



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 12, 2021** which reads as follows:*

“A.M. No. 2020-02-SC – Re: Alleged Theft of Food during the 2019 Bar Examinations by Head Watcher Mr. Zosimo D. Labro,¹ Jr., Administrative Officer II, Shipping and Delivery Section, Property Division, Office of the Court Administrator (OCA), from a 2019 Bar Examinee

In an undated letter received by the Office of the Administrative Services of the Supreme Court (OAS-SC) on January 16, 2020, the family of the late Wilma Carilla (Wilma), a former clerk of court in Branch 79 of the Metropolitan Trial Court in Las Piñas City, accused respondent, Zosimo D. Labro, Jr., Administrative Officer II, Shipping and Delivery Section, Property Division, Office of the Court Administrator (OCA),² of soliciting Twenty Thousand Pesos (₱20,000.00) from them in order to take care of Wilma’s clearance from the Court. There was also an allegation in the letter that Labro, Jr., who served as head watcher during the 2019 Bar Examinations held in the University of Santo Tomas (UST), stole food from the Bar examinees.³

On January 17, 2020, the OAS-SC required Labro, Jr. to submit his comment on the subject letter. On even date, Labro, Jr. responded that there was no basis for him to explain his side with regard to the alleged theft since there was no report or pending investigation against him on the matter. With respect to the issue on solicitation, Labro, Jr. also declined to comment, considering that it was already a subject of

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¹ Also appears as “Lagro” in some parts of the *rollo*.

² *Rollo*, p. 1.

³ *Id.* at 33.

an ongoing administrative case and he had already submitted his affidavit before the Complaints and Investigation Division of the OAS-SC.⁴

On January 20, 2020, Assistant Bar Confidant, Atty. Amor P. Entila, submitted a Memorandum which contained an attachment of a certified true copy of a Head Watcher's Report dated November 3, 2019 for Room 415, 4th Floor, St. Raymund Building in UST. In the said Report, Bar Examinations Supervisor, Atty. Feona Ivana D. Pitalcorin, Court Attorney II, Judicial Records Office, and Bar Examinations Superintendent, Atty. Maria Corazon R. Millares, Court Attorney III, Minutes and Resolution Division, 1st Division, Office of the Clerk of Court, remarked that the Head Watcher of Room 415 had relayed that Labro, Jr. was caught in the act of getting food from the bags of the examinees during the Bar Examinations on November 3, 2019. Atty. Entila also stated that Labro, Jr. admitted his deed to Atty. Rosita M. Requillas-Nacional, Officer-in-Charge for Bar Personnel of the Office of the Bar Confidant (OBC), the next day. Consequently, he was immediately relieved from his duty as Head Watcher of Room 415 for the remaining Sundays of the Bar Examinations.⁵

On January 21, 2020, Labro, Jr. submitted his comment to the OAS-SC, admitting that he took an apple and a hamburger from the bags of the Bar examinees. He claimed to have been driven by hunger. He also explained that he did not have his wallet with him at that time and that he was not allowed to leave his post. Labro, Jr. further claimed that he had apologized to the St. Raymund Building Coordinator, Atty. Gian Frances Nicole C. Vilches-Mallari (Atty. Vilches-Mallari), Court Attorney II, Bar Relations Staff, OBC, after the incident was reported in the afternoon of November 3, 2019.⁶

On February 5, 2020, the OAS-SC conducted a clarificatory hearing with Atty. Vilches-Mallari. She narrated that she confronted Labro, Jr. after receiving the report that he took food from the belongings of the Bar examinees. Labro, Jr. readily admitted to his infraction, explaining that he was hungry. While Labro, Jr. did apologize for it, Atty. Vilches-Mallari recalled being slightly taken aback with his gesture of immediately taking the burger she offered him and eating it in her presence. Atty. Vilches-Mallari characterized his actions as unremorseful and without a feeling of embarrassment.⁷

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⁴ Id. at 1.

⁵ Id. at 1-2.

⁶ Id. at 2.

⁷ See id.

The OAS-SC found Labro, Jr. guilty of simple misconduct in light of his own admission and the presence of substantial evidence proving the offense. As an employee of the Court who has likewise regularly served during Bar Examinations, a high degree of comportment and decorum is expected of Labro, Jr. His act of stealing food from the Bar examinees reflects poorly upon the Court as an institution. Any scandalous act that may erode the people's esteem for the judiciary is unbecoming of an employee and is tantamount to simple misconduct.⁸

The OAS-SC thusly recommends that Labro, Jr. be suspended for five (5) working days without pay, with a stern warning that a repetition of the same or similar act shall be dealt with more severely. This recommendation comes after appreciating the mitigating circumstances of: length of service, acknowledgment and remorse, very satisfactory performances, and this being Labro, Jr.'s first offense.⁹

The Court modifies the findings and recommendation of the OAS-SC. To the mind of the Court, Labro, Jr.'s act is not merely conduct unbecoming amounting to simple misconduct, but one of grave misconduct and conduct prejudicial to the best interest of the service.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. It must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office.¹⁰ In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule must be manifest.¹¹

Conduct prejudicial to the best interest of the service, on the other hand, deals with a demeanor of a public officer which tarnishes the image and integrity of his or her public office.¹² Conduct is

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⁸ Id. at 3.

