

EN BANC

[A.M. No. 17-11-06-CA, March 13, 2018]

RE: ANONYMOUS LETTER-COMPLAINT (WITH ATTACHED PICTURES) AGAINST ASSOCIATE JUSTICE NORMANDIE B. PIZARRO, COURT OF APPEALS.

D E C I S I O N

MARTIRES, J.:

This administrative matter arose from an anonymous letter-complaint^[1] charging Associate Justice Normandie B. Pizarro (*Justice Pizarro*) of the Court of Appeals (CA) of habitually gambling in casinos, "selling" decisions, and immorally engaging in an illicit relationship. The subject letter-complaint was initially filed with the Office of the Ombudsman (*Ombudsman*) on 20 September 2017. The matter was referred by the Ombudsman to this Court on 24 October 2017.^[2]

The anonymous letter-complaint accused Justice Pizarro of being a gambling addict who would allegedly lose millions of pesos in the casinos daily, and insinuated that Justice Pizarro resorted to "selling" his cases in order to support his gambling addiction.

The anonymous complainant further accused Justice Pizarro of having an illicit relationship, claiming that Justice Pizarro bought his mistress a house and lot in Antipolo City, a condominium unit in Manila, and brand new vehicles such as Toyota Vios and Ford Everest worth millions of pesos. Lastly, the anonymous complainant alleged that Justice Pizarro, together with his mistress and her whole family, made several travels abroad to shop and to gamble in casinos.

Attached to the anonymous letter-complaint are four (4) sheets of photographs^[3] showing Justice Pizarro sitting at the casino tables allegedly at the Midori Hotel and Casino in Clark, Pampanga.

On 21 November 2017, the Court issued a Resolution^[4] noting the 27 September 2017 Letter of the Ombudsman referring the anonymous letter-complaint; and requiring Justice Pizarro to file his comment on the anonymous letter-complaint.

On 8 December 2017, Justice Pizarro filed his comment^[5] wherein he admitted to his indiscretion. He stated that he was indeed the person appearing on the subject photographs sitting at a casino table. He explained that the photographs were taken when he was accompanying a *balikbayan* friend; and that they only played a little in a parlor game fashion without big stakes and without their identities introduced or made known. Justice Pizarro averred that the photographs may have been taken by people with ulterior motives considering his plan for early retirement.

He further confessed that sometime in 2009 he also played at the casino in what he termed, again, a parlor game concept. He maintained, however, that such was an indiscretion committed by a dying man because, prior to this, he had learned that he had terminal cancer.

He also found as cruel, baseless, and highly unfair the accusation that he is the "most corrupt justice in the Philippines" noting that no administrative case had been filed against him for the past seven (7) years; that his first administrative case, which this Court resolved in his favor, actually involved his former driver in Ilocos Sur who forged his signature to make it appear that the driver was employed in the judiciary; and that all of the few administrative cases filed against him did not involve corruption; and that he was absolved in all.

Justice Pizarro likewise categorically denied having a mistress. He characterized such accusations as cowardly acts of his detractors, who even furnished copies of the anonymous complaint to the presiding justice of the appellate court and the leader of a major religious group, with the intent of destroying his character.

ISSUE

The sole issue before the Court is whether Justice Pizarro is guilty of the accusations against him for which he may be held administratively liable.

THE COURT'S RULING

Under the Rules of Court, administrative complaints against judges of regular courts and special courts as well as justices of the CA and the Sandiganbayan may be instituted: (1) by the Supreme Court *motu proprio*; (2) upon a verified complaint, supported by affidavits of persons who have personal knowledge of the facts alleged therein or by documents which may substantiate said allegations; or (3) upon an anonymous complaint, supported by public records of indubitable integrity.^[6]

The rationale for the requirement that complaints against judges and justices of the judiciary must be accompanied by supporting evidence is to protect magistrates from the filing of flimsy and virtually unsubstantiated charges against them.^[7] This is consistent with the rule that in administrative proceedings, the complainants bear the burden of proving the allegations in their complaints by substantial evidence. If they fail to show in a satisfactory manner the facts upon which their claims are based, the respondents are not obliged to prove their exception or defense.^[8]

