

EN BANC

[A.M. No. 2020-10-SC (Formerly A.M. No. 21-01-05-SC), March 16, 2021]

RE: ALLEGED SMOKING AND POSSIBLE DRUG USE OF LOUIE MARK U. DE GUZMAN, STOREKEEPER I, PROPERTY DIVISION, OFFICE OF ADMINISTRATIVE SERVICES – SC ON THE PREMISES OF THE SUPREME COURT.

RESOLUTION

PER CURIAM:

For resolution is the Memorandum^[1] dated January 11, 2021 of Atty. Maria Carina M. Cunanan, Deputy Clerk of Court and Chief Administrative Officer of the Office Administrative Services (OAS), recommending that Louie Mark U. De Guzman (respondent), Storekeeper I, Property Division, Office of the Administrative Services (OAS)-Supreme Court (SC), be held liable for Grave Misconduct for his use of a prohibited drug.

The Antecedents

This administrative matter stems from a series of confidential reports received by the OAS regarding respondent, who is alleged to have smoked in the premises of the stockroom of the Property Division in the Old SC Building in several instances. While there were no direct witnesses to the acts, personnel stationed outside of the stockroom would occasionally notice the smell of cigarette smoke coming from the room whenever respondent was its sole occupant.^[2]

Upon an ocular inspection of the stockroom, the OAS discovered a blind spot at the end of the shelves at the back of the room that the surveillance cameras cannot monitor and is out of range of the fire alarm sensor. It was also observed during the inspection that the ventilation windows in the stockroom had been taped shut by a clear plastic film in an apparent attempt to reduce the chances of smoke being detected from outside the room. Per interviews with Property Division officers and staff, it appears that this is the area where respondent would often be found loafing^[3] to pass his time while on duty, and is likely the place where he would clandestinely smoke so as not to be recorded on camera.^[4]

The most disturbing report, however, came in the first week of December 2020 when the staff of the Property Division noticed an unusual odor from the stockroom that no longer smelled like common cigarette smoke but either some other tobacco product or worse, possibly marijuana, a prohibited drug.^[5]

Thus, in the Memorandum dated December 10, 2020, the OAS directed respondent to submit his written explanation within five days from receipt thereof. In compliance therewith, respondent submitted his Letter^[6] dated December 16, 2020 wherein he denied the allegations against him and stated that he only smokes

cigarettes at the designated smoking areas of the Court and only during certain hours of the day.

To address the issue of possible drug use, the OAS requested authority from Chief Justice Diosdado M. Peralta to require respondent to undergo a drug test at the National Bureau of Investigation (NBI) laboratory. Upon receipt of authorization from the Chief Justice, the OAS arranged an appointment for respondent's drug test in coordination with the NBI.

On January 4, 2021, respondent voluntarily submitted his urine sample at the NBI forensic laboratory for analysis. The laboratory examination revealed the presence of tetrahydrocannabinol, which is an active component of marijuana, a prohibited drug.^[7]

On the basis of the drug test result, the OAS directed respondent to submit his written explanation as to why he should not be administratively sanctioned for the use of a prohibited drug.

In his Letter^[8] dated January 8, 2021, respondent admitted to his use of marijuana during the first quarter of the previous year due to family and marital problems that were compounded by further stress from the ongoing pandemic. He expressed remorse for his actions and professed to take all necessary measures to prevent a repeat of the incident.

Evaluation and Recommendation of the OAS

In its Memorandum^[9] dated January 11, 2021, the OAS opined that respondent's recent drug use, as evidenced by the positive result of his NBI drug test, clearly constituted the administrative offense of Grave Misconduct. It recommended the dismissal of respondent from the service.

The OAS cited the case of *In Re: Administrative Charge of Misconduct Relative to the Alleged Use of Prohibited Drug of Reynard B. Castor*^[10] (Castor), wherein the Court ruled that the flagrant violation of Republic Act No. (RA) 9165, or the Comprehensive Dangerous Drugs Act of 2002, satisfies the requisite requirements of corruption, clear intent to violate the law, and/or wanton disregard of established rules in order to categorize such misconduct as grave in nature so as to warrant the erring employee's dismissal from the service.^[11]

Moreover, the OAS found no mitigating circumstances that could possibly extenuate the administrative penalty to be imposed against respondent. Though it is true that he had voluntarily submitted himself for drug testing, the OAS noted that his admission of drug use and expression of remorse for such act were made only after being accosted with strong evidence of guilt, which, in effect, casts doubt on respondent's sincerity.

Finally, the OAS also recommended that respondent be issued a referral letter from the SC Medical and Dental Services to a suitable drug rehabilitation facility for him to undertake programs thereat at his own expense.

The Court's Ruling

The Court adopts and approves the findings and recommendations of the OAS.

"Misconduct is defined as a transgression of some established or definite rule of action, a forbidden act, a dereliction of duty, unlawful behavior, willful in character, improper or wrong behavior."^[12] The misconduct, however, becomes a *grave offense* if it involves any of the additional elements of *corruption*, *clear intent to violate the law*, or *flagrant disregard of established rules*, which must be established by substantial evidence.^[13]

In *Castor*, the Court categorically ruled that the use of prohibited drugs constitutes grave misconduct as the act itself is a flagrant violation of RA 9165 and is thus punishable by dismissal even for the first offense.^[14]

Also, it is provided under Civil Service Commission Memorandum Circular No. 13, Series of 2010,^[15] that any official or employee found positive for use of dangerous drugs shall be subjected to disciplinary/administrative proceedings *with a penalty of dismissal from the service at first offense* pursuant to Section 46(b)(19),^[16] Chapter 7, Book V of Executive Order No. 292^[17] and Section 22(c),^[18] Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws.

In this case, respondent's use of marijuana has been proven not only by the result of the NBI drug test but also by his own admission. As in *Castor*, the Court finds respondent guilty of Grave Misconduct for his admitted drug use, which, as discussed above, is a flagrant violation of RA 9165 and is, in fact, a crime in itself.

As for the proper penalty, it bears stressing that the Court, in its Resolution dated July 7, 2020 in A.M. No. 18-01-05-SC, expressly included court officials and personnel within the coverage of Rule 140 of the Rules of Court, as amended. Under Rule 140, Grave Misconduct is classified as a *serious charge*^[19] that is sanctioned under Section 25(A) as follows:

SECTION 25. *Sanctions.*

A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:

1. Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations. *Provided, however*, that the forfeiture of benefits shall in no case include accrued leave credits.
2. Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
3. A fine of more than P20,000.00 but not exceeding P40,000.00.

Here, the Court deems the recommended penalty of dismissal from the service to be proper and commensurate with the gravity of the offense committed by respondent.

Let this case serve as another reminder to all court personnel whose conduct is expected, at all times, to "be characterized by propriety and decorum and above all else, be above suspicion so as to earn and keep the respect of the public for the Judiciary."^[20] The Court would never countenance any conduct, act, or omission of any court personnel that violates the norm of public accountability and diminishes, or even just tends to diminish, the faith of the people in the Judiciary.^[21]