⁹ Id. at 4.

¹⁰ *Lagado v. Leonido*, A.M. No. P-14-3222 (Formerly A.M. OCA I.P.I. No. 11-3609-P), August 12, 2014, 732 SCRA 579, 584.

¹¹ *Gabon v. Merka*, A.M. No. P-11-3000 (Formerly A.M. OCA I.P.I. No. 10-3524-P), November 29, 2011, 661 SCRA 505, 512.

¹² See *Caños v. Escobido*, A.M. No. P-15-3315 (Formerly OCA I.P.I. No. 12-3978-P), February 6, 2017, 816 SCRA 520, 534.

prejudicial to the public service if it violates the norm of public accountability and diminishes — or tends to diminish — the people's faith in the judiciary.¹³

The act of taking personal property belonging to another without the owner's consent or knowledge and with intent to gain is unlawful as the act constitutes theft, plain and simple. Indubitably, the commission of a criminal act by a court employee during the performance of his duties tarnishes the image and integrity of the Court. It is irrelevant that the thing stolen may be of small value. The Court has, time and again, declared that thievery, no matter how petty, has no place in the judiciary.¹⁴

In *Re: Complaints Against Mr. Alexander R. Blanca, Construction and Maintenance General Foreman, Hall of Justice, Morong, Rizal*,¹⁵ the court employee was found guilty of grave misconduct by carting away a gallon of Vulca Seal, which belonged to the court, on one occasion. The Court ratiocinated that court supplies are intended for public use. That is why court personnel are charged with the duty and responsibility of safeguarding and protecting court property in whatever condition or state it may be found. Pilferage of such property by those employed in the judiciary is reprehensible as it tarnishes the image of the institution which is in the forefront in the campaign against the commission of crimes.¹⁶

Similarly, in *Baquerfo v. Sanchez*,¹⁷ the court legal researcher was dismissed from service by the Court for grave misconduct for stealing two desk fans and a stove which belonged to the court. The Court found the act deplorable despite the fact that the stolen items were already unserviceable. The Court explained its ruling in this wise:

Needless to state, respondent irreparably tarnished the image of the judiciary with his disgraceful acts. He descended to the level of a scavenger scrounging for and dealing in scraps. His unauthorized act of selling government property, albeit deemed unserviceable, as well as pocketing the proceeds thereof, was no less reprehensible than the pilferage of items still utile. Thievery, no matter how petty, has no place in the judiciary.

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¹³ *Leave Division-O.A.S., Office of the Court Administrator v. Sarceno*, A.M. No. P-11-2930 (Formerly A.M. OCA I.P.I. No. 10-3318-P), February 17, 2015, 750 SCRA 582, 591.

¹⁴ *Lagado v. Leonido*, supra note 10, at 584, citing *Office of the Court Administrator v. Musngi*, A.M. No. P-00-3024, July 17, 2012, 676 SCRA 525, 532 and *San Jose, Jr. v. Camurongan*, A.M. No. P-06-2158 (Formerly OCA I.P.I. No. 01-1036-P), April 25, 2006, 488 SCRA 102, 105-106.

¹⁵ A.M. No. 2005-09-SC, July 11, 2007, 527 SCRA 323.

¹⁶ Id. at 333.

¹⁷ A.M. No. P-05-1974 (Formerly OCA I.P.I. No. 03-1684-P), April 6, 2005, 455 SCRA 13.

x x x x

At the outset, we declared that the pilferage and sale of court property, albeit deemed unserviceable, is an act of impropriety. In this case, not only did respondent sell the court properties without authority, he also used the proceeds for himself. **What made the act more disgraceful was the fact that for a pittance, respondent willingly, deliberately and knowingly put his job on the line.**

We are aware that a meager amount was involved in this case. This, however, is not the core of the issue. What is more important is the deliberate and intentional sale of the court properties by the respondent without proper authorization. x x x¹⁸ (Emphasis supplied)