In this case, the anonymous complaint accused Justice Pizarro of selling favorable decisions, having a mistress, and habitually playing in casinos; and essentially charging him of dishonesty and violations of the Anti-Graft and Corrupt Practices Law, immorality, and unbecoming conduct. These accusations, however, with the only exception of gambling in casinos, are not supported by any evidence or by any public record of indubitable integrity. Thus, the bare allegations of corruption and immorality do not deserve any consideration. For this reason, the charges of corruption and immorality against Justice Pizarro must be dismissed for lack of merit.

Inasmuch as the Court would want to cleanse the Judiciary of its erring and undesirable members and personnel, such policy could only be implemented with the strict observance of due process, such that substantial evidence is required to prove the charges against a member of the Judiciary.^[9] The Court is duty bound to protect its ranks or any member or personnel of the Judiciary from baseless or unreasonable charges.^[10]

Indeed, while the law and justice abhor all forms of abuse committed by public officers and employees whose sworn duty is to discharge their duties with utmost responsibility, integrity, competence, accountability, and loyalty, the Court must protect them against unsubstantiated charges that tend to adversely affect, rather than encourage, the effective performance of their duties and functions.^[11]

As regards the accusation of habitually playing in casinos, it is clear that the anonymous complaint was not supported by public records of indubitable integrity as required by the rules. Nevertheless, it is equally undisputed, as in fact it was admitted, that Justice Pizarro was the same person playing in a casino in Clark, Pampanga, as shown by the photographs attached to the anonymous complaint. He also admitted that he played in a casino sometime in 2009. The Court cannot simply ignore this evident and admitted fact. The issue now is whether Justice Pizarro may be held administratively liable for gambling in casinos.

Recently, the Office of the Court Administrator (OCA) reminded judges and court personnel to strictly comply with the prohibition against gambling or being seen in gambling places such as the casino.^[12] The OCA cited Circular No. 4^[13] issued by the Court on 27 August 1980 which reads:

The attention of the Court has been invited to the presence of some judges in gambling casinos operating under Presidential Decree No. 1067-B. This is clearly violative of Section 5(3-b) of said Decree. It reads as follows:

(3-b) Persons not allowed to play –

(a) Government officials connected directly with the operation of the government or any of its agencies."

In accordance with law and pursuant to the Resolution of the Court en banc in Administrative Matter No. 1544-0, dated August 21, 1980, **judges of inferior courts and the court personnel** are enjoined from playing in or being present in gambling casinos.

Moreover, judges are likewise enjoined to keep in mind the Canons of Judicial Ethics, paragraph 3 of which provides:

3. Avoidance of appearance of impropriety. – A judge's official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the

performance of judicial duties, but also in his everyday life, should be beyond reproach." (emphases supplied and italics in the original)

With respect to Circular No. 4 and Administrative Matter No. 1544-0, it is with regret that the Court finds them inapplicable to the present case. It is clear from the words of these issuances that the prohibition from entering and gambling in casinos is applicable only to judges of inferior courts and court personnel. Stated differently, the aforesaid issuances do not cover justices of collegial courts for the simple reason that they are neither judges of the inferior courts nor can they be described as personnel of the court. Although the term "judge" has been held to comprehend all kinds of judges, the same is true only if the said term is not modified by any word or phrase.^[14] In the case of Circular No. 4 and Administrative Matter No. 1544-0, the term "judge" has been qualified by the phrase "inferior courts." Thus, absurd as it may seem, Justice Pizarro cannot be held administratively liable under Circular No. 4 and Administrative Matter No. 1544-0.

Nevertheless, the inapplicability of the aforestated Court issuances to justices of collegial courts does not necessarily mean that Justice Pizarro is absolutely cleared of his evident and admitted act of playing in casinos.

