

## EN BANC

**[ A.M. No. SB-17-24-P [Formerly A.M. No. 14-12-07-SB], July 11, 2017 ]**

**SECURITY AND SHERIFF DIVISION, SANDIGANBAYAN,  
COMPLAINANT, VS. RONALD ALLAN GOLE R. CRUZ, SECURITY  
GUARD I, SECURITY AND SHERIFF DIVISION, RESPONDENT.**

### RESOLUTION

#### PER CURIAM:

Before this Court is an administrative case against Ronald Allan Gole R. Cruz (respondent Cruz), Security Guard (SG) I of the Sandiganbayan, for improper solicitation.

#### THE FACTS

On 5 December 2014, Sandiganbayan Presiding Justice Amparo M. Cabotaje-Tang received a Sworn Information Report<sup>[1]</sup> filed by Sandiganbayan security officers<sup>[2]</sup> against respondent Cruz. The report alleged an incident of solicitation of money from the counsel of a party to a case pending before the Sandiganbayan. Based on the report, Presiding Justice Cabotaje-Tang requested this Court to preventively suspend respondent Cruz pending investigation,<sup>[3]</sup> a request which We granted.<sup>[4]</sup>

Thereafter, an investigation of the alleged solicitation by respondent Cruz was conducted by the Sandiganbayan,<sup>[5]</sup> yielding the following factual findings:

Sometime in the last week of November 2014, respondent Cruz convinced TVS cameraman Dave Gonzales (Gonzales) to hand over a white solicitation envelope to Atty. Stephen David (Atty. David).<sup>[6]</sup> The latter was the counsel for the accused Janet Lim Napoles in the Priority Development Assistance Fund (PDAF) case pending before the Sandiganbayan.<sup>[7]</sup> Gonzales claimed that he did not know what the envelope was for, but that he obliged only out of "pakikisama."<sup>[8]</sup> He was able to hand over the envelope to Atty. David's aide.<sup>[9]</sup> Respondent purportedly said that the money to be solicited would be used for the Christmas party of the Sandiganbayan's security personnel.<sup>[10]</sup>

On 1 December 2014, Atty. David passed by the back door entrance and told the security guards posted there that he would give back the envelope the following day.<sup>[11]</sup> When they asked what the envelope was for, Atty. David clarified that it was a "*pamasko*" "for the boys."<sup>[12]</sup> The next day, as Atty. David passed by the same entrance, he told SG III Armando Astor, "*O nabigay ko na yung pang Christmas nyo ha.*" When SG III Astor inquired into the matter, Atty. David replied, "*Nandun kay Gole yung kasama nyo na security.*"<sup>[13]</sup> This conversation was overheard by four

other security guards,<sup>[14]</sup> one of whom was SG II Rosita Domingo. When she confronted respondent about it, he merely replied "*Bakit ka ba nagtatanong?*" Domingo then reported the incident to Security Officer (SO) I Darwin Trinidad.<sup>[15]</sup> Thereafter, SO I Trinidad, together with SO I Rodelio Lalongisip, conducted an investigation into the matter.

It appears that several security personnel discovered that respondent had received the amount of P20,000 from Atty. David inside a comfort room in the Sandiganbayan, just after a hearing for the case of Senator Jinggoy Estrada and Ms. Napoles.<sup>[16]</sup> Respondent purportedly admitted to some security personnel that he had received money from Atty. David, albeit in the amount of P10,000 only.<sup>[17]</sup>

Acting Chief Judicial Staff Officer (ACJSO) Albert de la Cruz also alleged that earlier that day, respondent came to see him. Respondent supposedly said that he would sponsor the catering for the Christmas party of the security personnel. When ACJSO de la Cruz asked where the money came from, respondent admitted that he had received P10,000 from a lawyer in the PDAF case. He advised respondent to return the money. But when asked by the former to produce it, respondent allegedly refused for fear of being implicated.<sup>[18]</sup>

In his *Salaysay*,<sup>[19]</sup> respondent denied soliciting or receiving any money from Atty. David, whom the former allegedly did not even know personally. Respondent claimed that the Complaint was hatched by persons who had an axe to grind against him.<sup>[20]</sup> In particular, he contended that SO I Trinidad accused him years ago of writing poison letters against security officers and circulating them to the Justices.<sup>[21]</sup> He also alleged that the signatories of the Information Report were merely forced to sign it.<sup>[22]</sup>

As for Atty. Stephen David, while he attended the clarificatory hearing for the fact-finding investigation, he did not give any statement on the matter.<sup>[23]</sup>

The investigating lawyer recommended that a formal charge be filed against respondent for improper solicitation and/or for grave misconduct, under the Revised Rules on Administrative Cases in the Civil Service (RRACCS).<sup>[24]</sup>

### ***Findings and Recommendations of the Office of the Court Administrator***

Upon evaluation, the Office of the Court Administrator (OCA) recommended that the administrative complaint be re-docketed as a regular administrative matter.<sup>[25]</sup> The OCA found the Fact-Finding Investigation Report well-taken and duly supported by evidence.<sup>[26]</sup> It stated that despite the absence of any direct evidence connecting respondent to the solicitation, the testimonies of the witnesses showed that several circumstances pointed to respondent as the one who had solicited money from Atty. David. According to the OCA, his defense of general denial cannot overcome the testimonies of the witnesses who have testified in the affirmative.<sup>[27]</sup>

Since improper solicitation is classified as a grave offense under RRACCS, the OCA recommended that respondent be held administratively liable and that he be dismissed from the service with forfeiture of all retirement benefits, except accrued

leave credits, and with perpetual disqualification from employment in any branch of the government or any of its agencies or instrumentalities, including government-owned and controlled corporations.<sup>[28]</sup>

In addition, the OCA also recommended that Atty. David's apparent obstinacy and refusal to cooperate in the investigation regarding the solicitation be referred to the Office of the Bar Confidant for appropriate action.<sup>[29]</sup>

### THE COURT'S RULING

We adopt the recommendations of the Office of the Court Administrator.