In the same manner, in *Re: Unauthorized Disposal of Unnecessary and Scrap Materials in the Supreme Court Baguio Compound, and the Irregularity on the Bundy Cards of Some Personnel Therein*,¹⁹ utility workers of the Court were found guilty of grave misconduct and were suspended for two (2) years without pay for the unauthorized disposal and taking of unnecessary and scrap materials out of the court. The Court held that the bringing of the scrap materials out of the Court premises by respondents and leaving the same at their houses did not fall under any of the recognized modes of disposing court property under Revised Administrative Circular No. 7-2004. Disposal of court property, albeit deemed unserviceable, not in accordance with said Circular was an act of impropriety.²⁰

Also, in *San Jose, Jr. v. Camurongan*,²¹ the respondent court aide was found guilty of gross misconduct and conduct prejudicial to the best interest of the service for taking the monetary exhibits under the custody of the Office Clerk of Court (OCC) in the total amount of ₱11,983.00. The Court refused to accept the justification proffered by therein respondent that he only took the money for safekeeping because the OCC was flooded at that time, and that while the money was under his possession, a family emergency constrained him to personally use the money. The Court thus held:

The act of taking monetary exhibits without authority from their custodian constitutes theft. Thievery, no matter how petty, has no place in the judiciary. This unlawful act of taking cannot be

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¹⁸ Id. at 21-22.

¹⁹ A.M. No. 2007-17-SC, July 7, 2009, 592 SCRA 12.

²⁰ Id. at 26-27.

²¹ Supra note 14.

justified by an alleged intention to safeguard the money from damage that might be caused by the flood. Neither can this Court sanction the appropriation, even if temporary, of property under *custodia legis* in order to remedy the financial exigency of one's family. Personal problems cannot justify the misuse by any court employee of judiciary funds in their custody. We will not countenance such acts, which portray the judiciary as a "haven of corruption, instead of a bastion of justice."²²

To be sure, therefore, notwithstanding the negligible value of the items he stole from the Bar examinees and the fact that these were not court properties like in the cases cited in the foregoing, the act of Labro, Jr. has, all the same, sufficiently and clearly exposed his lack of trustworthiness and integrity. It also bears emphasis that the act of Labro, Jr. alone of going out of the examination room which he was guarding, so he could take the food from the belongings of the examinees which were kept outside along the corridors, already constituted disobedience with the instructions of the OBC.²³ The statements of Atty. Vilches-Mallari is illuminating on this score:

A: So, ano po kasi x x x the first time po yata na na-notice nung watcher kasi yung katabi po niya ay (hands demonstrating) female c.r., room nung watcher na nakakakita and then room nung headwatcher na ito. x x x So, parang nano-notice niya na everytime sumisilip siya, "*Bakit ba itong headwatcher na ito ay palaging nandito sa mga things ng ex[a]minees?*" It just so happened na lahat po ng corridors ng St. Raymund, I think lahat ng floors, mayroon po yang mga upuan x x x benches. So, yung mga bags ay dun nakapatong. So, medyo iniurong niya yata yung ibang bags para magkaroon ng pwesto, gradually kasi ang ginagawa niya eh.

x x x x

Q: Ito naman si Atty. Millares noticed the headwatcher to be sitting outside the examination room twice and was reminded by the undersigned to return to his room during the morning session. And in the afternoon, yun na. It has been reported that Mr. Labro gets food during the bar examination.

A: So, baka in the afternoon na po nareport yung observation nila at talagang nag-i-scout na siya during the morning.

Q: Nasabihan na niya (Atty. Millares) in the morning pero itinuloy pa rin.

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²² Id. at 105-106.

²³ OBC Bar Instructions and Guidelines for Bar Head Watchers 2019 Bar Examinations, p. 4; *rollo*, p. 8.

A: Oo, ano kasi eh x x x duty talaga ng head watcher na dapat ay nasa loob ka ng room so baka dun [pa lang] ay nagtaka na sila kung bakit palagi siyang nasa labas.

x x x x

Q: Yun nga nakalagay sa guidelines na you shall not leave the examination room except for emergency reasons and with the permission of the bar supervisor/bar superintendent/building coordinators. So, more than fifteen (15) years na siya nagpapa-bar exams, impossible naman na hindi niya ito alam.

A: Opo. Gamay na gamay na niya yan.²⁴

It is often said that the administration of justice is a sacred task. The Court cannot countenance, on the part of court personnel, any act or omission that would violate the norm of public accountability; and would diminish, or even just tend to diminish, the faith of the people in the judiciary.²⁵ More than just a cardinal virtue, integrity in the judicial service is a necessity.²⁶ The image of the judiciary is mirrored in the conduct, official or otherwise, of its personnel. The Court has not been remiss in reminding court officials and employees that it shall not allow the good name and standing of the judicial system to be tainted by the dishonesty of the very people who have sworn to uphold its honor.²⁷

All told, Labro, Jr. is guilty of grave misconduct and conduct prejudicial to the best interest of the service, which are both grave offenses. Under Section 50 of the 2017 Rules of Administrative Cases in the Civil Service (2017 RACCS), grave misconduct is punishable by dismissal from the service even on the first offense, while conduct prejudicial to the best interest of the service is punishable by suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from the service for the second offense. Since there are two different offenses in this case, the penalty to be imposed should be that corresponding to the more serious offense and the other shall be considered as an aggravating circumstance.²⁸ Thus, the penalty of dismissal from the service would be apropos.

