefits except accrued leave credits, if any, and perpetual disqualification from re-employment in any branch or instrumentality of the government including government-owned or controlled corporations; [and]

- 4) Respondent Frederick C. Mauricio, Utility Worker II, Civil Cases Section, Judicial Records Division, Court of Appeals, Manila, be found **GUILTY** of Use of Illegal Drugs or Substances and the retirement benefits due him, except accrued leave credits, if any, be **FORFEITED**, with perpetual disqualification from re-employment in any branch or instrumentality of the government including government-owned or controlled corporations.¹³
(Emphasis in the original)

The JIB noted that: *first*, respondents' use of *shabu* has been proven not only by the results of the random drug test, but also by their own admissions; *second*, the penalty of dismissal from the service is warranted against respondents, considering that this is the second time that all three of them have tested positive for prohibited drugs; and *third*, given that the penalty of dismissal can no longer be meted out against Mauricio in view of his early retirement, the accessory penalties of forfeiture of retirement benefits, except accrued leave credits, as well as the perpetual disqualification from reinstatement or appointment to any public office may be imposed instead.¹⁴

The Issue

The sole issue for the Court's resolution is whether respondents should be held administratively liable for the Use of Illegal Drugs or Substances.

The Court's Ruling

The Court concurs with the findings and recommendations of the JIB.

It is settled that the use of prohibited drugs is tantamount to Grave Misconduct as the very act itself is a flagrant violation of Republic Act No. (RA) 9165, as amended by RA 10640, or the "Comprehensive

¹³ *Id.* at 141-142.

¹⁴ *Id.* at 140-141.

Dangerous Drugs Act of 2002.”¹⁵ Thus, in the 2021 case of *Re: Louie Mark U. De Guzman*,¹⁶ the Court imposed the penalty of dismissal from the service against the erring court employee for his proven use of marijuana, a dangerous drug.

It is significant to note, however, that Rule 140 of the Rules of Court, as further amended by A.M. No. 21-08-09-SC,¹⁷ specifically classifies the Possession and/or Use of Illegal Drugs or Substances as a *serious charge* under Section 14(o) thereof. In other words, while past jurisprudence has sanctioned the use of prohibited drugs under the umbrella of Grave Misconduct, the offense now squarely falls under the Possession and/or Use of Illegal Drugs or Substances when it is committed by those under the coverage of Rule 140.

This is in consonance with Section 6(A)(i) of A.M. No. 23-02-11-SC,¹⁸ or the “Guidelines for the Implementation of a Drug-Free Policy in the Philippine Judiciary” (Guidelines), which states that a positive confirmatory or challenge test result for drug use, with the *exception* of test results arising from a court employee’s voluntary submission to drug testing under Section 7 of the Guidelines, shall constitute as a sufficient basis for an administrative charge for Possession and/or Use of Illegal Drugs or Substances under Rule 140, as further amended.

The Guidelines also provide a *voluntary submission mechanism* through which a court employee may willingly submit himself or herself to drug testing *before* the conduct of a random drug test. As mentioned above, an initial positive drug test arising from this mechanism shall not be a ground for any administrative liability, but *only for the first time*. This means that if a court employee, who has already undergone and completed the treatment and/or drug rehabilitation program *once*, is found positive for drug use a *second time* after voluntarily submitting to a subsequent drug test, he or she shall be charged with the Possession and/or Use of Illegal Drugs or Substances accordingly.¹⁹

Thus, pursuant to the Guidelines, a court employee shall be held administratively liable for Possession and/or Use of Illegal Drugs or Substances under two scenarios: *first*, when he or she tests positive for

¹⁵ *Re: Louie Mark U. De Guzman*, A.M. No. 2020-10-SC, March 16, 2021, citing *Re: Administrative Charge of Misconduct Relative to the Alleged Use of Prohibited Drug of Castor*, 719 Phil. 96, 101 (2013).

¹⁶ *Id.*

¹⁷ Approved on February 22, 2022.

¹⁸ Approved on April 18, 2023.

¹⁹ A.M. No. 23-02-11-SC, sec. 7.

drug use *through a random drug test*; and *second*, when he or she voluntarily submits himself or herself to drug testing and tests positive for drug use for a second time, despite having completed the treatment and/or drug rehabilitation program prior thereto.

In this connection, Section 17(1) of Rule 140, as further amended, provides the penalty to be imposed for a serious charge as follows:

SECTION 17. *Sanctions.* –

- (1) If the respondent is guilty of a serious charge, any of the following sanctions shall be imposed:
 - (a) Dismissal from service, forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. *Provided, however*, that the forfeiture of benefits shall in no case include accrued leave credits;
 - (b) Suspension from office without salary and other benefits for more than six (6) months but not exceeding one (1) year; or
 - (c) A fine of more than [PHP] 100,000.00 but not exceeding [PHP] 200,000.00.