Section 5 (3-b)(a) of Presidential Decree (*P.D.*) No. 1067-B and Section 14(4)(a) of P.D. No. 1869, which consolidated P.D. No. 1067-B with other presidential decrees issued relative to the franchise and powers of the Philippine Amusement and Gaming Corporation, did not define the meaning of the term "government officials connected directly with the operation of the government or any of its agencies" as well as the words used therein. The same is true with respect to the presidential issuances relative to such prohibition.^[15] Considering, however, that the obvious purpose of the subject prohibition is the regulation of conduct of government officials, reference may be made to pertinent administrative laws and jurisprudence pertaining thereto to comprehend the meaning of the term under scrutiny.

In this regard, Section 2(1) of Executive Order (*E.O.*) No. 292 or the Administrative Code of 1987 defines "Government of the Republic of the Philippines" as "the corporate governmental entity through which the functions of government are exercised throughout the Philippines, including, save as the contrary appears from the context, the various arms through which political authority is made effective in the Philippines, whether pertaining to the autonomous regions, the provincial, city, municipal or barangay subdivisions or other forms of local government."^[16] The term "Government of the Republic of the Philippines" or "Philippine Government" is broad enough to include the local governments and the central or national government which, in turn, consist of the legislative, executive, and judicial branches, as well as constitutional bodies and other bodies created in accordance with the constitution.^[17]

Section 2(4) of E.O. No. 292 further states that "Agency of the Government" refers to any of the various units of the Government, including a department, bureau, office, instrumentality, or government-owned or -controlled corporations, or a local government or a distinct unit therein.

Section 2(14) of E.O. No. 292 also defines an "officer" as distinguished from a "clerk" or "employee" as "a person whose duties, not being of a clerical or manual nature, involves the exercise of discretion in the performance of the functions of the government." On the other hand, when used with reference to a person having authority to do a particular act or perform a particular function in the exercise of governmental power, "officer" includes any government employee, agent or body having authority to do the act or exercise that function.

As regards the qualifying phrase "connected directly with the operation," its definition could not be found in the Administrative Code and other similarly applicable statutes and rules. It is settled, however, that in the absence of legislative intent to the contrary, words and phrases used in a statute should be given their plain, ordinary, and common usage meaning.^[18] The words should be read and considered in their natural, ordinary, commonly accepted and most obvious signification, according to good and approved usage and without resorting to forced or subtle construction.^[19] Indeed, the lawmaker is presumed to have employed the words in the statute in their ordinary and common use and acceptance.^[20]

Thus, the words "connected," "directly," and "operation" must be given their ordinary meaning in relation to their ordinary use in organizations or institutions such as the government. Hence, the term "connected" may mean "involved" "associated" or "related;" "directly" may mean "immediately" "without any intervening agency or instrumentality or determining influence" or "without any intermediate step;" and "operation" may mean "doing or performing action" or "administration." Additionally, "to operate" is synonymous to the terms "to exercise" and "to act."

From the foregoing, it is opined that the term "government official connected directly to the operation of the government or any of its agencies" refers to any person employed by the government whose tasks is the performance and exercise of any of the functions and powers of such government or any agency thereof, as conferred on them by law, without any intervening agency. Simply put, a "government official connected directly to the operation of the government or any of its agencies" is a government officer who performs the functions of the government on his own judgment or discretion – essentially, a government officer under Section 2(14) of E.O. No. 292.

Applying the above definition to the present case, it is dear that Justice Pizarro is covered by the term "government official connected directly with the operation of the government." Indeed, one of the functions of the government, through the Judiciary, is the administration of justice within its territorial jurisdiction. Justice Pizarro, as a magistrate of the CA, is clearly a government official directly involved in the administration of justice; and in the performance of such function, he exercises discretion. Thus, by gambling in a casino, Justice Pizarro violated the prohibition from gambling in casinos as provided under Section 14(4)(a) of P.D. No. 1869.

Although P.D. No. 1869 did not provide for a penalty for any act done in contravention of its provisions particularly the prohibition on gambling, in *City Government of Tagbilaran v. Hontanosas, Jr.*,^[21] it was held that such transgression