



**Republic of the Philippines
Supreme Court
Manila**

EN BANC

JOCELYN C. TALENS-DABON,
Complainant,

A.M. No. RTJ-96-1336

-versus-

JUDGE HERMIN E. ARCEO,
REGIONAL TRIAL COURT,
BRANCH 43, SAN FERNANDO,
PAMPANGA,

Respondent.

Present:

SERENO, *CJ.*,
CARPIO,
VELASCO, JR.,^{*}
LEONARDO-DE CASTRO,
BRION,
PERALTA,^{*}
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,^{*} and
PERLAS-BERNABE, *JJ.*

**RE: PETITION FOR JUDICIAL
CLEMENCY OF THEN JUDGE
HERMIN E. ARCEO.**

Promulgated:

NOVEMBER 20, 2012

X-----X

RESOLUTION

PERLAS-BERNABE, J.:

For resolution is the Petition for Judicial Clemency¹ filed by Hermin E. Arceo (respondent), former Presiding Judge of the Regional Trial Court,

^{*} On official leave.
¹ Rollo, pp. 403-415.

Branch 43, San Fernando, Pampanga, seeking to lift the ban against his employment in any branch of the government, including government-owned or -controlled corporations, and to be allowed to receive his accrued leave credits and other monetary benefits.

In the Decision² dated July 25, 1996, the Court dismissed respondent from service for committing lewd and lustful acts against complainant Atty. Jocelyn Talens-Dabon which constituted gross misconduct and immorality prejudicial to the best interest of the service. The dispositive portion of the subject Decision reads:

WHEREFORE, Judge Hermin E. Arceo is hereby DISMISSED from the service for gross misconduct and immorality prejudicial to the best interest of the service, with forfeiture of all retirement benefits and with prejudice to re-employment in any branch of the government, including government-owned and controlled corporations. This decision is immediately executory.

SO ORDERED.

Thereafter, respondent filed the following pleadings: (a) Motion for Reconsideration with Leave of Court;³ (b) Motion for Leave to File Second Motion for Reconsideration and for Admission of herein Second Motion for Reconsideration,⁴ which were denied in the Resolutions dated August 27, 1996⁵ and October 22, 1996,⁶ respectively; and (c) a Personal Plea for Reinstatement⁷ dated December 17, 1997, which was merely noted without

² Id. at 251-268.

³ Id. at 276-352.

⁴ Id. at 355-372.

⁵ Id. at 353.

⁶ Id. at 373.

⁷ Id. at 379-394.

action in the Resolution⁸ dated January 27, 1998.

On October 1, 2012, sixteen (16) years after his dismissal, respondent filed the instant petition alleging that he had immensely suffered from and endured the stigma caused by his dismissal from the service. He also claimed to have been humbled by his experience and has become remorseful of his previous acts causing him to reform his ways and treat each person with dignity and respect. He has devoted the past sixteen (16) years to “mending his ways and proving to himself and to the community that he can be a better man.”⁹

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 Clemency)*,¹⁰ the Court 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 reform.
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 giving him a chance to redeem himself.
4. There must be a showing of promise (such as intellectual aptitude, learning or legal acumen or contribution to legal scholarship and the

⁸ Id. at 401.

⁹ Id. at 404-406.

¹⁰ September 19, 2007, 533 SCRA 534, 539.

development of the legal system or administrative and other relevant skills), as well as potential for public service.

5. There must be other relevant factors and circumstances that may justify clemency. (Citations omitted)

Applying the foregoing standards to this case, the Court finds merit in respondent's prayer for the lifting of the ban against his re-employment in the government service.

Records show that after his dismissal from the service, respondent engaged in private practice and most of his cases involve poor litigants, neighbors and close friends.¹¹ He also submitted a Certificate of Good Moral Character¹² dated July 16, 2012 issued by Maria Theresa V. Mendoza-Arcega, Acting Executive Judge of the Regional Trial Court of Malolos City, Bulacan and Certificate of Favorable Endorsement¹³ dated July 27, 2012 from Cecilio C. Villanueva, President of the Integrated Bar of the Philippines (IBP) Marcelo H. Del Pilar (Bulacan Chapter) attesting to his reformation and recognizing his valuable contributions to the bar and the bench. For these services, he was given the award *Gawad Bunying Abogadong Bulakenyo* on August 25, 2011.¹⁴ The Court also notes the many years that had elapsed from the time of his dismissal and recognizes respondent's dedication, citations and contributions¹⁵ to the legal profession and to the judiciary prior to his dismissal from the service.

Respondent has sufficiently shown his remorse and reformation after his dismissal from the service meriting the Court's liberality. While it may

¹¹ *Rollo*, p. 404.

¹² *Id.* at 416.

¹³ *Id.* at 417-420.

¹⁴ *Id.* at 418.

