



Republic of the Philippines
Supreme Court
Bacolod City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court First Division, issued a Resolution dated **November 29, 2022**, which reads as follows:*

A.C. No. 13447 [Formerly CBD Case No. 19-6031] (Reynaldo Valmoria vs. Atty. Orlando A. Fua, Jr.).—Before this Court is the March 6, 2019 Complaint¹ for alleged violation of Rules 1.01 and 1.02, Canon 1, of the Code of Professional Responsibility, filed by Reynaldo E. Valmoria with the Integrated Bar of the Philippines (IBP) against respondent Atty. Orlando A. Fua, Jr., former Governor of Siquijor, for interfering in the service and implementation of the search warrant against then Barangay Captain James Alaya-ay Largo (Largo) of Tigbawan, Lazi, Siquijor and preventing his arrest.²

Complainant's Version

Complainant alleged that sometime in the year 2011, he was the Chief of the Provincial Intelligence and Investigation Branch (PIIB) of the Siquijor Police Provincial Office. He applied for a Search Warrant with the Regional Trial Court (RTC), Branch 46, Larena, Siquijor against Largo, a prominent drug personality in the Siquijor target list, for violation of Republic Act No. 9165,³ otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

The RTC issued Search Warrant No. 2010-07 which was served upon Largo on November 24, 2011 at 12:00 a.m. at his residence at Tigbawan, Lazi, Siquijor. However, respondent, who was then Governor of Siquijor, obstructed and interfered in the service and implementation of the warrant, in violation of Rules 1.01 and 1.02, Canon 1 of the Code.⁴

¹ *Rollo*, pp. 4-9.

² *Id.* at 18 and 323.

³ Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES." Approved: June 7, 2002.

⁴ *Rollo*, p. 325.

Complainant narrated the incident that transpired when respondent questioned the arrest of Largo and the search thereafter conducted, to wit:

13. The Governor [respondent herein] arrogantly uttered unsavory words at Mr. Gibb B. Alam right after I introduced him as the representative from the DOJ Office by saying in vernacular and in a sarcastic manner with clear intent to ridicule the person who is a mere clerk: “*Unsa man kay, Bay, Fiscal ka?*”, which means in English “*What are you ‘bay’, are you a Fiscal?*”

x x x x

15. After the operation when the raiding team was about to depart together with the arrested suspect, the Governor taking advantage of his power and position shielded the suspect from arrest by vigorously trying to prevent and restrain the raiding team from taking him into custody, insisting that the suspect should be left behind. Only through my vehement objection and insistence, and by immediately moving out from the scene with the arrested suspect that the Governor’s questionable intention was averted;

16. Thus, the Governor, with a show of arrogance, heatedly made unsavory and threatening utterances against me in the presence of the members of the raiding team, Mr. Gibb Alam of the DOJ and Mr. Richard Aresgado of the media which utterances in vernacular are as follows: “*Kung dad-on na nimo Bay, ikiha ka ani. Wala pa siguro ka kasulay ug kaso, bay.*” Which means in English, “*If you will bring him (suspect) ‘bay’, you will be sued in court. I guess you haven’t tried facing any charge filed against you before, ‘bay’.*” The Governor further added, “*Unsa man ka, untouchable? Sa eleksyon oud nagapil-apil ka. Wala ko’y salig nimo.*” Which means “*What are you, untouchable? During the election you were also intervening. I don’t have any trust on you.*”⁵ x x x

Complainant likewise filed a letter-complaint with the Office of the Ombudsman on October 1, 2022. The case ripened into an administrative complaint for Grave Misconduct, Abuse of Authority and Conduct Prejudicial to the Best Interest of the Service. A February 18, 2013 Decision⁶ was rendered by the Office of the Ombudsman, the dispositive portion of which reads:

WHEREFORE, premises considered, we hold respondent Orlando A. Fua, Jr. guilty of Grave Misconduct pursuant to Sec. 46(A)(3), Rule 10 of CSC Resolution No. 1101502, otherwise known as the Revised Rules on Administrative Cases in Civil Service, respondent is meted the penalty of DISMISSAL [FROM] THE SERVICE with all its accessory penalties.

x x x x

⁵ Id. at 330.

