

## EN BANC

[ A.M. No. 2019-11-SC, November 24, 2020 ]

### RE: INCIDENT OF UNAUTHORIZED DISTRIBUTION OF PAMPHLETS CONCERNING THE ELECTION PROTEST OF FERDINAND MARCOS, JR. TO THE OFFICES OF THE JUSTICES OF THE SUPREME.

#### RESOLUTION

##### LEONEN, J.:

Every court employee must exercise their duties with the utmost care and responsibility. Facilitating an unauthorized act is conduct prejudicial to the best interest of the service, and a claim of lack of knowledge cannot exculpate a court employee from liability.

This administrative matter arose from the August 9, 2019 Memorandum<sup>[1]</sup> issued by the Office of Administrative Services, which recommended that Luningning R. Marin (Marin), the chief judicial staff officer of the Philippine Judicial Academy, be found guilty of conduct prejudicial to the best interest of the service, and fined with P3,000.00.

On July 1, 2019, two persons, later identified as Arifa Macacua Jamil (Jamil) and Zeus Alonzo (Alonzo), entered the New Supreme Court Building. The security personnel found nothing untoward as Marin fetched them from the pedestrian entrance and told them that the two would file documents and give something to the justices' offices.<sup>[2]</sup>

Jamil and Alonzo, accompanied by Marin, and later by Process Server Joselito Santos (Santos), distributed envelopes containing a 39-page pamphlet entitled, "The Election Protest of Bongbong Marcos, A Simplified Illustration as of May 2019,"<sup>[3]</sup> to the justices' offices. The Office of Administrative Services reported that the pamphlet advocated for a ruling in Ferdinand Marcos, Jr.'s (Marcos) favor in his election protest pending before the Presidential Electoral Tribunal.<sup>[4]</sup>

On July 11, 2019, the Office of Administrative Services received copies of the Incident Report<sup>[5]</sup> and CCTV footage from the Security Division. It then directed Marin<sup>[6]</sup> and Santos<sup>[7]</sup> to explain.

In her July 18, 2019 letter,<sup>[8]</sup> Marin narrated that on the day of the incident, Edgar G. Rozon (Edgar), son of Soledad G. Rozon, her friend and former colleague, called asking to see her as he was "going to file or distribute something"<sup>[9]</sup> in this Court. Having known him since he was a child, Marin trusted him.<sup>[10]</sup>

In Edgar's stead, Jamil and Alonzo arrived, introducing themselves as his co-

workers. Marin knew that Edgar and his mother worked for former senator Marcos, but did not think much of it. She helped Jamil and Alonzo pass through the guards and accompanied them to the justices' offices, starting from the uppermost floor. When they reached the Office of the Clerk of Court *En Banc* on the third floor, they bumped into Santos, whom Marin then asked to accompany the two to the offices still unvisited.<sup>[11]</sup>

In Santos's letter,<sup>[12]</sup> he explained that he was about to distribute the notice of raffle results from the Office of the Clerk of Court *En Banc* when Marin approached him, asking if he could accompany the two people she was with so she could go back to work. Since he was about to enter the justices' offices, he did not mind the two tagging along. He did not know who the two were, or what they distributed.<sup>[13]</sup>

In its August 9, 2019 Memorandum,<sup>[14]</sup> the Office of Administrative Services recommended that Santos be cleared of any administrative charges, finding that he did not actively participate in the incident. It noted the CCTV footage showing that Jamil and Alonzo were merely following Santos, who was simply busy at work.<sup>[15]</sup> He did not appear at all to be colluding with them.<sup>[16]</sup>

As to Marin, the Office of Administrative Services recommended that she be found guilty of conduct prejudicial to the best interest of the service and fined with P3,000.00. It found that having no knowledge on the envelope's contents does not free her from charges. It reasoned that meeting strangers instead of her friend should have put her on guard, but instead of inquiring what their business was, she even spoke to the guards on their behalf. This was deemed a grossly negligent act amounting to conduct prejudicial to the best interest of the service.<sup>[17]</sup>

Thus, the Office of Administrative Services recommended that:

1. Ms. Luningning R. Marin, SC Chief Judicial Staff Officer, Office of the Chancellor, Philippine Judicial Academy be found GUILTY of Conduct Prejudicial to the Best Interest of the Service for her complicity in the unauthorized distribution of pamphlets concerning the election protest of Ferdinand "Bong Bong" Marcos, Jr. to the Offices of the Justices of the Supreme Court; and
2. she be imposed with the penalty of a FINE in the amount of Three Thousand (Php 3,000.00) Pesos, with a stern warning that a repetition of the same or similar acts in the future will be dealt with more severely.<sup>[18]</sup>

On August 30, 2019, Marin sent a letter<sup>[19]</sup> reiterating that she "genuinely regret[s] any error of judgment"<sup>[20]</sup> in assisting her friend's son. She apologized for the unintended lapse and sought this Court's consideration. She stressed that she has an untarnished record, and that working in this Court for the past three decades has been an integral part of her life.<sup>[21]</sup>

This Court resolves the sole issue of whether or not Chief Judicial Staff Officer Luningning R. Marin is guilty of conduct prejudicial to the best interest of the

service.

This Court adopts the findings of the Office of Administrative Services, but resolves to decrease the imposed penalty.

Laws do not define or enumerate specific acts or omissions deemed prejudicial to the best interest of the service, but they are understood to be those that "violate the norm of public accountability and diminish — *or tend to diminish* — *the people's faith in the Judiciary.*"<sup>[22]</sup> Conduct prejudicial to the best interest of the service constitutes one's acts that "tarnish the image and integrity of [their] public office."<sup>[23]</sup> It "need not be related or connected to the public officer's official functions."<sup>[24]</sup>

As the Office of Administrative Services found, Marin's act was undoubtedly detrimental to the reputation of this Court and the entire Judiciary. She carelessly allowed Jamil and Alonzo's distribution of pamphlets advocating for a party in a case pending before this Court. She facilitated the easy access these strangers had to the justices' offices without going through the scrutiny of our security personnel.

Marin made it possible for Marcos to unduly influence this Court in its ruling. She knew that both her friend Soledad and her son Edgar worked for the office of Marcos, who has a pending case before this Court. She narrated that Edgar informed her that he was filing a document. She also recounted that when Jamil and Alonzo showed up, they introduced themselves as Edgar's co-workers. We cannot excuse her for simply not knowing the contents of the pamphlets they distributed.

Marin may have made an erroneous judgment as she claims to have been victimized by a friend, but the unauthorized distribution of the pamphlet championing Marcos's cause would not have happened if not for her gross negligence. We cannot brush aside her act, despite her claim that her kindness had been abused. This Court affirms the Office of Administrative Services' findings:

[I]t was incredibly reckless and unthinkable for a court employee ranked as high as a SC Chief Judicial Staff Officer to fail to grasp that *any direct transaction with an office of a Justice of the Supreme Court, much less all of them, is not a matter to be taken lightly.* Yet, instead of being wary and cautious about the whole affair, she not only allowed such persons to gain access to the Court, but even left them to do as they please. In the same vein, although Ms. Marin may not be a member of the Bar, considering her rank and tenure in the Court, it is safe to presume that she ought to have known the established procedures to be followed in the Court. If she wanted to extend assistance to a party litigant with a case in the Court, she could have directed them to the proper office to receive assistance if they were so inclined to make a manifestation to the Court, or at the very least, endorsed them to the proper court staff or officer with the knowledge to properly advise them.<sup>[25]</sup> (Emphasis supplied)

Marin's gross negligence is not the behavior expected of court employees, more so of one who has been with this Court for more than three decades, and has held