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²⁴ Sworn Statement of Atty. Gian Frances Nicole Vilches-Mallari, February 6, 2020, pp. 5-6; *rollo*, pp. 19-20.

²⁵ *San Jose, Jr. v. Camurongan*, supra note 14, at 106.

²⁶ *Id.*

²⁷ *Id.* at 106-107.

²⁸ 2017 RACCS, Sec. 55.

However, the Court notes, as the OAS-SC has pointed out, that Labro, Jr. has served the Court for 24 long years. The OAS-SC also draws attention to his very satisfactory performances, acknowledgment of his offense and expression of remorse for it. In addition to these circumstances, the Court, for humanitarian and compassionate reasons, finds it proper to mitigate the penalty against Labro, Jr. It is worth noting that, as clarified by Atty. Vilches-Mallari, free lunch was not provided to head watchers as a general rule.²⁹ Labro, Jr. explained that he was tempted to take the food of the examinees because he was very hungry at that time and could not leave his post. He also claimed that he left his wallet at home and did not have enough money with him.

With regard to whether this is Labro, Jr.'s first offense, while the OAS-SC said so in the affirmative, it would appear, however, that he faced administrative cases on two previous occasions. In *Re: Supreme Court Employees Incurring Habitual Tardiness in the 2nd Semester of 2005*,³⁰ Labro, Jr. was severely reprimanded by the Court for his habitual tardiness. In *Re: Failure of Various Employees to Register their Time of Arrival and/or Departure from Office in the Chronolog Machine*,³¹ he was found guilty of violation of reasonable office rules and regulations and was sternly warned by the Court that a repetition of similar acts in the future shall be dealt with more severely. As such, the Court cannot appreciate the mitigating circumstance of first offense in favor of Labro, Jr.

Be that as it may, in light of the other mitigating circumstances already mentioned, a suspension of one (1) month instead of outright dismissal from the service would be proper under the circumstances. In several administrative cases, the Court refrained from imposing the actual penalties in the presence of mitigating facts.³² Certainly, where a penalty less severe would suffice, whatever missteps had been committed by the employee ought not to be visited with a consequence as severe as dismissal. It is not only for the law's concern for the workingman; there is, in addition, his family to consider. Unemployment brings untold hardships and sorrows on those dependent on wage earners.³³

WHEREFORE, the Court finds respondent, ZOSIMO D. LABRO, JR., Administrative Officer II, Shipping and Delivery

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²⁹ Sworn Statement of Atty. Gian Frances Nicole Vilches-Mallari, February 6, 2020, p. 6; *rollo*, p. 20.

³⁰ A.M. No. 2006-11-SC, September 13, 2006, 501 SCRA 638.

³¹ A.M. No. 2005-21-SC, September 28, 2010, 631 SCRA 396.

³² *Office of the Court Administrator v. Araya, Jr.*, A.M. No. P-12-3053 (Formerly A.M. No. 06-3-88-MTCC), April 11, 2012, 669 SCRA 124, 133.


³³ *Id.* at 133.

Section, Property Division, Office of the Court Administrator, **GUILTY** of grave misconduct and conduct prejudicial to the best interest of the service and is hereby **SUSPENDED** for a period of one (1) month without pay, with a **LAST WARNING** that a repetition of the same or similar acts in the future shall be dealt with more severely and may merit the penalty of dismissal.

The undated anonymous letter against Administrative Officer II Zosimo D. Labro, Jr. on the alleged theft of food from bar examinee in the recent 2019 Bar Examination held at the University of Santo Tomas, Manila; the comment of Administrative Officer II Labro, Jr on the anonymous letter; the sworn statement of Atty. Gian Frances Nicole Vilches-Mallari dated October 15, 2020; and the Memorandum dated October 29, 2020 of the Office of Administrative Services, are all **NOTED**.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *str*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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Hon. Jose Midas P. Marquez (x)
Court Administrator
Hon. Raul B. Villanueva (x)
Hon. Jenny Lind R. Aldecoa-Delorino (x)
Hon. Leo Tolentino Madrazo (x)
Deputy Court Administrators
Hon. Lilian Barribal-Co (x)
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