



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 11, 2020** which reads as follows:*

“G.R. No. 232322 (Civil Service Commission And Zamboanga State College of Marine Sciences and Technology v. Jessica R. Barredo)

Antecedents

Respondent Jessica R. Barredo worked for petitioner Zamboanga State College of Marine Sciences and Technology (College) as Associate Professor II and had taught there for more than thirty (30) years, beginning in 1983.¹ For the second semester of academic year 2011-2012, Barredo had a total teaching load of 24 hours a week with classes from Monday through Friday.

On November 18, 2011, Barredo left for Manila allegedly without securing prior leave from work. On November 20, 2011, Barredo left Manila for the United States, again, without informing the College President or other officers beforehand. Worse, she flew out of the country without a travel authority required as under Executive Order. No. 459, s. 2005.² The only notice she gave was a signed application for a 19-day sick leave³ which she left with her daughter with the instruction to file it on her behalf. Attached to her leave application was a referral letter dated November 18, 2011 prepared by Dr. Melchor-Alan L. Siriban, referring her to a Manila-based doctor.

- over – fourteen (14) pages ...

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¹ *Rollo*, p. 11.

² STREAMLINING THE PROCEDURE IN THE DISPOSITION OF REQUESTS OF GOVERNMENT OFFICIALS AND EMPLOYEES FOR AUTHORITY TO TRAVEL ABROAD.

³ From November 21 to December 16, 2011.

On November 21, 2011, Barredo's daughter filed her leave application with the Human Resources Management Office (HRMO) of the College which, in turn, forwarded it to the Office of the President on November 25, 2011. Without knowing Barredo had already left, President Milavel Depacaquivo-Nazario disapproved the application with the note "*Not Allowed, Classes Affected, Disapproved.*" HRMO tried to notify Barredo of the disapproval, but to no avail.⁴

On December 5, 2011, Barredo's daughter filed a second application for leave on Barredo's behalf, this time for an eight (8)-day sick leave⁵ purportedly bearing her signature. Similarly, this application was supported by a referral letter of Dr. Siriban. It did not mention that she was already out of the country.

On January 4, 2012, Depacaquivo-Nazario directed Barredo to explain why she should not be declared in Absence Without Leave (AWOL). On January 5, 2011, Barredo reported back to work and explained that her continuous absence from November 18 to December 16, 2011 was due to a series of medical check-ups. As advised by Dr. Siriban, she went to Manila to see another doctor who recommended that she leave for the United States to have her knee pains treated. She supported this claim with medical certificates, laboratory examination results, prescriptions, and other documents.⁶

On January 11, 2012, Depacaquivo-Nazario formally charged Barredo with: (1) *violation of reasonable office rules and regulations* for failure to secure a travel authority required of government officials; (2) *gross neglect of duty* for her prolonged absence without properly informing the college officials beforehand; and (3) *dishonesty* for her misrepresentation with respect to her applications for leave.⁷

On the other hand, Barredo denied the charges.⁸ She maintained she neither violated the school office rules nor was she guilty of gross neglect. The denial of her application for leave was unreasonable, considering it was her health on the line. As for the allegation of dishonesty, Barredo admitted not personally signing the second application, but instructed her daughter to sign it on her behalf while she was undergoing medical treatment.⁹

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⁴ *Rollo*, p. 12.

⁵ From November 18, 21 to 25, 28 and 29, 2011.

⁶ *Rollo*, p. 12.

⁷ *Id.* at 13; 366-367.

⁸ *Id.* at 368-369.

⁹ *Id.* at 13.