⁶ Id. at 18-23. Penned by Graft Investigation and Prosecution Officer I Daisy Grace M. Paas and reviewed by Director IV of PARB Mary Antonette Yalao, Overall Deputy Ombudsman Orlando C. Casimiro and approved by Ombudsman Conchita Carpio Morales.

SO ORDERED.⁷

The foregoing case was eventually elevated to the Court of Appeals (CA).

Similarly, complainant's letter-complaint with the Office of the Ombudsman also ripened into a criminal complaint for violation of Section 3(e), Article 1 of Republic Act No. 9165, docketed as OMB-C-C-12-0014-A. A February 18, 2013 Resolution⁸ was then rendered recommending the filing of an Information for violation of Sec. 1(e) of Presidential Decree No. 1829.⁹ Criminal Case No. SB-14-CRM-0001 was thereafter filed with the Sandiganbayan.

On January 19, 2017, the Sandiganbayan promulgated a Decision¹⁰ finding respondent guilty beyond reasonable doubt of the crime of Obstruction of Justice in violation of Sec. 1(e) of Presidential Decree No. 1829, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court finds accused Orlando Anos Fua, Jr., **GUILTY** beyond reasonable doubt of the crime of obstruction of justice in violation of Sec. 1(e) of Presidential Decree No. 1829. He is hereby sentenced to pay a fine of **Six Thousand Pesos (P6,000.00)** and in case of insolvency, shall be required to undergo subsidiary imprisonment.

Accused Fua, Jr. shall also suffer the penalty of **perpetual disqualification** from holding any public office and to **pay the cost**.¹¹ (Emphasis in the original)

The foregoing case was eventually elevated to the Supreme Court.

Respondent's Version

Respondent acknowledged the existence of the decisions rendered by the Ombudsman and Sandiganbayan in the administrative and criminal cases, respectively. He conceded that the Ombudsman found him guilty of Misconduct and suspended him for six months. The Sandiganbayan also found him guilty of Obstruction of Justice and meted him a fine of P6,000.00. However, he stressed that both cases are still under appeal with the CA and this Court, respectively.¹²

⁷ Id. at 22 and 325.

⁸ Id. at 24-29.

⁹ Entitled "PENALIZING OBSTRUCTION OF APPREHENSION AND PROSECUTION OF CRIMINAL OFFENDERS." Approved on January 16, 1981.

¹⁰ *Rollo*, pp. 31-57. Penned by Associate Justice Zaldy V. Trespeses and concurred in by Associate Justices Ma. Theresa Dolores C. Gomez-Estoesta and Bayani H. Jacinto.

¹¹ Id. at 55-56 and 325-326.

¹² Id. at 326.

Respondent narrated that the subject of complainant's implementation of the search warrant, Largo, was the Barangay Captain of Tigbawan, Lazi, Siquijor. When respondent learned of the search past midnight, he went to the house of Largo, which is located a short distance from his house. When respondent arrived at around 2:00 a.m., he found the search in progress with only one barangay official witnessing it, outgoing *Punong* Barangay Gervacio Paglinawan (Paglinawan). Largo was handcuffed and arrested by virtue of an alleged buy-bust in his own house moments before the search was executed. Respondent claimed that to comply with the number of witnesses required in serving the search warrant, complainant solicited the presence of two barangay officials who both declined the request.¹³

As a result, both of the foregoing two officials were charged by complainant with Misconduct before the Department of the Interior and Local Government (DILG) after the incident.¹⁴