¹⁵ *Id.* at 407-410.

be conceded that respondent at 71 years old¹⁶ had already reached retirement age and can no longer be eligible for regular employment in the public service, yet, considering his achievements and mental aptitude, it cannot be doubted that he could still be of service to the government in some other capacity. In *Castillo v. Calanog, Jr.*,¹⁷ the Court lifted the penalty of disqualification imposed against the respondent judge found guilty of immorality after he showed sincere repentance and taking into account his contributions during his tenure in the judiciary. In *Re: Conviction of Imelda B. Fortus, Clerk III, RTC, Br. 40, Calapan City for the Crime of Violation of B.P. 22*,¹⁸ the Court dismissed the errant probationer-employee on the ground that the crime she committed involved moral turpitude but at the same time decreed that “*she may be allowed to re-enter the government service if she can prove that she is fit to serve again.*”

True, respondent was convicted by the *Sandiganbayan* in its November 11, 2004 Decision¹⁹ in Criminal Case Nos. 24198-24199 for violation of the Anti-Sexual Harassment Law and Article 336 of the Revised Penal Code, respectively. Records, however, reveal that he was granted probation²⁰ and finally discharged²¹ after having complied with all the conditions thereof. Concomitantly, all his civil rights which he had lost as a result of his conviction, including the right to be employed in the public service, were restored.²²

¹⁶ Id. at 404.

¹⁷ A.M. No. RTJ-90-447, December 16, 1994, 239 SCRA 268.

¹⁸ A.M. No. P-04-1808, June 27, 2005, 461 SCRA 231, 235; *See also OCA v. Librado*, A.M. No. P-94-1089, August 22, 1996, 260 SCRA 624.

¹⁹ *Rollo*, pp. 423-451.

²⁰ Id. at 466-470.

²¹ Id. at 473.

²² *Moreno v. Commission on Elections*, G.R. No. 168550, August 10, 2006, 498 SCRA 547, 559.

On respondent's request for payment of accrued leave credits during his tenure in the government, Section 11, paragraph 1 of Rule 140 of the Rules of Court explicitly exempts accrued leave credits from the forfeiture of benefits, thus:

Section 11. *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;

Moreover, Civil Service Commission Memorandum Circular (MC) No. 41, Series of 1998, as amended by MC No. 14, s. of 1999, provides:

Section 37. Payment of terminal leave. - Any official/employee of the government who retires, voluntarily resigns, or is separated from the service and who is not otherwise covered by special law, shall be entitled to the commutation of his leave credits exclusive of Saturdays, Sundays and Holidays without limitation and regardless of the period when the credits were earned.

Section 65. Effect of decision in administrative case. - An official or employee who has been penalized with dismissal from the service is likewise not barred from entitlement to his terminal leave benefits.

Jurisprudence is likewise replete with cases wherein dismissed judges and government personnel or officials were allowed to claim their earned/accrued leave credits and other monetary benefits.²³

²³ See *Meris v. Ofilada*, A.M. Nos. RTJ-97-1390 and RTJ-98-1411, October 17, 2001, 367 SCRA 321; *Paredes v. Padua*, A.M. No. CA-91-3-P, April 14, 2004, 427 SCRA 134; *Junio v. Rivera, Jr.*, A.M. No. MTJ-91-565, October 5, 2005, 472 SCRA 69; *Garcia v. De la Peña*, A.M. No. MTJ-92-687, December 8, 2008, 573 SCRA 172; and *Igoy v. Soriano*, A.M. No. 2001-9-SC, July 14, 2006, 495 SCRA 1.

WHEREFORE, premises considered, Hermin E. Arceo is hereby **GRANTED** judicial clemency, lifting the ban against his disqualification from re-employment in any branch of the government, including government-owned or -controlled corporations.

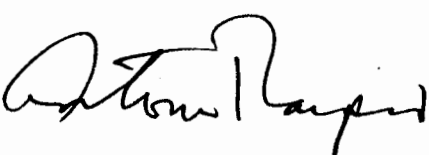
The Fiscal Management and Budget Office is ordered to compute the accrued leave credits of respondent, if any, and to release the same to him.

SO ORDERED.



ESTELA M. BERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice

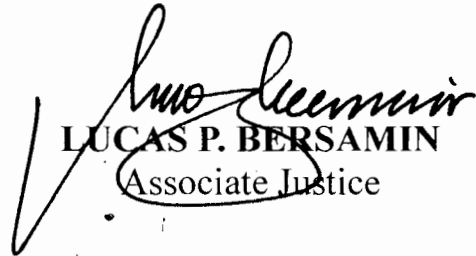

ANTONIO T. CARPIO
Associate Justice

On official leave
PRESBITERO J. VELASCO, JR.
Associate Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ARTURO D. BRION
Associate Justice

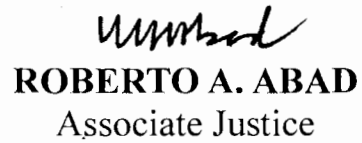
On official leave
DIOSDADO M. PERALTA
Associate Justice



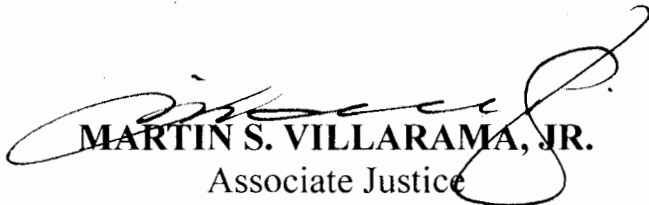
LUCAS P. BERSAMIN
Associate Justice



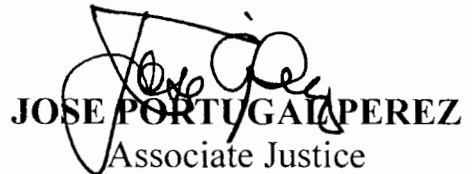
MARIANO C. DEL CASTILLO
Associate Justice



ROBERTO A. ABAD
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice

On official leave
BIENVENIDO L. REYES
Associate Justice