The Formal Investigation Committee (FIC) conducted a pre-hearing conference where both sides were heard. In its investigation report, the FIC recommended that the disciplining authority be guided by Rule XIV of the Uniform Rules on Administrative Cases in the Civil Service. Under the rules, a violation of reasonable office rules carries a penalty of reprimand, while dishonesty and grave misconduct are penalized with dismissal.¹⁰

On January 25, 2013, Depacaquivo-Nazario rendered a Decision finding Barredo guilty of the charges and dismissed her from service.¹¹ She noted that: *first*, Barredo went abroad without securing travel authority and without filing an application for leave; *second*, Barredo should have informed the college officials of her absence so that they could have found substitute teachers for her classes; *third*, Barredo's application for leave was signed by her daughter, as she admitted, thus:

WHEREFORE, there being substantial evidence that respondent is guilty of Serious Dishonesty, Simple Neglect of Duty, and Violation of Reasonable Office Rules and Regulations, she is hereby meted the penalty of DISMISSAL with all its accessory penalties.

SO ORDERED.

By Board Resolution No. 5, s. 2013 dated February 15, 2013 the College Board of Trustees (Board) affirmed the Decision, *viz.*:¹²

BOARD RESOLUTION NO. 5, s. 2013.

RESOLVED, AS IT IS HEREBY RESOLVED, that the Board confirms the penalty of DISMISSAL embodied in the Amended Decision on ZSCMST ADMIN CASE NO. 0012-2 entitled Zamboanga State College of Marine Sciences and Technology, represented by its President v. Jessica R. Barredo for Serious Dishonesty, Simple Neglect of Duty and Violation of Reasonable Office Rules and Regulations.

RESOLVED FURTHER, that the Board directs the ZSCMST President to submit the Amended Decision to the Civil Service Commission for review in order to be properly guided in the disposition of the case particularly on the appropriateness of the finding of guilt and the penalty of dismissal that will be imposed upon Ms. Jessica R. Barredo.

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¹⁰ *Id.*

¹¹ *Id.* at 372-381.

¹² *Id.* at 14, 384, 432.

RESOLVED FINALLY, that the ZSCMST President is authorized to implement the DECISION only upon receipt of a favorable opinion from the CSC.

Respondent received a copy of this Resolution on December 4, 2013.¹³

On October 13, 2014, Barredo filed an appeal before the Civil Service Commission (CSC).¹⁴

Civil Service Commission Ruling

On appeal, the CSC issued Decision No. 150679 dated September 15, 2015¹⁵ affirming the Amended Decision with modification, *viz*:

WHEREFORE, the appeal of Jessica R. Barredo, Associate Professor II, Zamboanga State College of Marine Sciences and Technology (ZSCMST), Zamboanga City, is DISMISSED. Accordingly, the Amended Decision (ZSCMST-Adm. Case No. 001212) dated January 25, 2013 issued by Milavel Depacaquivo-Nazario, President, ZSCMST is AFFIRMED with MODIFICATION to the extent that Barredo is found guilty of Serious Dishonesty, Gross Neglect of Duty, and Violation of Reasonable Office Rules and Regulations for which she is imposed the penalty of dismissal from the service with the accessory penalties of forfeiture of retirement benefits (except terminal leave benefits and personal contributions to the GSIS, if any), cancellation of eligibility, perpetual disqualification from reemployment in the government service and bar from taking Civil Service Examination in the future.

The CSC denied reconsideration¹⁶ on January 12, 2016.

Court of Appeals Ruling

By Decision dated December 15, 2016,¹⁷ the Court of Appeals partially granted the appeal and modified the penalty, *viz*:

WHEREFORE, premises considered, the instant petition for review is PARTIALLY GRANTED. The September 15, 2015 Decision No. 150679 and January 12, 2016 Resolution of

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¹³ *Id.* at 384.

¹⁴ *Id.* at 289.

¹⁵ Penned by Commissioner Nieves L. Osorio, *rollo*, pp. 275-284.

¹⁶ Motion for Reconsideration dated October 18, 2015; *Rollo*, p. 286.

¹⁷ Penned by Associate Justice Ma. Luisa C. Quijano-Padilla, as concurred by Associate Justices Normandie B. Pizarro and (now Associate Justice of the Supreme Court) Samuel H. Gaerlan; *rollo*, pp. 68-80.

the Civil Service Commission is hereby SET ASIDE. Petitioner-appellant Jessica R. Barredo is SUSPENDED from office without salary and other benefits for six (6) months with a STERN WARNING that another transgression of similar nature will merit dismissal from service.