Respondent then asked complainant who was the leader of the raiding team and why was the search executed in the middle of the night. He also asked for a copy of the search warrant but complainant did not respond to him. Largo then requested that respondent be allowed to serve as the second witness to the search. After the completion of the search an hour and a half later, the search team requested respondent to sign the Inventory Receipt of the items seized as one of the material witnesses, which he did. Respondent alleged that complainant even volunteered to present him as a government witnesses to the public prosecutor when he filed the case against Largo on November 26, 2010, a day after the execution of the search warrant. Likewise, in the November 24, 2010 Certificate of Orderly Search,¹⁵ complainant declared that the search on the house of Largo was executed in a very orderly manner. The return of the search warrant that complainant filed with the RTC on November 30, 2010 likewise contains no averment of any wrongdoing against the respondent. The Inventory Receipt mentioned that the seizure of the evidence was done in a very orderly manner.¹⁶

Respondent averred that it was only in January 2011 that he learned that complainant initiated a complaint against him before the DILG for interference in the implementation of the search warrant.¹⁷

Report and Recommendation of the Integrated Bar of the Philippines:

In the IBP's September 30, 2020 Report and Recommendation,¹⁸ the

¹³ Id.

¹⁴ Id. at 326-327.

¹⁵ Id. at 327.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id. at 323-334. Penned by Commissioner Nelly Annegret Puno-Yambot.

Investigating Commissioner opined that respondent be found liable for violation of Canon 1 of the Code, to wit:

The acts of respondent therefore may be considered as acts of interference and influencing a legitimate arrest and search which violates Canon 1 of the Code of Professional Responsibility. Respondent failed to obey the laws of the land and promote respect for the law and legal processes since he disregarded the provisions of the Revised Rules of Criminal Procedure on lawful arrest and service of search warrant. His actions also constituted obstruction of justice under PD [1829] as found by the Sandiganbayan in its Decision dated January 9, 2017. The Ombudsman in its Decision, dated February 18, 2013 also found respondent liable for grave misconduct. While both these Decisions are subject of an appeal before [the] higher courts, the facts of the case would show that respondent disregarded the laws cited as well as legal processes when he tried to prevent the arrest of Brgy. Captain Largo and interfere in the search conducted.

Not only was respondent a governor at that time but as a lawyer, he should know and uphold the rules on lawful arrests and implementation of a search warrant provided for in the rules. He should have shown compliance not just with the law but respect for police officers who were arresting Brgy. Captain Largo who was caught in a buy-bust operation and were implementing a search warrant issued by the court.

x x x x

WHEREFORE in view thereof, respondent is found liable for violation of Canon 1 of the Code of Professional Responsibility and a suspension of one (1) year from the practice of law is recommended.¹⁹

On December 2, 2021, the IBP Board of Governors issued a Notice of Resolution²⁰ which resolved to approve and adopt the findings of the Investigating Commissioner, viz.:

*RESOLVED, to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, the Report and Recommendation of the Investigating Commissioner in the instant case, to impose upon Respondent Atty. Orlando A. Fua, Jr. the penalty of **SUSPENSION from the practice of law for a period of One (1) Year**, after taking into consideration the facts of the case.²¹*

Issue

Whether respondent is administratively liable for violation of Canon 1, Rules 1.01 and 1.02 of the Code.

¹⁹ Id. at 333-334.

²⁰ Id. at 321.

²¹ Id.

Our Ruling

This Court adopts the findings and recommended penalty of the IBP.

Respondent violated the Lawyer's Oath, wherein he swore to obey the laws of the land, to wit:

I, _____, do solemnly swear that I will maintain allegiance to the Republic of the Philippines; **I will support its Constitution and obey laws as well as the legal orders of the duly constituted authorities therein;** I will do no falsehood, nor consent to the doing of any in court; I will not wittingly nor willingly promote or sue any groundless, false or unlawful suit, or give aid nor consent to the same; **I will delay no man for money or malice, and will conduct myself as a lawyer according to the best of my knowledge and discretion, with all good fidelity as well to the courts as to my clients;** and I impose upon myself these voluntary obligations without any mental reservation or purpose of evasion. So help me God. (Emphasis supplied)

The foregoing sworn duty to obey the laws of the land is likewise reiterated in Canon 1 of the Code, Rules 1.01 and 1.02, in particular, which provide:

CANON 1 – A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND FOR LEGAL PROCESSES.

Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Rule 1.02 – A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

Moreover, Canon 6 states that “[t]hese canons shall apply to lawyers in government service in the discharge of their tasks.” In *Cobarrubias-Nabaza v. Lavandero*,²² We pronounced that:

Canon 6 of the CPR expressly provides that the rules governing the conduct of lawyers shall apply to those in the government service. Thus, the fact that respondent was occupying a government position at the time he committed the acts complained of will not insulate him from any administrative disciplinary proceedings as a member of the Bar. Verily, case law states that “where a lawyer’s misconduct as a government official is of such nature as to affect his qualification as a lawyer or to show moral delinquency, then he may be disciplined as a member of the [B]ar on such grounds.”

As officers of the court, lawyers are called upon to assist in the administration of justice. They are vanguards of the legal system who are tasked to protect and uphold the truth and the rule of law; and are

²² A.M. No. 2017-07-SC & A.C. No. 12323, March 14, 2022.

expected to act with honesty in all their dealings, especially with the court. Otherwise stated, “[t]o say that lawyers must at all times uphold and respect the law is to state the obvious, but this statement’s profound importance can never be over-stressed. Considering that, of all classes and professions, **lawyers are most sacredly bound to uphold the law, it is imperative that they also live by the law.**” In this regard, the CPR emphatically reiterates the core values of honesty, integrity, and trustworthiness, as evinced in its numerous provisions, such as Rule 1.01, Canon 1, x x x (Emphasis supplied; citations omitted)

Complainant alleged that when they were arresting Largo after a buy-bust operation and implementing a search warrant in his residence at Tigbawan, Lazi, Siquijor, respondent, who was then the Governor of Siquijor, arrived and obstructed and interfered in the service and implementation of the warrant against Largo, who, as admitted by respondent, is his childhood friend.²³

There is no dispute that Largo was being arrested pursuant to a buy-bust operation. Thus his arrest was effected pursuant to a lawful warrantless arrest as provided under Sec. 5, Rule 113 of the Rules of Court which partly reads:

SEC. 5. *Arrest without warrant; when lawful.* – A peace officer or a private person may, without a warrant, arrest a person:

- (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
- (b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
- (c) x x x

In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with section 7 of Rule 112.

Furthermore, records show that the search was conducted in accordance with Rule 126 of the Rules of Court which provides for the proper implementation of a search warrant, the relevant provisions of which state:

Section 8. *Search of house, room, or premises to be made in presence of two witnesses.* – No search of a house, room, or any other premises shall be made except in the presence of the lawful occupant thereof or any member of his family or in the absence of the latter, two witnesses of sufficient age and discretion residing in the same locality. (7a)

²³ Rollo, p. 328.

Section 9. *Time of making search.* – The warrant must direct that it be served in the day time, unless the affidavit asserts that the property is on the person or in the place ordered to be searched, in which case a direction may be inserted that it be served at any time of the day or night.

X X X X

Section 11. *Receipt for the property seized.* – The officer seizing property under the warrant must give a detailed receipt for the same to the lawful occupant of the premises in whose presence the search and seizure were made, or in the absence of such occupant, must, in the presence of at least two witnesses of sufficient age and discretion residing in the same locality, leave a receipt in the place in which he found the seized property. (10a)

X X X X

Section 13. *Search incident to lawful arrest.* – A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant. (12a)

In the case at bar, Largo was a subject of a buy-bust operation conducted on November 24, 2010 at about 12:00 a.m. After the buy-bust operation, Largo was arrested and Search Warrant No. 2010-07 which was earlier issued by the RTC, Branch 46 of Larena, Siquijor for violation of Republic Act No. 9165 was also served upon Largo. The search was conducted in the presence of the subject and his immediate family members. Also present during the search were Department of Justice representative Mr. Gibb Alam, media practitioner Richard Aresgado, and Paglinawan.²⁴

Respondent maintains that he went to the residence of Largo, who is his childhood friend, at around 2:00 a.m. of said date because he received a text message. During the search, he was designated as a second witness upon his request. However, respondent's actions questioning the search and arrest made on Largo, in particular his demand that Largo be left behind and not be apprehended, certainly amounted to interference and influencing a valid police operation.²⁵ Interference in a legitimate police procedure was certainly not part of his duties as a Provincial Governor. Nor was it appropriate for him to act as a private lawyer to Largo since he was the incumbent Provincial Governor at that time. Sec. 7(b)(2) of Republic Act No. 6713,²⁶ otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees,

²⁴ Id. at 329.

