

## EN BANC

[ **A.M. No. 2006-15-SC, November 23, 2007** ]

**RE: ANONYMOUS COMPLAINT AGAINST MR. PEDRO G. MAZO,  
ANTONIO C. PEDROSO AND ALEXANDER A. DAYAP.**

### DECISION

**SANDOVAL-GUTIERREZ, J.:**

In the afternoon of October 6, 2006, Atty. Ma. Carina M. Cunanan, Assistant Chief of the Office of Administrative Services, this Court, received from an anonymous caller a text message that gambling activities were prevalent in the barracks of the Court's security guards. The text message in the vernacular states in part:

x x x Alam po ninyo ma'am masyado pong sugapa na sa sugal na *tong-its* itong mga kasama ko at mga officer pa naman.

Araw at gabi po ang sugalan dito at kahit oras ng duty ay sige pa rin lalo na kung Sabado, Linggo at holidays. Kanina po pag-out ng 2 p.m. ni Sir Mazo, Pedroso at Dayap, game na sila. Sa mga oras pong ito ay kasalukuyan po silang naglalaro dun sa kwarto ni Sir Mazo sa bandang dulong barracks katabi ng banyo nila. Ma'am ang isang sugarol ay kapatid ng magnanakaw at ayaw po naming mawala ang barracks na aming tirahan.

Specifically, those allegedly playing cards were: Pedro G. Mazo, Security Officer I; Antonio C. Pedroso, Security Guard I; and Alexander Felix A. Dayap, also a Security Guard I, herein respondents.

Ferdinand P. Barrera, Security Guard II, upon instruction of Atty. Cunanan, conducted an "ocular inspection" of the barracks to determine the veracity of the report. There, he saw that indeed respondents were playing cards.

In three (3) separate memoranda all dated April 10, 2006, Atty. Cunanan directed respondents to explain why they should not be administratively charged with misconduct for gambling inside the security personnel's barracks.

In their respective comments, respondents denied having any knowledge of the alleged prevalent gambling activities in the security guards' barracks. While they admitted playing cards on April 6, 2006, however, they maintained there was no money involved. Dayap and Pedroso claimed that they were off-duty at that time and had nothing to do, hence, they decided to play cards to while away the time. Mazo explained that he was also off-duty and was just waiting for his wife's call so they could go home together.

The Complaints and Investigation Division of the Office of the Administrative Services (CID-OAS) conducted an investigation on the report.

On June 13, 2006, Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer, submitted her report and recommendation, thus:

Coming now to the testimonies of the three (3) respondents, all of them maintained the averments they raised in their respective comments. They negated involvement in the alleged gambling activities. According to them, the incident on April 6, 2006 when they were reported to Atty. Cunanan was isolated. They claimed that it was purely for fun and the only reason why they played was to idle away the time until around 5:00 p.m., the time when Mr. Mazo was supposed to fetch his wife. They insisted that they did not place money bets considering that they did not have loose change at that time. They averred it was not gambling because there was no payoff after the games ended stressing on the said unavailability of loose change. Absent the said payment, they claimed that there was no gambling to speak of.

However, and this is crucial, Atty. Edwin B. Andrada, Court Attorney IV, Complaints and Investigation Division, this Office, and the Chief Investigating Officer, refreshed their recollection of the admission they made before himself and Atty. Cunanan where they admitted playing card games but that the same **involved only minimal amount of bets**. Undeniably, the said declaration having been taken during the preliminary investigation was not sworn to by them, thus, the need to apprise the respondents, who have been firm in their claim that they did not bet monies in the games.

However, after meticulous questions hurled by Atty. Andrada to the respondents, and having reminded them that they were under oath this time, **Mr. Mazo amenably conformed to the playing of cards but qualified his statement that the games involved, quoting from his own words, "barya-barya"** lang. On the other hand, Mr. Pedroso and Mr. Dayap insisted that games were meant as a pastime, and even if they intended to bet monies at the start, there were no actual payments made to the winning player or players because they did not have loose coins to spare at that time.

Furthermore, noteworthy is the demeanor displayed by the respondents during the investigation. They tried to be evasive. They also appeared apprehensive and fidgety in giving their testimonies. Although the individual testimony of the respondents jibes with each other, the manner by which they testified placed doubts on their credibility and weakened their testimonies. This Office cannot but inferred that their testimonies during the formal investigation were the polished version of the defense they devised after the preliminary investigation.

Atty. Candelaria's observation:

It is of no moment that no alleged payoff ensued after the games assuming without admitting that there was really none. What matters is that the whole time they were playing there were money bets and understanding to that effect among them exists. For it is almost certain, at least to them, there were losers and/or winners, yet this Office can

only surmise as to the alleged non-payments. The claim adverted to stands dubious. The assertion that there was not enough loose coins to effect the payments could be safely concluded as a mere afterthought made up by the respondents in order to escape liability. Moreover, the assertion does not take away the existence of the bets during the games. After all, it is to be noted that they did not raise the same position during the preliminary investigation. It can therefore be inferred that after the said preliminary investigation but before the formal investigation, the respondents conferred and designed that position as a matter of their defense. Besides, the admission that the games involved "**barya-barya**" could not mean less than gambling.

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This Office cannot but hold their later statements as mere fabrications and a sordid afterthought to mislead this Office. Furthermore, this Office finds no plausible reason why they opted to "play" in that small room at the nook of the barracks which appears uninviting when it comes to both convenience and ventilation had they nothing to hide.

In the same vein, it was also alarming that they were exactly doing an act which the Memorandum posted inside the said barracks itself has intended to forestall. Being completely aware of the existence of the Memorandum visibly posted inside the barracks makes it difficult condoning the act.

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In the case at bar, although, it may be argued that they were not on duty when they committed the act of gambling the fact remains that they committed the same in violation of the Memorandum proscribing the commission of the said act, that it was inside the Court premises, and still during office hours as for the Court.

Atty. Candelaria's recommendation:

1. Mr. Pedroso and Mr. Dayap be held liable for Simple Misconduct, this being their first offense, and for humanitarian considerations, be SEVERELY REPRIMANDED, with a warning that a repetition of the same act in the future, shall be dealt with more severely; and
2. Mr. Pedro Mazo be held liable for Simple Misconduct, this being his second offense, with mitigating circumstances of length of service totaling thirty-two (32) years, his consistent very satisfactory ratings, and for humanitarian considerations, be suspended for a period of three (3) months, without pay.

On August 28, 2006, respondents filed a Joint Manifestation and Motion for a formal investigation "to enable them to cross-examine and meet the complainant face to face."

On August 29, 2006, the Court *En Banc* granted the motion and designated Atty. Felipa B. Anama, Assistant Clerk of Court, as Hearing Commissioner to conduct the