SO ORDERED.

The Court of Appeals found Barredo to have violated school rules and regulations governing the filing of leaves, as well as the civil service law for leaving the country without a travel authority. Be that as it may, it considered her transgressions not beyond rectification. Due consideration must be given to her length of service and the fact that this was her first infraction. More, Barredo's absence was due to illness and not for her personal convenience. Thus, since it was Barredo's first infraction in her more than thirty (30) years of service, a less severe penalty is proper.

It denied petitioners' motion for reconsideration under Resolution dated June 15, 2017.

Present Petition

Petitioners now assail the Court of Appeals' Decision dated December 15, 2016. They fault the Court of Appeals in: *first*, downgrading the penalty imposed because Barredo's dismissal was already final and executory for her alleged failure to timely move for the reconsideration of the College's Decision dated January 25, 2013;¹⁸ *second*, downgrading the penalty imposed since the Revised Rules on Administrative Cases in the Civil Service (RRACCS)¹⁹ provide the penalty of dismissal for Serious Dishonesty and Gross Neglect of Duty;²⁰ and *third*, considering Barredo's length of service as mitigating circumstance.²¹

In her Comment,²² Barredo essentially countered:

First, neither Depacaquivo-Nazario and Assistant CSC Commissioner Ariel G. Ronquillo had the authority to file the present petition. There is no showing that the CSC has authorized Ronquillo, who executed the Verification, to file the case on its behalf. There is also no proof that the College Board authorized President Depacaquivo-Nazario to file the present petition.²³

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¹⁸ *Rollo*, pp. 45-47.

¹⁹ Revised Uniform Rules on Administrative Cases in the Civil Service, CSC Resolution No. 1101502, November 8, 2011.

²⁰ *Rollo*, pp. 47-48.

²¹ *Id.* at 49-54.

²² *Id.* at 328-359.

²³ *Id.* at 332-336.

Second, whether the decision of the college dismissing her from service had already lapsed into finality is a question of fact that the Court cannot pass upon. Too, this was neither raised or discussed in any pleading or decision below. If it were true that the College's decision had attained finality, the CSC could not have modified it in its subsequent rulings.²⁴

At any rate, Barredo maintains she timely filed a motion for reconsideration on December 18, 2013, challenging the Board's action as the disciplining authority, having received the notice of their action on December 3, 2013.²⁵ While it is true that she received the President's Decision on June 24, 2013, she began questioning the irregularities in the proceedings through her manifestation dated July 8, 2013. In fact, she had requested for the Board meeting minutes and other documents as early as June 26, 2013 to proceed with her succeeding actions only to receive them much later.²⁶

Third, Barredo also manifests that she actually requested for assistance from CSC Regional Office No. IX, Zamboanga City regarding Depacaquivo-Nazario's disapproval of her application for sick leave.²⁷ Through Resolution No. 120060 dated June 25, 2012, CSC Regional Director Atty. Macybel Alfaro-Sahi²⁸ opined that Barredo complied with the requirements for filing application for a sick leave of absence which should have been approved, *viz*:

In cases of sick leave of absence, therefore, it is enough that an employee will undergo medical examination in order that the application may be field in advance. The Rules do not require that the medical certificate indicate the extent of the examination to [be] conducted upon the employee... It is enough that a doctor certifies the need for an employee to undergo further medical examination, as in the case of the medical certificate issued to Barredo ...

xxx

As a general rule, approval of an application for sick leave of absence is mandatory, provided that the application therefor satisfies the requirements prescribed by the Rules...

xxx

... However, the Rules also allow the filing of the application in advance if the employee is to *undergo medical examination*

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²⁴ *Id.* at 336-338.

²⁵ *Id.* at 344.

²⁶ *Id.* at 343.

²⁷ By letter dated December 1, 2012.

