

## EN BANC

**[ A.M. No. CA-15-31-P (formerly OCA I.P.I. No. 13-218-CA-P), January 12, 2016 ]**

**COMMITTEE ON SECURITY AND SAFETY, COURT OF APPEALS,  
COMPLAINANT, VS. REYNALDO V. DIANCO - CHIEF SECURITY,  
JOVEN O. SORIANOSOS - SECURITY GUARD 3, AND ABELARDO P.  
CATBAGAN - SECURITY GUARD 3, RESPONDENTS.**

### R E S O L U T I O N

**BRION, J.:**

For resolution are the motions for reconsideration filed by respondents Reynaldo V. Dianco, Joven O. Sorianosos, and Abelardo P. Catbagan of our decision dated June 16, 2015 in Administrative Matter (A.M.) No. CA-15-31-P.<sup>[1]</sup>

The Court *en banc* adjudged respondent Dianco guilty of **serious dishonesty and grave misconduct**, respondent Sorianosos guilty of **less serious dishonesty and simple misconduct**, and respondent Catbagan guilty of **simple neglect of duty**. In determining the proper penalties, the Court considered the applicable extenuating, mitigating, aggravating, and/or alternative circumstances and imposed the following: (a) upon respondent Catbagan, **suspension of one (1) month and one (1) day** with stern warning; (b) upon respondent Sorianosos, **suspension of nine (9) months** with stern warning; and (c) upon respondent Dianco, **dismissal from the service** with accessory penalties of cancellation of eligibility, perpetual disqualification for reemployment in the government service, and forfeiture of retirement benefits except accrued leave credits.

The respondents separately filed their motions for reconsideration on September 2, 2015; September 4, 2015; and September 9, 2015.

#### **The Motions for Reconsideration**

##### *Catbagan's Motion for Reconsideration*

Respondent Abelardo P. Catbagan maintains that he should not have been administratively sanctioned because he was not aware of and was not privy to the manipulations and intercalations made by Dianco and Sorianosos on the Liquidation Report of the CA Security Guard excursion. Also, he maintains that he did not neglect his only duty as Food Committee Head, *i.e.*, to distribute meal stubs to the participants of the excursion, which he had done with the assistance of his superior Ricky R. Regala, now CA Acting Chief of Security.

Attached to Catbagan's motion for reconsideration is an affidavit<sup>[2]</sup> executed by Regala stating that Catbagan's only duty was to distribute the food stubs at the excursion, and that he voluntarily offered his assistance to Catbagan due to the

number of participants. Regala also stated in his affidavit that Catbagan had no participation or knowledge of the manipulations made on the Liquidation Report.

#### *Sorianosos's Motion for Judicial Clemency*

Respondent Joven O. Sorianosos points out that **he had already been penalized and that he had served the penalty of thirty (30) days suspension without pay.** The penalty was imposed on him by the CA pursuant to a memorandum issued by the C A Executive Clerk of Court. He contends that his 30-day suspension was not merely preventive but was a penalty, and that he would be penalized twice for the same act with the issuance of our June 16, 2015 Decision in this case.

In any event, respondent Sorianosos appeals to this Court to lessen the penalty that we imposed upon him. He alleges that a suspension of nine (9) months, without pay, would take a heavy toll on his family who subsists on his meager salary as CA Security Guard (SG) 3.- He adds that, aside from the stroke that he suffered in 2012, he is also diagnosed with diabetes, which alone costs him P5,000.00 a month for his maintenance medicines.

Also, that he has two children: one in college, and the other, in high school, and they still depend on him for support; his wife also is soon scheduled to undergo radiation therapy for thirty (30) days because of a growing head tumor.

#### *Dianco 's Motion for Reconsideration*

Respondent Reynaldo V. Dianco asks for this Court's compassion, understanding, and generosity to reconsider the penalty of dismissal that we imposed upon him.

Dianco humbly requests that the Court extend to him the same understanding and generosity previously afforded the respondents in the following administrative cases: *Rayos v. Hernandez*,<sup>[3]</sup> *Concerned Taxpayer v. Doblada, Jr.*,<sup>[4]</sup> *Vidallon-Magtolis v. Salud*,<sup>[5]</sup> *In re: Delayed Remittance of Collections of Teresita Lydia Odtuhan*,<sup>[6]</sup> *Executive Judge Contreras-Soriano v. Salamanca*,<sup>[7]</sup> and *Judge Isidra A. Arganosa-Maniego v. Rogelio T. Salinas*<sup>[8]</sup> He particularly cites *Disposal Committee, Court of Appeals v. Janet Annabelle C. Ramos*<sup>[9]</sup> where the Court imposed the penalty of one (1) year-suspension without pay to the respondent who was found guilty of dishonesty and falsification of official document.

Dianco further requests that, as in *Disposal Committee, Court of Appeals*, the Court consider in his favor the mitigating circumstances of: admission of offense, feeling of remorse and sincere apologies, promise not to commit the same or similar offense in the future, willingness to reform, the fact that this is his first offense, his long years of unblemished satisfactory service,<sup>[10]</sup> and the restitution of the amount involved.

