

## EN BANC

[ B.M. No. 2540, September 24, 2013 ]

**IN RE: PETITION TO SIGN IN THE ROLL OF ATTORNEYS MICHAEL A. MEDADO, PETITIONER.**

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

**SERENO, C.J.:**

We resolve the instant Petition to Sign in the Roll of Attorneys filed by petitioner Michael A. Medado (Medado).

Medado graduated from the University of the Philippines with the degree of Bachelor of Laws in 1979<sup>[1]</sup> and passed the same year's bar examinations with a general weighted average of 82.7.<sup>[2]</sup>

On 7 May 1980, he took the Attorney's Oath at the Philippine International Convention Center (PICC) together with the successful bar examinees.<sup>[3]</sup> He was scheduled to sign in the Roll of Attorneys on 13 May 1980,<sup>[4]</sup> but he failed to do so on his scheduled date, allegedly because he had misplaced the Notice to Sign the Roll of Attorneys<sup>[5]</sup> given by the Bar Office when he went home to his province for a vacation.<sup>[6]</sup>

Several years later, while rummaging through his old college files, Medado found the Notice to Sign the Roll of Attorneys. It was then that he realized that he had not signed in the roll, and that what he had signed at the entrance of the PICC was probably just an attendance record.<sup>[7]</sup>

By the time Medado found the notice, he was already working. He stated that he was mainly doing corporate and taxation work, and that he was not actively involved in litigation practice. Thus, he operated "under the mistaken belief [that] since he ha[d] already taken the oath, the signing of the Roll of Attorneys was not as urgent, nor as crucial to his status as a lawyer";<sup>[8]</sup> and "the matter of signing in the Roll of Attorneys lost its urgency and compulsion, and was subsequently forgotten."<sup>[9]</sup>

In 2005, when Medado attended Mandatory Continuing Legal Education (MCLE) seminars, he was required to provide his roll number in order for his MCLE compliances to be credited.<sup>[10]</sup> Not having signed in the Roll of Attorneys, he was unable to provide his roll number.

About seven years later, or on 6 February 2012, Medado filed the instant Petition, praying that he be allowed to sign in the Roll of Attorneys.<sup>[11]</sup>

The Office of the Bar Confidant (OBC) conducted a clarificatory conference on the

matter on 21 September 2012<sup>[12]</sup> and submitted a Report and Recommendation to this Court on 4 February 2013.<sup>[13]</sup> The OBC recommended that the instant petition be denied for petitioner's gross negligence, gross misconduct and utter lack of merit.<sup>[14]</sup> It explained that, based on his answers during the clarificatory conference, petitioner could offer no valid justification for his negligence in signing in the Roll of Attorneys.<sup>[15]</sup>

After a judicious review of the records, we grant Medado's prayer in the instant petition, subject to the payment of a fine and the imposition of a penalty equivalent to suspension from the practice of law.

At the outset, we note that not allowing Medado to sign in the Roll of Attorneys would be akin to imposing upon him the ultimate penalty of disbarment, a penalty that we have reserved for the most serious ethical transgressions of members of the Bar.

In this case, the records do not show that this action is warranted.

For one, petitioner demonstrated good faith and good moral character when he finally filed the instant Petition to Sign in the Roll of Attorneys. We note that it was not a third party who called this Court's attention to petitioner's omission; rather, it was Medado himself who acknowledged his own lapse, albeit after the passage of more than 30 years. When asked by the Bar Confidant why it took him this long to file the instant petition, Medado very candidly replied:

Mahirap hong i-explain yan pero, yun bang at the time, what can you say? Takot ka kung anong mangyayari sa 'yo, you don't know what's gonna happen. At the same time, it's a combination of apprehension and anxiety of what's gonna happen. And, finally it's the right thing to do. I have to come here ... sign the roll and take the oath as necessary.<sup>[16]</sup>

For another, petitioner has not been subject to any action for disqualification from the practice of law,<sup>[17]</sup> which is more than what we can say of other individuals who were successfully admitted as members of the Philippine Bar. For this Court, this fact demonstrates that petitioner strove to adhere to the strict requirements of the ethics of the profession, and that he has *prima facie* shown that he possesses the character required to be a member of the Philippine Bar.

Finally, Medado appears to have been a competent and able legal practitioner, having held various positions at the Laurel Law Office,<sup>[18]</sup> Petron, Petrophil Corporation, the Philippine National Oil Company, and the Energy Development Corporation.<sup>[19]</sup>

All these demonstrate Medado's worth to become a full-fledged member of the Philippine Bar. While the practice of law is not a right but a privilege,<sup>[20]</sup> this Court will not unwarrantedly withhold this privilege from individuals who have shown mental fitness and moral fiber to withstand the rigors of the profession.

That said, however, we cannot fully exculpate petitioner Medado from all liability for his years of inaction.

Petitioner has been engaged in the practice of law since 1980, a period spanning more than 30 years, without having signed in the Roll of Attorneys.<sup>[21]</sup> He justifies this behavior by characterizing his acts as “neither willful nor intentional but based on a mistaken belief and an honest error of judgment.”<sup>[22]</sup>

We disagree.

While an honest mistake of fact could be used to excuse a person from the legal consequences of his acts<sup>[23]</sup> as it negates malice or evil motive,<sup>[24]</sup> a mistake of law cannot be utilized as a lawful justification, because everyone is presumed to know the law and its consequences.<sup>[25]</sup> *Ignorantia facti excusat; ignorantia legis neminem excusat.*

Applying these principles to the case at bar, Medado may have at first operated under an honest mistake of fact when he thought that what he had signed at the PICC entrance before the oath-taking was already the Roll of Attorneys. However, the moment he realized that what he had signed was merely an attendance record, he could no longer claim an honest mistake of fact as a valid justification. At that point, Medado should have known that he was not a full-fledged member of the Philippine Bar because of his failure to sign in the Roll of Attorneys, as it was the act of signing therein that would have made him so.<sup>[26]</sup> When, in spite of this knowledge, he chose to continue practicing law without taking the necessary steps to complete all the requirements for admission to the Bar, he willfully engaged in the unauthorized practice of law.

Under the Rules of Court, the unauthorized practice of law by one’s assuming to be an attorney or officer of the court, and acting as such without authority, may constitute indirect contempt of court,<sup>[27]</sup> which is punishable by fine or imprisonment or both.<sup>[28]</sup> Such a finding, however, is in the nature of criminal contempt<sup>[29]</sup> and must be reached after the filing of charges and the conduct of hearings.<sup>[30]</sup> In this case, while it appears quite clearly that petitioner committed indirect contempt of court by knowingly engaging in unauthorized practice of law, we refrain from making any finding of liability for indirect contempt, as no formal charge pertaining thereto has been filed against him.

Knowingly engaging in unauthorized practice of law likewise transgresses Canon 9 of the Code of Professional Responsibility, which provides:

CANON 9 – A lawyer shall not, directly or indirectly, assist in the unauthorized practice of law.

While a reading of Canon 9 appears to merely prohibit lawyers from assisting in the unauthorized practice of law, the unauthorized practice of law by the lawyer himself is subsumed under this provision, because at the heart of Canon 9 is the lawyer’s duty to prevent the unauthorized practice of law. This duty likewise applies to law students and Bar candidates. As aspiring members of the Bar, they are bound to comport themselves in accordance with the ethical standards of the legal profession.

Turning now to the applicable penalty, previous violations of Canon 9 have