²⁸ *Rollo*, pp. 409-414.

or operation or advised to rest in view of ill health duly supported by a medical certificate. (Emphasis in the original)

xxx

Apparently, Barredo complied with the requirements for filing an application for sick leave of absence.

xxx

WHEREFORE, premises considered, this Office finds the disapproval of the sick leave application of MS. Jessica Barredo NOT IN ORDER. The Zamboanga State College of Marine Sciences and Technology, through its President, Dr. Milavel Depacaquivo-Nazario is hereby directed to make the necessary rectification in the records of Barredo particularly on her leave card as well as to make the necessary adjustments on the consequences of the said disapproval on her sick leave application. The College is hereby further directed to submit a report to this Office on the rectification made on the questioned sick leave application within fifteen (15) days from receipt of this Resolution.

Let copies of this Resolution be furnished Jessica R. Barredo, Dr. Milavel Dapacaquivo-Nazario and Director Alvin R. Araneta, all at their given addresses on record.

SO ORDERED.²⁹

More, she also noted that it was not Barredo's responsibility to arrange her teaching load with a substitute teacher before going on leave, which should have been coordinated by her immediate supervisors.³⁰ Finally, she directed President Depacaquivo-Nazario to make the necessary corrections in the records of Barredo, particularly on her leave card and make the necessary adjustments on the consequences of the disapproval.³¹

Fourth, her absence from work from November 18, 2011 to December 16, 2011 did not constitute neglect of duty let alone a gross one because there was no palpable refusal or unwillingness on her part to perform her duty. She duly accomplished an application for sick leave for nineteen (19) days with a certification that she had 243.065 leave credits to her name. This application was also signed and recommended for approval by then Vice-President for Academic Affairs of the College, Dr. Gloria D. Cabato, who was authorized to act on the application.³²

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²⁹ *Id.* at 413-414.

³⁰ *Id.* at 341-342.

³¹ *Id.* at 414.

³² *Id.* at 345.

More, she absented from work due to medical reasons. She suffered unbearable chronic pain which required urgent treatment. She did not leave work for pleasure or business.³³

Fifth, her request and authority for her daughter to file another application for sick leave in her behalf was not an act of dishonesty. She made no misrepresentation or false statement in her leave application, but she merely authorized her daughter to file it for her given the physical impossibility of doing it herself.

Finally, her length of service is a mitigating circumstance, especially considering that her illness was developed throughout her 30 years as a teacher in the government.³⁴

Threshold Issues

1. Is Barredo administratively liable?
2. Did the Court of Appeals err in considering Barredo's length of service as a mitigating circumstance?

Ruling

We **DENY** the petition.

The penalty of dismissal imposed by the College President had not yet attained finality

Petitioner College alleges that the Amended Decision dated January 25, 2013 of the President had already attained finality given Barredo's alleged failure to file a motion for reconsideration therefrom. It noted that Barredo only moved for reconsideration on December 18, 2013.

We are not convinced.

Board Resolution No. 5, s. 2013 provides:

BOARD RESOLUTION NO. 5, s. 2013.

RESOLVED, AS IT IS HEREBY RESOLVED, that the Board confirms the penalty of DISMISSAL embodied in the Amended Decision on ZSCMST ADMIN CASE NO. 0012-2 entitled Zamboanga State College of Marine Sciences and

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³³ *Id.* at 346.

³⁴ *Id.* at 356.

Technology, represented by its President v. Jessica R. Barredo for Serious Dishonesty, Simple Neglect of Duty and Violation of Reasonable Office Rules and Regulations.

RESOLVED FURTHER, that the Board directs the ZSCMST President to **submit the Amended Decision to the Civil Service Commission for review** in order to be properly guided in the disposition of the case **particularly on the appropriateness of the finding of guilt and the penalty of dismissal** that will be imposed upon Ms. Jessica R. Barredo.

RESOLVED FINALLY, that the ZSCMST President is authorized to implement the DECISION **only upon receipt of a favorable opinion from the CSC.** (Emphases supplied)

Clearly, neither the ZSCMST's President's Amended Decision nor the Board's Resolution dismissing Barredo from service could have attained finality since they were still subject to confirmation by the Civil Service Commission.