Here, respondents' administrative liabilities for the Use of Illegal Drugs or Substances have been sufficiently proven not only by the positive results of the random drug test held in 2022, but also by their own admissions. More than that, the records show that respondents had previously tested positive for *shabu* in another random drug test that the CA conducted on August 31, 2017.²⁰ Respondents thereafter completed their Community-Based Treatment and Rehabilitation under the "*Sagip Buhay, Sagip Pangarap*" Program of the City of Manila from November 2017 to April 2018.²¹

Under the circumstances, the Court agrees with the JIB that the penalty of dismissal from the service is proper and commensurate with the gravity of the offense that respondents committed. To reiterate, this is the *second time* that respondents have tested positive for dangerous drugs in a random drug test, and they did so after having been given a chance to rehabilitate by the CA.

²⁰ *Rollo*, pp. 6, 47–48, 73, *see* CA Report and Recommendation.

²¹ *Id.* at 6.

However, in Mauricio's case, given that the penalty of dismissal from the service can no longer be meted out against him because of his early retirement, the Court is constrained to impose instead the accessory penalties of forfeiture of all retirement benefits, *except* accrued leave credits, and perpetual disqualification from reinstatement or appointment to any public office, including government-owned and/or -controlled corporations.

The Court is *not* unaware of the mitigating factors that Caliwan and Mauricio raised to temper the disciplinary sanction against them for their transgression. However, it must be emphasized that the framework of aggravation and mitigation of penalties under Section 20 of Rule 140, as further amended, has *no effect* when the Court opts to dismiss the erring member, official, employee, or personnel of the Judiciary from the service, as in the case. This is because Section 20 only contemplates instances wherein the imposable sanction is suspension from the service or a fine, in which cases, the period of suspension or the amount of the fine is either increased or decreased within the parameters of the penalty framework and at the Court's discretion.

Once more, the Court takes this opportunity to remind all court personnel to always act above board and beyond suspicion so as to earn and keep the respect of the public for the Judiciary.²² "The Court would never countenance any conduct, act, or omission of any court personnel that violates the norm of public accountability and diminishes, or even just tends to diminish, the faith of the people in the Judiciary."²³

WHEREFORE, the Court:

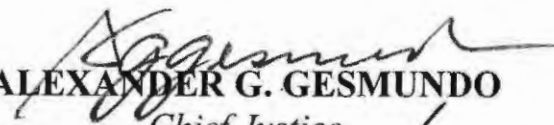
- 1) Finds Garry U. Caliwan, Messenger, Office of the Division Clerk of Court, Court of Appeals, Manila, **GUILTY** of the Use of Prohibited Drugs or Substances and imposes against him the penalty of **DISMISSAL FROM THE SERVICE**, with forfeiture of all retirement benefits, *except* accrued leave credits, if any, and perpetual disqualification from reinstatement or appointment to any public office, including government-owned and/or -controlled corporations;


²² See *Re: Administrative Charge of Misconduct Related to the Alleged Use of Prohibited Drug of Castor*, 719 Phil. 96, 101-102 (2013).

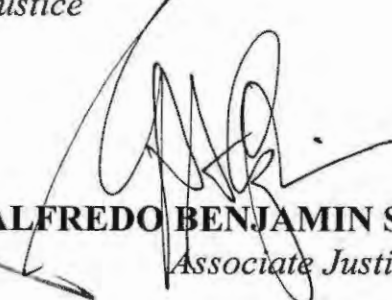
²³ *Re: Louie Mark U. De Guzman*, A.M. No. 2020-10-SC, March 16, 2021, citing *Re: Administrative Charge of Misconduct Relative to the Alleged Use of Prohibited Drug of Castor*, 719 Phil. 96, 101 (2013).

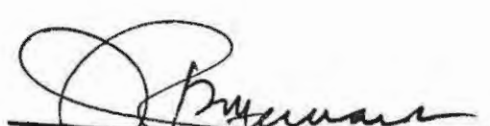
- 2) Finds Edmundo T. Malit, Records Officer I, Archives Section, Judicial Records Division, Court of Appeals, Manila, **GUILTY** of the Use of Prohibited Drugs or Substances and imposes against him the penalty of **DISMISSAL FROM THE SERVICE**, with forfeiture of all retirement benefits, *except* accrued leave credits, if any, and perpetual disqualification from reinstatement or appointment to any public office, including government-owned and/or -controlled corporations; and
- 3) Finds Frederick C. Mauricio, Utility Worker II, Civil Cases Section, Judicial Records Division, Court of Appeals, Manila, **GUILTY** of the Use of Prohibited Drugs or Substances, and declares his retirement benefits, *except* his accrued leave credits, if any, **FORFEITED**. He is likewise perpetually disqualified from reinstatement or appointment to any public office, including government-owned and/or -controlled corporations.


SO ORDERED.



ALEXANDER G. GESMUNDO
Chief Justice



MARVIC M.V.F. LEONEN
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



MARIO V. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



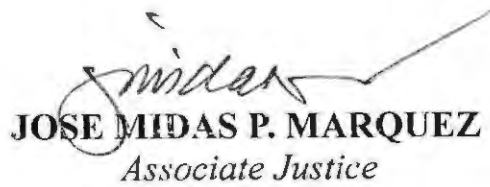
RICARDO R. ROSARIO
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice



JAFAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice