

## FIRST DIVISION

[ **A.M. No. MTJ-03-1505 (Formerly OCA IPI No. 03-1363-MTJ), November 27, 2013** ]

**MAMASAW SULTAN ALI, COMPLAINANT, VS. HON. BAGUINDA-ALI PACALNA, PRESIDING JUDGE, HON. PUNDAYA A. BERUA, ACTING PRESIDING JUDGE, HADJI IBRA DARIMBANG, CLERK OF COURT AND MANDAG U. BATUA-AN, COURT STENOGRAPHER, ALL OF THE MUNICIPAL CIRCUIT TRIAL COURT, MUNICIPALITY OF BALINDONG, PROVINCE OF LANA DEL SUR, RESPONDENTS.**

**IN THE MATTER OF: PETITION FOR ABSOLUTE JUDICIAL CLEMENCY OF FORMER JUDGE BAGUINDA-ALI A. PACALNA, MTCC, MARAWI CITY**

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

**VILLARAMA, JR., J.:**

Before the Court is a Petition<sup>[1]</sup> for judicial clemency filed by Baguinda-Ali A. Pacalna (respondent), former Presiding Judge of the Municipal Circuit Trial Court (MCTC) of Balindong in Lanao del Sur.

In the Decision<sup>[2]</sup> dated September 25, 2007, respondent was found administratively liable for dishonesty, serious misconduct and gross ignorance of the law or procedure, and also violated the Code of Judicial Conduct which enjoins judges to uphold the integrity of the judiciary, avoid impropriety or the appearance of impropriety in all activities and to perform their official duties honestly and diligently. This Court thus decreed:

**WHEREFORE**, for dishonesty, gross misconduct constituting violation of the Code of Judicial Conduct and gross ignorance of the law, respondent Judge Baguinda Ali Pacalna, Presiding Judge of the Municipal Circuit Trial Court, Municipality of Balindong, Lanao Del Sur, is *ORDERED* to PAY a fine of P20,000.00, with *WARNING* that a repetition of the same or similar acts shall be dealt with more severely.

Court Stenographer Mandag Batua-an of the same court is hereby *REPRIMANDED* with similar *WARNING* that a repetition of the same or similar acts shall be dealt with more severely.

**SO ORDERED.**<sup>[3]</sup>

Respondent did not file any motion for reconsideration and paid the P20,000.00 fine on December 3, 2007.

Just one week after the decision in this case was rendered, another administrative complaint<sup>[4]</sup> (*A.M. No. MTJ-11-1791, formerly OCA IPI No. 08-1958-MTJ*) was filed against the respondent by members of the Marawi City Police, namely: PO2 Ricky C. Gogo, PO2 Mamintal B. Osop, PO2 Casan A. Imam, PO1 Agakhan A. Tomawis, PO1 Anowar C. Modasir, PO1 Alano D. Osop, PO1 Alnasser D. Ali, and PO1 Casanali M. Lawi. On August 17, 2011, this Court's First Division resolved to adopt and approve the findings and recommendations of the Office of the Court Administrator (OCA). Respondent was held liable for grave misconduct and meted the penalty of six (6) months suspension, converted to forfeiture of the corresponding amount of his salary which was ordered withheld by Resolution of the Court dated February 16, 2011. Said administrative matter was further indorsed to the OCA Legal Office for the commencement of criminal charges against respondent for violation of P.D. No. 1829 (Obstruction of Justice).<sup>[5]</sup>

Respondent filed a motion for reconsideration which was denied under Resolution<sup>[6]</sup> dated January 23, 2013 of this Court's Second Division. On September 4, 2013, a criminal complaint for Obstruction of Justice was filed by the OCA with the Office of the Ombudsman for Mindanao. As per Certification dated October 25, 2013 issued by the OCA, the amount of P209,810.70 corresponding to six months salary of respondent, was deducted from his terminal leave benefits.

Respondent resigned on December 1, 2009 while he was being investigated by the OCA in his second administrative case (*A.M. No. MTJ-11-1791 formerly A.M. OCA IPI No. 08-1958-MTJ*). He now seeks to rejoin the judiciary and filed his application for the Regional Trial Court (RTC) of Marawi City, Branch 9. He informs this Court that he was already interviewed by the Judicial and Bar Council (JBC) in Cagayan de Oro City in November 2012 and that the only hindrance to his nomination for the said judicial position was the penalty imposed on him in the present case. Respondent thus pleads for compassion, at the very least for this Court to reduce to P10,000.00 the penalty imposed under our September 25, 2007 Decision.

This Court in *A.M. No. 07-7-17-SC (Re: Letter of Judge Augustus C. Diaz, Metropolitan Trial Court of Quezon City, Branch 37, Appealing for Judicial Clemency)*<sup>[7]</sup> laid down the following guidelines in resolving requests for judicial clemency, to wit:

1. There must **be proof of remorse and reformation**. These shall include but should not be limited to certifications or testimonials of the officer(s) or chapter(s) of the Integrated Bar of the Philippines, judges or judges associations and prominent members of the community with proven integrity and probity. A subsequent finding of guilt in an administrative case for the same or similar misconduct will give rise to a strong presumption of non-reformation.
2. Sufficient time must have lapsed from the imposition of the penalty to ensure a period of reformation.
3. The age of the person asking for clemency must show that he still has productive years ahead of him that can be put to good use by