As such, it would have been premature for Barredo to have moved for reconsideration of either ruling without first awaiting the CSC's concurrence. As it was, the CSC modified the rulings below on September 15, 2015. Only then could Barredo have moved for reconsideration.

Barredo is not guilty of Gross Neglect of Duty or Serious Dishonesty

Gross neglect of duty refers to:

[N]egligence characterized by want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to give to their own property.³⁵

Here, Barredo was charged with gross neglect of duty, having allegedly left her classes without informing her superiors and without looking for a substitute teacher to take her place.

We find that Barredo neither willfully nor intentionally neglected her duties. In fact, it was quite the opposite, as shown by her active efforts in filing not just one (1) but two (2) applications for sick leave.

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³⁵ *Ombudsman v. Espina*, 807 Phil. 529, 543 (2017), citing *Ombudsman v. Delos Reyes, Jr.*, 745 Phil. 366, 381 (2014).

Notably, Barredo relied in good faith on the recommendation of then Vice President for academic affairs of the college, Dr. Gloria D. Cabato for approval of her application for sick leave. Too, CSC Regional Office No. IX, Zamboanga City through Resolution No. 120060 dated June 25, 2012³⁶ opined that the application for sick leave should have been mandatorily approved since Barredo complied with the requirements.³⁷ To be sure, Barredo had a total of 243.065 leave credits to her name, out which she was only applying to avail of nineteen (19) days for sick leave.

The Omnibus Rules on Leave of CSC provides:

SEC. 53. *Application for sick leave.* – All applications for sick leave of absence for one full day or more shall be made on the prescribed form and shall be filed immediately upon employee's return from such leave. Notice of absence, however, should be sent to the immediate supervisor and/or to the agency head. Application for sick leave **in excess of five (5) successive days shall be accompanied by a proper medical certificate.**

Sick leave may be applied for in advance in cases where the official or employee will undergo medical examination or operation or advised to rest in view of ill health duly supported by a medical certificate.

In ordinary application for sick leave already taken not exceeding five days, the head of department or agency concerned may duly determine whether or not granting of sick leave is proper under the circumstances. In case of doubt, a medical certificate may be required.

SEC. 54. *Approval of sick leave.* – Sick leave shall be granted only on account of sickness or disability on the part of the employee concerned or of any member of his immediately family.

Approval of sick leave, whether with pay or without pay, is mandatory provided proof of sickness or disability is attached to the application in accordance with the requirements prescribed under the preceding section. Unreasonable delay in the approval thereof or non-approval without justifiable reason shall be a ground for appropriate sanction against the official concerned. (Emphases supplied)

Verily, the provisions merely require that the applicant undergo medical examination for the rule on mandatory approval of sick leave application to come into play. Thus, a referral for medical attendance is sufficient for this purpose.

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³⁶ By Regional Director Atty. Macybel Alfaro-Sahi.

³⁷ *Rollo*, pp. 411-412.

While the HRMO maintained that Barredo did not attach a medical certificate to her leave application, it, nonetheless, noted that Barredo attached a referral letter issued by Dr. Siriban. The letter reveals that Dr. Siriban referred and recommended Barredo for medical examination in Manila.

Finally, as noted by CSC Regional Director Atty. Macybel Alfaro-Sahi, it was not incumbent upon Barredo to arrange the temporary reassignment of her teaching load while she was on sick leave. This responsibility fell on her immediate supervisors. Otherwise, it would have defeated the purpose of the law granting the right of an employee to a sick leave of absence.³⁸

Dishonesty, on the other hand, involves the concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive, or betray, or intent to violate the truth.³⁹ It is serious when it entails the presence of any of the following circumstances:

- (a) the dishonest act caused serious damage and grave prejudice to the Government; (b) the respondent gravely abused his authority in order to commit the dishonest act; (c) where the respondent is an accountable officer, the dishonest act directly involves property, accountable forms or money for which he is directly accountable and the respondent shows an intent to commit material gain, graft and corruption; (d) the dishonest act exhibits moral depravity on the part of respondent; (e) the respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment; (f) the dishonest act was committed several times or in various occasions; (g) the dishonest act involves a Civil Service examination irregularity or fake Civil Service eligibility such as, but not limited to impersonation, cheating and use of crib sheets; and (h) other analogous circumstances.

