

EN BANC

[A.M. No. SB-12-19-P [Formerly OCA IPI No. 10-26-SB-P], November 18, 2014]

**CIVIL SERVICE COMMISSION, COMPLAINANT, VS.
HERMINIGILDO L. ANDAL, SECURITY GUARD II,
SANDIGANBAYAN, QUEZON CITY, RESPONDENT.**

R E S O L U T I O N

PER CURIAM:

At bench is an administrative case involving respondent Herminigildo L. Andal, employed as permanent Security Guard II of the Sandiganbayan.^[1] The investigating officer, Sandiganbayan Associate Justice Roland B. Jurado, found him guilty of dishonesty for allowing another person to take his 2000 Civil Service Professional Examination-Computer Assisted Test (CSPE-CAT). Justice Jurado recommended that respondent be meted out the principal penalty of suspension from office for one year, and the accessory penalties of being barred from taking any civil service examination and disqualification from promotion.

The antecedent facts are as follows:

On 20 December 2006, the Civil Service Commission (CSC) issued Resolution Nos. 062255^[2] and 071493^[3] affirming the Decision dated 25 May 2005^[4] of the Civil Service Commission-National Capital Region (CSC-NCR). The CSC-NCR dismissed respondent from government service after finding him guilty of dishonesty by allowing another person to take his CSPE-CAT.

On appeal, the Court of Appeals (CA) issued a Decision setting aside the judgment of the CSC for want of jurisdiction. The CA held that the case against a security guard of the Sandiganbayan was cognizable by the Supreme Court, which had administrative supervision over all the courts and personnel thereof. In a Decision dated 16 December 2009, docketed as G.R. No. 185749, we affirmed the judgment of the CA.^[5]

Thereafter, on 24 July 2012, the Supreme Court *en banc* issued a Resolution re-docketing the case as an administrative matter.^[6] In the same Resolution, the Court resolved to refer this case to then Presiding Justice of the Sandiganbayan, Justice Francisco H. Villaruz, Jr. for investigation, report and recommendation.

On 22 October 2012, Justice Villaruz, Jr. requested the Court to assign the investigation of this case to a senior Justice of the Sandiganbayan. As reason, he adduced that an administrative investigation would take a toll on his functions at a time when some programs in the Sandiganbayan needed his immediate attention.^[7]

Appreciating the merit of the request, and considering also that Justice Villaruz, Jr. had compulsorily retired on 8 June 2013, the Office of the Court Administrator (OCA) recommended that Justice Villaruz, Jr. be relieved of the duty of conducting the investigation of this case; and that A.M. No. SB-12-19-P be referred instead to the then most senior justice of the Sanidganbayan, Justice Gregory S. Ong.^[8]

In our Resolution dated 10 December 2013, the Court adopted the recommendations of the OCA. However, due to the administrative case against Justice Gregory S. Ong, then pending before this Court, we directed the Sandiganbayan to refer the instant case for investigation, report and recommendation to the most senior justice after Justice Ong.^[9] Hence, on 15 January 2014, the current Presiding Justice of the Sanidganbayan, Justice Amaparo M. Cabotaje-Tang, referred A.M. No. SB-12-19-P to Justice Roland B. Jurado for his investigation, report, and recommendation.^[10]

On 17 January 2014, Justice Jurado conducted a preliminary conference on the case. This proceeding was followed by the parties' submission of judicial affidavits, formal offers of evidence and memoranda. Then, on 27 February 2014, he submitted before this Court his Investigation Report and Recommendation.^[11]

Petitioner CSC claimed that respondent had applied for the CSPE-CAT scheduled for 24 January 2000 and that it appeared that he passed the test with a rating of 81.08%.^[12] But based on the differing photographs in the Picture Seat Plan (PSP) and his Civil Service Application Form, the CSC averred that he had not taken the test himself.

Respondent admitted^[13] that he could not have taken the test on 24 January 2000, since he was in the province nursing an alcohol hangover. As his defense, he maintained that he had not authorized another person to take the test for him. Respondent alleged that the impersonation was perpetrated by a group of employees who disliked him for revealing their drinking sprees and doping sessions to their superiors. He further narrated that in 2007, he learned from his co-employee, Larry Lincallo, that the impersonator was Emmerson Nucom, the latter's high school classmate. Aggrieved, respondent executed a Complaint-Affidavit^[14] in 2012 charging Nucom with impersonation before the CSC.

Justice Jurado disbelieved the claims of respondent. The investigating officer appreciated that the employees who had an axe to grind would naturally ensure that respondent flunked the test. As regards the claim of unauthorized impersonation, the investigating officer held that it "defies reason that another person would simply take the examination on respondent's behalf without having been instructed to do so or without examinee's knowledge, for how then would such person know the examinee's personal circumstances which are essential preliminary questions in the civil service examinations?"^[15]

Moreover, Justice Jurado disregarded the circumstance that respondent had filed an impersonation case against Nucom. For the investigating officer, the five-year hiatus between knowledge of the identity of the impersonator in 2007 and the execution of the Complaint-Affidavit in 2012 belied the authenticity of the claim that respondent was aggrieved by the impersonation.

Thus, Justice Jurado sided with petitioner and found respondent guilty of dishonesty. But the investigating officer did not dismiss but only suspended him. Justice Jurado counted in favor of respondent the following as mitigating circumstances: "(1) Andal has satisfactorily served the judiciary for almost fifteen years without any infraction in the performance of his duties; (2) respondent had good performance ratings; and (3) respondent never took advantage of the 'acquired eligibility' as a tool for promotion and never benefited from it."^[16] Justice Jurado also took note of the fact that respondent was a family man, and that the latter's loss of his job might cause him to turn to extreme measures to satisfy the needs of his family.

The recommendation of the investigating officer reads thus:^[17]

WHEREFORE, in view of all the foregoing, the undersigned investigating Justice finds respondent **HERMINIGILDO L. ANDAL** guilty of **DISHONESTY** under Rule IV Section 52 (A) (1) of the Revised Uniform Rules on Administrative Cases in the Civil Service Rules. Accordingly, it is hereby recommended that in view of the existence of mitigating circumstances, respondent be meted the penalty of suspension from office for one (1) year instead of dismissal from service. Further, pursuant to Sections 57 and 58 of the said rules, the accessory penalties of being barred from taking any civil service examination and disqualification for promotion are also recommended.

RULING OF THE COURT

After a judicious examination of the records, we partially adopt the above recommendation.

Justice Jurado's Investigation Report and Recommendation is supported by the evidence on record showing that respondent did not take the CSPE-CAT of 24 January 2000. Firstly, by claiming that he was nursing a hangover on the day of examination, respondent was effectively admitting that he did not take the test; and logically, he did not earn for himself the 81.08% passing rate. Secondly, the pictures in his Civil Service Application Form and PSP are entirely different.^[18] In other words, it cannot be doubted that another person took the test under his name.

Despite this established fact, respondent still tries to refute the charge of dishonesty by claiming that the actual examinee impersonated him and took the test without his knowledge. Indeed, to be found guilty of dishonesty, there must be substantial evidence that respondent intentionally made false statements or practiced deception in securing his permanent employment with the Sandiganbayan.^[19]

Substantial evidence, which is the quantum of proof required in this administrative case, is that amount of relevant evidence that a reasonable mind might accept as adequate to justify a conclusion.^[20] This standard is satisfied in the present case so long as there is *reasonable ground* to believe that respondent is responsible for the misconduct complained of, even if the evidence may not be overwhelming or even preponderant.^[21]