

THIRD DIVISION

G.R. No. 214081 – P/INSP. GILBERT C. SAN DIEGO, Petitioner, v. **FACT-FINDING INVESTIGATION COMMITTEE (Under the Office of the Deputy OMBUDSMAN for Military and Other Law Enforcement Officers)**, represented by **AGIO DON. A ESQUIVEL**, Respondent.

Promulgated:

April 10, 2019

X-----*[Signature]*-----X

SEPARATE CONCURRING AND DISSENTING OPINION

LEONEN, J.:

By law, public officers should not be held liable for inaccuracies in their statements of assets, liabilities, and net worth without first being given an opportunity to correct the defects.

The laws requiring public officers to submit declarations of their assets, liabilities, net worth, and financial and business interests, are: (1) Republic Act No. 6713, or the Code of Conduct and Ethical Standards for Public Officials and Employees; and (2) Republic Act No. 3019, or the Anti-Graft and Corrupt Practices Act.

Section 7 of the Anti-Graft and Corrupt Practices Act mandates every public officer to file a statement of assets, liabilities, and net worth with the office of his or her Department Head, Office of the President, or Office of the Secretary of the House of Representatives or Senate, wherever applicable. Violating this provision is sufficient to remove or dismiss a public officer, who shall be punished with a fine and/or imprisonment. However, the law was passed decades before the enactment of Republic Act No. 6713, which particularly governs the conduct and ethical standards of public officials and employees.

The Code of Conduct and Ethical Standards for Public Officials and Employees specifies that a review and compliance procedure must be established to determine the existence of certain defects in a public officer's statement of assets, liabilities, and net worth. Under the procedure, if it is found that the statement of assets, liabilities, and net worth was: (1) not filed on time; (2) incomplete; or (3) not in proper form, the reporting individual must be informed of this defect and directed to take corrective action.¹

¹ Rep. Act No. 6713 (1989), sec. 10(a).

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The law places the responsibility of establishing these procedures on designated committees in the House of Representatives and the Senate, as well as heads of offices, subject to the approval of the Department of Justice Secretary or the Supreme Court Chief Justice, for the executive branch and the judiciary, respectively.² The law further provides:

SECTION 10. *Review and Compliance Procedure.* — . . .

. . . .

(b) In order to carry out their responsibilities under this Act, the designated Committees of both Houses of Congress shall have the power within their respective jurisdictions, to render any opinion interpreting this Act, in writing, to persons covered by this Act, subject in each instance to the approval by affirmative vote of the majority of the particular House concerned.

The individual to whom an opinion is rendered, and any other individual involved in a similar factual situation, and who, after issuance of the opinion acts in good faith in accordance with it shall not be subject to any sanction provided in this Act.³

Thus, the law clearly recognizes that a defect in the statement of assets, liabilities, and net worth may have occurred despite the reporting individual's good faith, and despite his or her lack of intent to conceal wealth. Moreover, once an opinion is rendered to a reporting individual, if he or she subsequently acts upon the opinion in good faith, he or she may not be sanctioned under Republic Act No. 6713.

Here, the majority accepts that petitioner's deceased wife, Atty. Adalia Francisco, left substantial wealth that makes the value of his financial interest in A. Francisco Realty and Development Corporation (A. Francisco Realty) look paltry. It also accepts that petitioner's interest in the company, which had been owned and controlled by petitioner's wife, was because of his wife's generosity.

Nonetheless, the majority finds petitioner liable for simple negligence for: (1) not disclosing his financial interest, rejecting the explanation that he was merely a nominal stockholder of the corporation for his wife, who could better make business decisions; (2) not disclosing several firearms in his 2007 statement of assets, liabilities, and net worth; (3) declaring a Nissan Patrol SUV in 2006, when the vehicle was registered under the name of A. Francisco Realty; and (4) not disclosing in 2007 a condominium unit in Libis, Quezon City, despite declaring it in 2005 and 2006.

² Rep. Act No. 6713 (1989), secs. 10(a) and (c).

³ Rep. Act No. 6713 (1989), sec. 10(b).



The majority notes, however, that the condominium unit was conjugal and purchased per installment, stating that the proper recourse would be to make the necessary corrections and explanation of the nature of the acquisition. Nonetheless, it still found him liable for simple negligence.

Regretfully, the majority does not specify the standards that petitioner failed to follow. Instead, it relies on *Daplas v. Department of Finance*⁴ to justify holding petitioner liable for simple negligence.

In *Daplas*, an officer's liability was downgraded from gross negligence to simple negligence. There, this Court explained that since the goal of the laws on statements of assets, liabilities, and net worth is to curtail the acquisition of unexplained wealth, when public officers explain their wealth and have no intent to commit a wrong, they cannot be found guilty of dishonesty. At most, when there is undisclosed but explained wealth, the officers may be held liable for negligence in failing to properly and accurately accomplish their statements of assets, liabilities, and net worth.⁵

Daplas, however, similarly fails to specify the standards under which the public officer was negligent. It broadly held that she may be adjudged guilty, "at the most, of mere negligence for having failed to accomplish her [statement of assets, liabilities, and net worth] properly and accurately."⁶ There is negligence, it added, when there is a breach of duty or failure to perform an obligation.

In *Daplas*, no particular duty breached or obligation unfulfilled was defined. Instead, this Court cited *Imperial, Jr. v. Government Service Insurance System*,⁷ *Pleyto v. PNP-Criminal Investigation & Detection Group*,⁸ *Navarro v. Office of the Ombudsman*,⁹ and *Office of the Ombudsman v. Bernardo*.¹⁰

Notably, *Imperial, Jr.* did not involve the completion of a statement of assets, liabilities, and net worth. There, a public officer approved the salary loans of eight (8) employees despite the absence of requirements for the loan under the Government Service Insurance System Policy and Procedural Guidelines. This Court found him liable for only simple misconduct.

⁴ G.R. No. 221153, April 17, 2017, 823 SCRA 44 [Per J. Perlas-Bernabe, First Division].

⁵ *Id.* at 55–56.

⁶ *Id.* at 56.

⁷ 674 Phil. 286 (2011) [Per J. Brion, En Banc].

⁸ 563 Phil. 842 (2007) [Per J. Chico-Nazario, Third Division].

⁹ 793 Phil. 453 (2016) [Per J. Mendoza, Second Division].

¹⁰ 705 Phil. 524 (2013) [Per J. Leonardo-De Castro, First Division].

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In *Pleyto*,¹¹ this Court found a public officer liable for simple negligence for failing to declare all his assets and business interests in his statement of assets, liabilities, and net worth. Readily admitting and attempting to rectify his faults, he was found by this Court to have neither any intention of concealing information nor any intent to commit a wrong.

Further, this Court found that the public officer had lawfully acquired all his properties without reason to hide them. As such, he could not be held liable for gross misconduct or dishonesty.

Nonetheless, he was still held liable for negligence after failing to make sure that his statement of assets, liabilities, and net worth was accomplished properly, constituting an omission of the diligence required by his position. This included: (1) not providing a detailed list of his assets and business interests; and (2) relying on his family bookkeeper/accountant to accomplish it without verifying the entries in it.

In *Bernardo*,¹² this Court was again faced with the question of whether to find a public officer liable for dishonesty in relation to his statement of assets, liabilities, and net worth. In response to the question “Do you have any business interest and other financial connections including those of your spouse and unmarried children below 18 years living in your household?” he wrote, “Not Applicable.”

Since there was no clear showing of any intent to conceal information, this Court held that the public officer was not liable for dishonesty in failing to truthfully declare the business interests and financial connections attributable to himself, his spouse, and his unmarried children below 18 years old living in his household.

This Court further pointed out that he had clearly indicated on two (2) of his statements of assets, liabilities, and net worth that his spouse was a “businesswoman.” This denotes that his wife had business interests, which meant that he had no intention to conceal such fact.

However, while the public officer was not held liable for dishonesty, this Court nonetheless found him liable for simple negligence, ostensibly because his indication of “Not Applicable” was an omission of the diligence required of him, or a breach of his duty, or a failure to perform his obligation.

¹¹ 563 Phil. 842 (2007) [Per J. Chico-Nazario, Third Division].

¹² 705 Phil. 524 (2013) [Per J. Leonardo-De Castro, First Division].

In *Atty. Navarro v. Office of the Ombudsman*,¹³ this Court exonerated the reporting individual, respondent Atty. Amado Q. Navarro (respondent Navarro), for: (1) “lumping” his properties in his statements of assets, liabilities, and net worth; and (2) inadvertently over-declaring ₱200,000.00 in them.