He adds that he is almost fifty-three (53) years of age<sup>[11]</sup> and only seven (7) years shy of retirement; and that, with his old age and failing health due to diabetes, hypertension, and the previous removal of his gall bladder, it would be difficult, if not impossible, for him to find employment in the private sector.

Ultimately, Dianco appeals to the Court's leniency as his family heavily relies on his salary for their medical and daily needs and expenses. Also, he financially supports the education of his seven (7) year-old nephew, and extends financial assistance to his relatives.

In a manifestation<sup>[12]</sup> dated October 15, 2015, Dianco expressed his willingness to be transferred to another division in the CA, in the event that the Court would favorably act on his motion for reconsideration and orders his reinstatement in the service.

### **Our Ruling**

**We RECONSIDER our Decision of June 16, 2015, and GRANT the respondents' motions for reconsideration.**

We recall that the institution of the present administrative case resulted from the padding of the food bill and violation on the prohibition of drinking alcohol committed by respondents former CA Chief of Security Reynaldo V. Dianco and Security Guard (SG)3 Joven O. Sorianosos during the CA Security Guards' excursion on March 19, 2011, at the Village East Clubhouse in Cainta, Rizal. SG3 Abelardo P. Catbagan was included as respondent in the case because he allegedly neglected his duties as Food Committee Head of the said excursion, which enabled Dianco and Sorianosos to manipulate the entries on the food concessionaire's receipt.

#### *Dismissal of the case with respect to Catbagan and Sorianosos*

After an exhaustive review of the records, we find that the present administrative case is already closed and terminated with respect to respondents Catbagan and Sorianosos.

We find that, in two (2) separate memoranda<sup>[13]</sup> dated November 5 and 6, 2013, respondents Sorianosos and Catbagan were informed of the Investigation Report of the Committee on Security and Safety on the incidents of the March 19, 2011 CA Security Group excursion.

The memoranda included the **penalty recommendations**<sup>[14]</sup> of CA Assistant Clerk of Court Virginia C. Abella, **which were approved by the CA Committee on Ethics and Special Concerns and CA Presiding Justice Andres B. Reyes, Jr:**

### **RECOMMENDATIONS**

#### **RE: RESPONDENT SG3 JOVEN O. SORIANOSOS**

Simple Dishonesty is a less grave offense punishable by suspension of one (1) month to six (6) months for the first offense; six (6) months and one (1) day to one (1) year suspension for the second offense; and dismissal from the service for the third offense (Sec. 2C, Resolution No. 060538); while simple misconduct is punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense; and dismissal from the service for the second offense under Sec. 46, D (2)

Rule 10, RRACCS).

The following mitigating circumstances are appreciated in his favor, namely: (1) twenty (20) years length of service; (2) admission; (3) apology; (4) first offense; (5) having been a two-time most outstanding guard of the month; and (5) for humanitarian consideration.

In view of all the foregoing considerations, it is most respectfully recommended that a **suspension for thirty (30) days without pay** be imposed on respondent SG3 Joven O. Sorianosos with a stern warning that a commission of a similar offense shall be dealt with more severely. [15] (emphasis supplied)

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**RE: RESPONDENT SG3 ABELARDO P. CATBAGAN**

Simple neglect of duty is a less grave offense punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense; and dismissal from the service for the second offense under Section 46 D.I., Rule 10, RRACCS.

There being no aggravating circumstances but with the following mitigating circumstances, namely: (1) admission; (2) fifteen (15) years of length of service; (3) first offense; and (4) humanitarian consideration, it is most respectfully recommended that the penalty of **REPRIMAND** be imposed on respondent SG3 Abelardo P. Catbagan with a stern warning that a repetition of similar offense will be dealt with more severely. [16]

Subsequently, in a memorandum [17] dated January 6, 2014, the CA, through Executive Clerk of Court Teresita R. Marigomen, **suspended respondent Sorianosos for thirty (30) days suspension without pay**, from December 13, 2013 to January 11, 2014.

Under Section 45, Rule 9 of the Revised Rules on Administrative Cases in the Civil Service (RRACCS), "a decision rendered by the disciplining authority whereby a penalty of **suspension for not more than thirty (30) days** or a fine in an amount not exceeding thirty (30) days' salary is imposed, **shall be final, executory and not appealable** unless a motion for reconsideration is seasonably filed x x x."

The records do not show that respondent Sorianosos ever filed a motion for reconsideration to the January 6, 2014 memorandum suspending him for thirty (30) days; thus, the CA's decision on Sorianosos' administrative liability (and penalty) had become final, executory, and unappealable. **In fact, the records show that Sorianosos has served his 30-day suspension and reported back to work on January 13, 2014.** [18]

The administrative case with respect to respondent Catbagan had also become final, executory, and unappealable, as Catbagan filed no motion for reconsideration to the