Barredo did not commit dishonesty either, let alone a grave one. Petitioners did not question the veracity of her application for leave but found the fact that it was her daughter who signed it as purported act of dishonesty. While Barredo did not deny, as she in fact admitted, that she did not personally sign both applications for leave, she emphasized that she authorized her daughter to act on her behalf. She cited two (2) valid reasons: *First*, her medical concern was urgent; and

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³⁸ *Rollo*, p. 413.

³⁹ *Sabio v. Field Investigation Office, Office of the Ombudsman*, G.R. No. 229882, February 13, 2018, citing *Fajardo v. Corral*, 813 Phil. 149, 157 (2017).

Second, being sick and away, it was physically impossible for her to have filed it.

Barredo is liable for Violation of Reasonable Office Rules and Regulations

Barredo herself admitted that she went abroad without securing the required travel authority, albeit she attributed it to the urgency of her medical condition. For one, she did not initially plan on going abroad from Manila until her sister offered to cover the expenses of going to the United States of America for further examination and treatment. For another, her travel abroad was not only done in her personal capacity and account, but also for urgent medical reasons.

On this score, Barredo did not have to file her request for travel authority in person. Like her application for sick leave, she could have easily filed her application and request for travel authority through her daughter too, if truly she was indisposed to do it herself. According to jurisprudence, failure to secure a travel authority before flying out of the country is considered as violation of reasonable office rules and regulations.

As provided by Executive Order. No. 459, s. 2005:

Section 2. Subject to Section 5 hereof, **all other government officials and employees seeking authority to travel abroad shall henceforth seek approval from their respective heads** of agencies, regardless of the length of their travel and the number of delegates concerned. For the purpose of this paragraph, heads of agencies refer to the Department Secretaries or their equivalents. (Emphasis supplied)

Violation of reasonable office rules and regulations is a light offense punishable by reprimand for the first infraction, *viz*:

PENALTIES
RULE 10
Schedule of Penalties

SECTION 46. Classification of Offenses. — Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

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F. The following light offenses are **punishable by reprimand** for the first offense; suspension of one (1) to thirty (30) days

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for the second offense; and dismissal from the service for the third offense:

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1. Violation of reasonable office rules and regulations;

xxx

(Emphases supplied)

In *OAS, OCA v. Calacal*,⁴⁰ the Court found Rodrigo C. Calacal, a utility Worker I, Municipal Circuit Trial Court (MCTC) of Alfonso Lista-Aguinaldo, Ifugao liable for violation of reasonable office rules and regulations when he travelled abroad without obtaining a travel authority required by OCA Circular 49-2003. He was reprimanded with a warning that a repetition of the same or similar offense will be penalized more severely.

Here, Barredo, too, should be held liable for violation of reasonable violation of reasonable office rules and regulations for travelling abroad without obtaining a travel authority. Considering it was her first offense, she should therefore be reprimanded.

WHEREFORE, the petition is **DENIED**. The Decision and Resolution of the Court of Appeals in C.A.-G.R. SP No. 144240 dated December 15, 2016 and June 15, 2017, respectively, are **MODIFIED**. Respondent **Jessica R. Barredo** is found **GUILTY** of **Violation of Reasonable Office Rules and Regulations** for violating Executive Order No. 459 dated September 1, 2005 for traveling abroad without securing a travel authority. She is **REPRIMANDED** with **STERN WARNING** that a repetition of the same or similar infractions will be dealt with more severely.

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court
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⁴⁰ 619 Phil. 1 (2009).



The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. SP No. 144240)

CERILLES NAVARRO NUVAL &
GO LAW OFFICES
Counsel for Respondent
Room 8, 2nd Floor
Sfaya Building, Veterans Avenue
7000 Zamboanga City

CIVIL SERVICE COMMISSION
Batasang Pambansa Complex
1126 Quezon City
(Decision No. 150679)
(Resolution No. 1600047)

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