There, this Court noted that inaccuracies are likely due to the practice of copying entries from previous years and adding subsequent acquisitions. This was why, it added, officials should be alerted to these issues. Thus, it emphasized both the importance of informing a reporting individual of the defect in his or her statement of assets, liabilities, and net worth, and giving him or her the opportunity to take corrective action for it:

Although it is the duty of every public official/employee to properly accomplish his/her SALN, it is not too much to ask for the head of the appropriate department/office to have called his attention should there be any incorrectness in his SALN. The DOF, which has supervision over the BIR, could have directed Navarro to correct his SALN. This is in consonance with the above-quoted Review and Compliance Procedure under R.A. No. 6713, as well as its Implementing Rules and Regulations (*IRR*), providing for the procedure for review of statements to determine whether they have been properly accomplished. To reiterate, it is provided in the *IRR* that in the event authorities determine that a SALN is not properly filed, they should *inform the reporting individual and direct him to take the necessary corrective action*.

In this case, however, Navarro was not given the chance to rectify the nebulous entries in his SALNs. Instead, the DOF, through its RIPS, filed a complaint-affidavit with the Ombudsman on the ground that his SALN was “generalized.” Regardless, Navarro was able to show and explain the details of his SALN when he submitted his counter-affidavit with the necessary documents, to which the DOF-RIPS and the Ombudsman and the CA coldly closed their eyes.

As there was only a failure to give proper attention to a task expected of an employee because of either carelessness or indifference, Navarro should have been informed so he could have made the necessary explanation or correction. *There is nothing wrong with a generalized SALN if the entries therein can be satisfactorily explained and verified.*

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The Court is mindful of the duty of public officials and employees to disclose their assets, liabilities and net worth accurately and truthfully. In keeping up with the constantly changing and fervent society and for the purpose of eliminating corruption in the government, the new SALN is stricter, especially with regard to the details of real properties, to address the pressing issue of transparency among those in the government service. Although due regard is given to those charged with the duty of filtering malicious elements in the government service, it must still be stressed that such duty must be exercised with great caution as grave consequences

¹³ 793 Phil. 453 (2016) [Per J. Mendoza, Second Division].



result therefrom. Thus, some leeway should be accorded the public officials. They must be given the opportunity to explain any *prima facie* appearance of discrepancy. To repeat, where his explanation is adequate, convincing and *verifiable*, his assets cannot be considered unexplained wealth or illegally obtained.¹⁴ (Emphasis supplied, citation omitted)

This was reiterated in *Republic v. Sereno*.¹⁵ There, however, it was stressed that authorized officials could only provide for limited corrective action:

The Rules implementing R.A. No. 6713 thus authorize only certain officials of the Legislative, Executive and Judicial Departments, and the Constitutional Commissions and Constitutional offices to establish compliance procedures for the review of statements in the SALN to determine whether said statements have been properly accomplished. The said officials are also authorized to render opinions interpreting the provisions on the review and compliance procedures and to determine whether or not a SALN is properly filed. If the SALN was not properly filed, the authorized officials are required to inform the reporting individual and direct him/her to take the necessary corrective action. The records do not show that at the time respondent assumed her post as a professor in U.P., or at any time thereafter until her resignation, that concerned authorized official/s of the Office of the President or the Ombudsman had established compliance procedures for the review of SALNs filed by officials and employees of State Colleges and Universities, like U.P.

The ministerial duty of the head of office to issue compliance order came about only on April 16, 2006 when the Civil Service Commission (CSC) issued Memorandum Circular No. 10, s. 2006 amending Rule VIII. This was pursuant to CSC Resolution No. 06-0231 dated February 1, 2006 wherein the CSC adopted the revised rules on review and compliance procedure. . . .

At any rate, *Navarro v. Office of the Ombudsman* clarifies on the limited corrective action which the head of office can perform as regards the review of SALNs:

. . . .

Lest it be misunderstood, the corrective action to be allowed should only refer to typographical or mathematical rectifications and explanation of disclosed entries. It does not pertain to hidden, undisclosed or undeclared acquired assets which the official concerned intentionally concealed by one way or another like, for instance, the use of dummies. There is actually no hard and fast rule. If income has been actually reported to the BIR in one's ITR, such fact can be considered a sign of good faith.

¹⁴ Id. at 476–478.

¹⁵ G.R. No. 237428, May 11, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64003>> [Per J. Tijam, En Banc].

....

