

## EN BANC

[ A.M. No. 2013-08-SC, October 08, 2013 ]

**RE: ADMINISTRATIVE CHARGE OF MISCONDUCT RELATIVE TO  
THE ALLEGED USE OF PROHIBITED DRUG ("SHABU") OF  
REYNARD B. CASTOR, ELECTRICIAN II, MAINTENANCE  
DIVISION, OFFICE OF ADMINISTRATIVE SERVICES.**

### D E C I S I O N

**PER CURIAM:**

For resolution is the Memorandum, dated August 27, 2013, of Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer of the Office of Administrative Services (OAS), recommending that Reynard B. Castor (*Castor*), Electrician II, Maintenance Division, OAS, be held liable for simple misconduct and conduct prejudicial to the best interest of the service.

This administrative matter stemmed from a series of sick leave application of Castor without any medical certificate. Castor incurred absences on the following dates: January 10-11, 14-18, 21-25, 28-31, 2013; February 1, 4-8, 11-13, 16, 2013; and March 6-7, 12, 15, 19-22, 2013. Due to his frequent absences, he was referred to the SC Clinic for medical evaluation to determine his physical fitness to continue with his duties and responsibilities.

In the medical evaluation report on Castor, dated June 27, 2013, Dr. Prudencio R. Banzon, Jr. (*Dr. Banzon*), SC Senior Staff Officer, Medical and Dental Services, reported that sometime in March, 2013, Castor sought consultation due an to on-and-off dizziness. A chest x-ray was conducted and he was advised to seek pulmonary consultation. A medical certificate was then issued by a pulmonologist declaring him fit for work. According to Dr. Banzon, when Castor reported to him at the SC clinic on April 25, 2013, he was compelled to undergo a random drug test. The drug test, done at the NBI laboratory, yielded positive for methamphetamine (*shabu*), a prohibited drug. Dr. Banzon remarked that Castor's absences could be attributed to financial distress due to vice rather than illness.

On the basis of the result of the random drug test, the OAS issued its Memorandum, dated July 2, 2013, directing Castor to submit his comment/explanation why he should not be administratively charged with misconduct for the use of prohibited drugs.

In his letter, dated July 9, 2013, Castor explained that during the early months of this year, he was confronted with emotional and financial problems regarding his family. Because of these heavy problems, he incurred repeated absences from office. According to him, he was so depressed that he even thought of committing suicide. He admitted that it was during those times that he took prohibited drugs unintentionally. He further claimed that the drugs affected his health and well-being

as well as his performance at work. He was nonetheless apologetic and asked that he be given another chance. He also promised that this would not happen again.

### *OAS Evaluation and Recommendation*

OAS noted that Castor never questioned the authenticity of the NBI drug test results. Thus, it was of the view that the finding that he was positive for use of *shabu* was un rebutted. It found his claim of unintentional taking of the illegal drug hard to believe. By indulging in *shabu*, he incurred prolonged unauthorized absences from office which greatly affected his efficiency in the performance of his functions.

OAS cited *OCA v. Reyes*<sup>[1]</sup> where it was written: "The Court is a temple of justice. Its basic duty and responsibility is the dispensation of justice. As dispensers of justice, all members and employees of the Judiciary are expected to adhere strictly to the laws of the land, one of which is Republic Act (R.A.) 9165, which prohibits the use of dangerous drugs." Section 36, paragraph (d) of the said law provides:

(d) Officers and employees of public and private offices. – Officers and employees of public and private offices, whether domestic or overseas, shall be subjected to undergo a random drug test as contained in the company's work rules and regulations, which shall be borne by the employer, for purposes of reducing the risk in the workplace. Any officer or employee found positive for use of dangerous drugs shall be dealt with administratively which shall be a ground for suspension or termination, subject to the provisions of Article 282 of the Labor Code and pertinent provisions of the Civil Service Law.

Pursuant thereto, the Court issued Memorandum Order No. 18-2005, dated April 26, 2005, establishing a program to deter the use of dangerous drugs and authorizing the conduct of random drug testing on the personnel of the Judiciary. In A.M. No. 06-1-01-SC, dated January 17, 2006, the Court adopted *guidelines* for its drug prevention program for the purpose of eliminating the hazards of drug abuse in the Judiciary.

OAS believed that by using prohibited drugs, Castor put at risk the very institution which he was serving. His actuation diminished the respect of the public for the men and women in the Judiciary that could not be tolerated. The OAS considered the misconduct as simple as Castor was just coaxed by relatives to sniff *shabu* wrapped in foil when he went to his cousin's wake. Thus, it was *recommended* that Castor be held liable for *simple misconduct* and *conduct prejudicial to the best interest of the service* for his use of prohibited drugs, and that he be *suspended from office for six (6) months*, without pay, with a stern warning that a repetition of the same or similar acts would be dealt with more severely.

### *The Court's Ruling*

There is no doubt that by using prohibited drugs Castor committed misconduct. The Court, however, cannot give its imprimatur to the conclusion of the OAS that the misconduct should only be categorized as simple.

Misconduct is defined as a transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, unlawful behavior, willful in character,