Under the Code of Conduct and Ethical Standards for Public Officials and Employees,<sup>[30]</sup> solicitation is considered a prohibited act.<sup>[31]</sup> Moreover, Canon I of the Code of Conduct for Court Personnel provides that "[c]ourt personnel shall not solicit or accept any gift, favor, or benefit based on any explicit or implicit understanding that such gift, favor, or benefit shall influence their official actions."<sup>[32]</sup> In addition, the RRACCS<sup>[33]</sup> classifies soliciting as a grave offense punishable by dismissal from service.<sup>[34]</sup>

Based on the investigation report of the Sandiganbayan and the findings of the OCA, it has been sufficiently established that respondent Cruz solicited money from Atty. David. Although there is no direct evidence, several circumstances point to him as the one who solicited money from Atty. David, as found by the OCA:

SG II Alegre testified that he was personally informed by TVS cameraman Gonzales that the latter acceded to the prior request of respondent SG I Cruz to give the solicitation envelope to Atty. David. SG III Astor attested that a week prior to the actual solicitation incident, respondent SG I Cruz approached him at the Backdoor II post and gave him an envelope with official Sandiganbayan logo intended for Atty. David. The incident was witnessed and confirmed by SG II Dimaano. SG II Astor also testified that on 2 December 2014, Atty. David told him at Backdoor II that he had already given the money intended to augment the fund for the Christmas party to respondent SG I Cruz and the same was corroborated by SG II Reyes. However, while both SG II Alegre and SG III Woods heard an almost identical conversation, both did not hear Atty. David mentioning the name "Gole". Nonetheless, ACJSO Albert Dela Cruz disclosed that respondent SG I Cruz admitted to him that the latter received ten thousand pesos (P10,000) from a lawyer and even offered to shoulder the catering for the Christmas party of the Security and Sheriffs Division. **All these circumstances factored in lead to the conclusion that respondent SG I Cruz solicited money from Atty. David**, counsel of accused Janet Lim Napoles in the PDAF cases presently being tried before the graft court.<sup>[35]</sup> (Emphasis supplied)

This being an administrative proceeding, the quantum of proof necessary for a finding of guilt is only substantial evidence,<sup>[36]</sup> or such relevant evidence that a reasonable mind might accept as adequate to support a conclusion.<sup>[37]</sup> This requirement has been met in this case.

As to the accusations against him, respondent could only proffer the defense of denial.<sup>[38]</sup> However, "mere denial, if unsubstantiated by clear and convincing evidence, has no weight in law, and cannot be given greater evidentiary value than the testimonies of witnesses who have testified in the affirmative."<sup>[39]</sup> In this light, respondent's bare denial cannot prevail over the testimonies of 10 members of the Sandiganbayan security personnel<sup>[40]</sup> and cameraman Gonzales, as these are testimonies that have withstood the scrutiny of the Sandiganbayan's Investigating Officer<sup>[41]</sup> and the OCA.

Moreover, respondent's assertion<sup>[42]</sup> that there is no evidence that he received the money is of no moment, because its receipt is not necessary in establishing improper solicitation, mere demand being sufficient.<sup>[43]</sup>

No other office in the government service exacts a greater demand for moral righteousness and uprightness from an employee than the Judiciary.<sup>[44]</sup> The Court is mindful that any act of impropriety on the part of judicial officers and personnel, be they the highest or the lowest members of the work force, can greatly erode the people's confidence in our justice system.<sup>[45]</sup> Hence, it is the sacred duty of every worker in the Judiciary to maintain the good name and standing of the courts.<sup>[46]</sup> Every employee of the court should be an exemplar of integrity, uprightness, and honesty.<sup>[47]</sup> The Court will not hesitate to impose the ultimate penalty on those who have fallen short of their accountabilities.<sup>[48]</sup>

In numerous cases, this Court has held that court personnel's act of soliciting or receiving money from litigants constitutes grave misconduct.<sup>[49]</sup> Under Section 46(A) of RRACCS, this is punishable by dismissal from service even for the first offense. The Court has not hesitated to impose this extreme punishment on employees falling short of their accountabilities,<sup>[50]</sup> for no less than the Constitution enshrines the principle that public office is a public trust.<sup>[51]</sup> While there are cases in which the Court has mitigated the imposable penalty for humanitarian reasons and other considerations such as length of service, acknowledgment of infractions, feelings of remorse, and family circumstances,<sup>[52]</sup> none of these is applicable to the case at hand. Hence, respondent's dismissal is proper.

In a related matter, the Court notes that Atty. David, who is in the best position to state whether respondent Cruz received money from him through improper solicitation, has chosen to remain silent and refused to give his statement. As a lawyer, he is an officer of the court who has the duty to uphold its dignity and authority and not promote distrust in the administration of justice.<sup>[53]</sup> He is therefore under obligation to shed light on the truth or falsity of the issue, considering that he is at the center of the controversy.<sup>[54]</sup>

Records show that in *Bondoc v. Simbulan*,<sup>[55]</sup> Atty. David and his wife Atty. Lanee David were found guilty of indirect contempt of court and fined, with a stern warning that the commission of a similar offense shall be dealt with more severely for making a mockery of the judicial system. In that case, Attys. Stephen and Lanee David were charged with crafting a Complaint and incorporating therein unfounded accusations against a judge in order to conceal their inadequacies in the handling of