The Court is mindful of the duty of public officials and employees to disclose their assets, liabilities and net worth accurately and truthfully. In keeping up with the constantly changing and fervent society and for the purpose of eliminating corruption in the government, the new SALN is stricter, especially with regard to the details of real properties, to address the pressing issue of transparency among those in the government service. Although due regard is given to those charged with the duty of filtering malicious elements in the government service, it must still be stressed that such duty must be exercised with great caution as grave consequences result therefrom. Thus, some leeway should be accorded the public officials. They must be given the opportunity to explain any *prima facie* appearance of discrepancy. To repeat, where his explanation is adequate, convincing and *verifiable*, his assets cannot be considered unexplained wealth or illegally obtained.

5. Respondent's inclusion in the matrix of candidates with complete requirements and in the shortlist nominated by the JBC confirms or ratifies her compliance with the SALN requirement.¹⁶ (Emphasis in the original)

In *Atty. Navarro*, this Court emphasized that under Republic Act No. 6713, respondent Navarro should have been given the opportunity to rectify unclear entries in his statement of assets, liabilities, and net worth:

Given the opportunity, Navarro could have disclosed the acquisition costs and cost of the improvements in a more detailed way. His failure to amend his presentation, without his attention on the matter being called, cannot be considered as indicative of an untruthful declaration of his assets. Unless there is a concrete proof that the values or acquisition costs stated in Navarro's SALNs were not what they were supposed to be, then a conclusion that the same were untruthful cannot be reached.

Dishonesty and Grave Misconduct

Dishonesty is committed when an individual intentionally makes a false statement of any material fact, practices or attempts to practice any deception or fraud in order to secure his examination, registration, appointment, or promotion. It is understood to imply the disposition to lie, cheat, deceive, betray or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; and the lack of fairness and straightforwardness.

¹⁶ Id.



Misconduct, on the other hand, is intentional wrongdoing or deliberate violation of a rule of law or standard of behavior. 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. In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule must be manifest.

From the given definitions above, the element of **intent to commit a wrong** exists in both administrative offenses of dishonesty and grave misconduct which, under the law, merit the penalty of dismissal from service. Thus, without any malice or wrongful intent, administrative liability cannot attach.

Here, there was no substantial evidence showing any malice or intent to deceive on the part of Navarro in accomplishing the questioned SALNs. Navarro would not have endeavored to produce voluminous documents to prove that he truthfully declared his properties, albeit lumped together, if his intention was to conceal them. The documents he submitted showed the veracity of the acquisitions he made and their respective costs as reflected in his SALNs. The physical impression of the DOF-RIPS of what and how the properties actually looked, without anything more concrete than mere conjectures that the said properties commanded a higher value or that the amounts did not match the kind of buildings constructed thereon, would not make Navarro's SALNs any less truthful.

The Court cannot help but observe that the charges filed by the DOF-RIPS against Navarro, that his SALNs bore misdeclarations, over-declarations and nondeclarations, are based on mere speculations and conjectures. Without concrete corroborating evidence to substantiate the charges, the Court cannot simply rely on such surmises as they are "not equivalent to proof; they have little, if any, probative value and, surely, cannot be the basis of a sound judgment." The Court's decision must be based upon competent proof "for the truth must have to be determined by the hard rules of admissibility and proof."

The Court has once emphasized that a mere misdeclaration in the SALN does not automatically amount to dishonesty. Only when the accumulated wealth becomes manifestly disproportionate to the income or other sources of income of the public officer/employee and he fails to properly account or explain his other sources of income, does he become susceptible to dishonesty. Although there appeared to have a *prima facie* evidence giving rise to the presumption of accumulation of wealth disproportionate to his income, Navarro was able to overcome such presumption by coming out with documentary evidence to prove his financial capacity to make the subject acquisitions and to prove that the amounts he stated in his SALNs were true. It should be understood that the laws on SALN aim to curtail the acquisition of unexplained wealth. Where the source of the undisclosed wealth can be properly accounted for, then it is "explained wealth" which the law does not penalize.

Considering that Navarro sufficiently explained his acquisitions as well as his other lawful sources of income to show his and his wife's financial capacity to acquire the subject real properties, he cannot be deemed to have committed dishonesty. He cannot be adjudged guilty of



grave misconduct either as his alleged “lumping” of real properties in his SALN did not affect the discharge of his duties as a revenue officer.

The question now is: did he commit simple negligence for improperly accomplishing his SALNs?

A review of the case and the applicable rules and jurisprudence guides the Court to a negative finding.

Negligence is the omission of the diligence which is required by the nature of the obligation and corresponds with the circumstances of the persons, of the time and of the place. In the case of public officials, there is negligence when there is a breach of duty or failure to perform the obligation, and there is gross negligence when the breach of duty is flagrant and palpable.

As previously discussed, however, evident bad faith was wanting on the part of Navarro. Although it is the duty of every public official/employee to properly accomplish his/her SALN, it is not too much to ask for the head of the appropriate department/office to have called his attention should there be any incorrectness in his SALN. The DOF, which has supervision over the BIR, could have directed Navarro to correct his SALN. This is in consonance with the above-quoted Review and Compliance Procedure under R.A. No. 6713, as well as its Implementing Rules and Regulations (IRR), providing for the procedure for review of statements to determine whether they have been properly accomplished. To reiterate, it is provided in the IRR that in the event authorities determine that a SALN is not properly filed, they should **inform the reporting individual and direct him to take the necessary corrective action.**

In this case, however, Navarro was not given the chance to rectify the nebulous entries in his SALNs. Instead, the DOF, through its RIPS, filed a complaint-affidavit with the Ombudsman on the ground that his SALN was “generalized.” Regardless, Navarro was able to show and explain the details of his SALN when he submitted his counter-affidavit with the necessary documents, to which the DOF-RIPS and the Ombudsman and the CA coldly closed their eyes.

As there was only a failure to give proper attention to a task expected of an employee because of either carelessness or indifference, Navarro should have been informed so he could have made the necessary explanation or correction. There is nothing wrong with a generalized SALN if the entries therein can be satisfactorily explained and verified.

Lest it be misunderstood, the corrective action to be allowed should only refer to typographical or mathematical rectifications and explanation of disclosed entries. It does not pertain to hidden, undisclosed or undeclared acquired assets which the official concerned intentionally concealed by one way or another like, for instance, the use of dummies. There is actually no hard and fast rule. If income has been actually reported to the BIR in one's ITR, such fact can be considered a sign of good faith.¹⁷ (Emphasis in the original)

¹⁷ *Atty. Navarro v. Office of the Ombudsman*, 793 Phil. 453, 473-477 (2016) [Per J. Mendoza, Second Division].

The purpose of requiring the submission statements of assets, liabilities, and net worth is to defeat corruption, not to subject public officials to annoying harassment due to inaccuracies, which they may have committed in good faith. Providing an opportunity to correct a defect before being sanctioned is more aligned with the purpose and text of the law.

Thus, the proper procedure should be: if a committee has determined that a statement of assets, liabilities, and net worth: (1) was not submitted on time; (2) was incomplete; or (3) was not in proper form, the filer must be given the opportunity to take corrective action. Only then can the authorities discern if there is unexplained wealth. Without this opportunity, he or she should not be held administratively liable.

Here, petitioner should not be held liable for his failure to enumerate his firearms in his 2007 Statement of Assets, Liabilities, and Net Worth. He explained that he did not sense the need to declare his Machine Pistol Uzi in 2007 because the form provided required the list of “Investments, other personal properties, and liabilities of Declarant/Spouse/Declarant’s Children Below 18 years of Age,” which included items such as cash on hand in banks, bonds, mutual funds, trust funds, time deposits, and pre-need plans.

The majority rejected this explanation, stating that the form contains spaces for details pertaining to “Other Personal Property” and “Acquisition Cost” of this property, where petitioner should have indicated his Machine Pistol Uzi.¹⁸

To recall, Section 8 of Republic Act No. 6713 requires that statements of assets, liabilities, and net worth contain information on the following:

SECTION 8. *Statements and Disclosure.* — . . .

. . . .

- (a) real property, its improvements, acquisition costs, assessed value and current fair market value;
- (b) personal property and acquisition cost;
- (c) all other assets such as investments, cash on hand or in banks, stocks, bonds, and the like;
- (d) liabilities, and;
- (e) all business interests and financial connections.

Under this provision, it is difficult to see how failure to disclose ownership of a firearm is a clear breach of duty, considering that information on firearms is not expressly required. While firearms are classified as “personal property,” to require a statement of assets, liabilities, and net worth to contain a comprehensive list of all of one’s personal properties

¹⁸ Ponencia, pp. 13–14.



without discrimination—such that omission of any item owned constitutes simple negligence—would be oppressive and unreasonable.

There is no clear standard under which a reporting individual may discern which types of property may be omitted from the list without being subject to administrative sanction.

Thus, absent a clear requirement that firearms must be specifically itemized in a statement of assets, liabilities, and net worth, or without clear basis to interpret the rules as tantamount to such a requirement, petitioner should not be held administratively liable for not disclosing his firearms.

Again, public officers are required to submit statements of their assets, liabilities, and net worth to provide a method of ascertaining whether an officer has illegally acquired wealth. This is not a tool to oppress public officers. If there is a defect in their statements of assets, liabilities, and net worth, public officers must be given the opportunity to correct it. If they had no such opportunity, and if, despite this, it has also been decisively found that public officers have not illegally acquired wealth, as in this case, they should not be held administratively liable.

Aside from the issue of petitioner's statements of assets, liabilities, and net worth, the majority further ruled that in traveling abroad without a travel authority, petitioner is held liable for simple misconduct. It notes that Memorandum Circular No. 304 has explicitly indicated that those who intend to travel abroad, even when on leave of absence, must still secure prior approval.¹⁹

With all due respect, Memorandum Circular No. 304 was issued in 1969 amid the need to conserve foreign exchange and redouble efforts in public service toward national progress. In its entirety, it reads:

MEMORANDUM CIRCULAR NO. 304

REMINDING ALL CONCERNED OF THE NEED FOR PRIOR APPROVAL BY THE OFFICE OF THE PRESIDENT OF TRIPS ABROAD OF GOVERNMENT PERSONNEL.

It has been observed that certain officials and employees in some government offices and agencies have undertaken trips abroad without the prior authority of this Office as required under existing regulations.

In view of the pressing need to pursue more vigorously the Administration's efforts at conserving foreign exchange and considering the imperativeness of redoubling efforts in the public service towards

¹⁹ Ponencia, p. 18.



national progress, all concerned particularly by the heads of departments and chiefs of bureaus and offices, including local subdivisions and government-owned or controlled corporations, are hereby reminded of the need of obtaining the prior permission of the Office of the President for all trips aboard of personnel in their jurisdictions.

This requirement shall henceforth apply even to those who intended to travel abroad while on leave of absence, inasmuch as vacation leave must be contingent upon the exigencies of the service.

Notably, the constitution in effect when the memorandum circular was issued contained no express protection of the right to travel. On the other hand, Article III, Section 6 of the current Constitution, states:

ARTICLE III
Bill of Rights

. . . .

SECTION 6. The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of national security, public safety, or public health, as may be provided by law. (Emphasis in the original)

In line with such constitutional guarantee, this Court has protected the right to travel more closely. In *Genuino v. De Lima*,²⁰ this Court, invoking Article III, Section 6, reiterated that the 1987 Constitution limits situations where the State may impinge on the right to travel. When the State so impinges, it must be in accord with laws or the Rules of Court:

Clearly, under the provision, there are only three considerations that may permit a restriction on the right to travel: national security, public safety or public health. As a further requirement, there must be an explicit provision of statutory law or the Rules of Court providing for the impairment. The requirement for a legislative enactment was purposely added to prevent inordinate restraints on the person's right to travel by administrative officials who may be tempted to wield authority under the guise of national security, public safety or public health. This is in keeping with the principle that ours is a government of laws and not of men and also with the canon that provisions of law limiting the enjoyment of liberty should be construed against the government and in favor of the individual.²¹

Assuming that petitioner indeed obtained permission from and informed his immediate superiors regarding his travel—and without any legislative enactment, or any consideration of national security, public

²⁰ G.R. No. 197930, April 17, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64165>> [Per J. Reyes, Jr., En Banc].

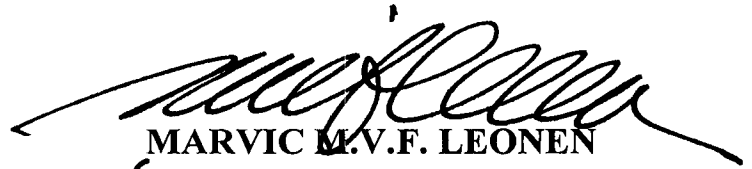
²¹ *Id.*



safety, or public health, by which petitioner's right to travel may have been curtailed—then he should not be sanctioned for his failure to obtain an official travel authority prior to traveling abroad.

On all other points, I concur with the majority.

ACCORDINGLY, I vote to **GRANT** the Petition.



MARVIC M.V.F. LEONEN
Associate Justice