²⁵ See also *Rollo*, pp. 329-331.

²⁶ Entitled "AN ACT ESTABLISHING A CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, TO UPHOLD THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES." Approved: February 20, 1989.

and Memorandum Circular No. 17, series of 1986,²⁷ prohibit certain government officials or employees from engaging in private practice of their profession unless authorized by their department heads. More importantly, if authorized, the practice of profession must not conflict nor tend to conflict with the official functions of the government official or employee.²⁸

We further note the findings of fact as reflected in the February 18, 2013 Decision of the Office of the Ombudsman which found respondent guilty of Grave Misconduct. It pointed out that respondent obstructed the service of the search warrant and tried to prevent the arrest of Largo, as follows:

The respondent obstructed the service of the search warrant issued by the Court by preventing the team from taking the suspect into custody and insisting that the latter be left behind. His intent to delay the process is further manifested by his act of intimidating the members of the team, throwing uncalled for remarks calculated to interfere in the execution of search warrant executed against Largo, who, respondent did not deny, is his childhood friend. The respondent could raise a number of reasons why he, Governor of Siquijor, acting on a mere text message, found time at wee hours in the morning to volunteer as witness to the execution of search warrant against Largo, said to be a notorious drug dealer in the province since 2006, but he cannot deny that he was also there present to come to the succor of Largo, to give moral support and exert influence on the proceedings. No explanation is sufficient why he tried to prevent the team of police officers from taking Largo into custody.²⁹

Similarly, in the January 19, 2017 Decision of the Sandiganbayan, respondent was found guilty of the crime of Obstruction of Justice under Sec. 1(e) of Presidential Decree No. 1829 for impeding or obstructing the proceedings as follows:

Moreover, if accused believes that there was irregularity in the conduct of the search, it does not give him reason to impede or obstruct the proceedings as he was not even the subject of the search warrant. As a lawyer, accused could have simply given Largo legal advice or assistance so that he can file a motion or pleading to quash the search warrant. However, accused did the opposite and displayed disrespect to the court's lawful order, which is not expected from a lawyer and public officer. Although, the welfare of his constituents may be his primary responsibility as governor of the province, in this case, there was nothing that would require his direct intervention in a simple implementation of a search warrant on a personality on the drugs watchlist, who happens to be his childhood friend. As a public officer, he must, at all times, uphold public interest over his personal interest.³⁰

²⁷ Issued by the Office of the President, entitled Revoking Memorandum Circular No. 1025 Dated November 25, 1977; See also *Fajardo v. Atty. Alvarez*, 785 Phil. 303, 316 (2016).

²⁸ See also *Fajardo v. Atty. Alvarez*, supra.

²⁹ *Rollo*, pp. 332-333.

³⁰ *Id.* at 333.



Although the foregoing proceedings are independent from the instant case, the facts therein remain relevant to the case at bar. As a lawyer, respondent should know that the law enforcers were regularly performing their duties. It was thus uncalled for respondent to interfere in the conduct of the police operation against his childhood friend. He attempted to exert pressure on the law enforcement officers despite them being armed with a valid court-issued search warrant.

We have consistently held that “a lawyer is an officer of the court called upon to assist in the administration of justice, any act of a lawyer that obstructs, perverts, or impedes the administration of justice constitutes misconduct and justifies disciplinary action against him.”³¹ As a lawyer, respondent was duty bound to uphold the dignity and authority of the court. Sec. 20 (b), Rule 138 of the Rules of Court states that it “is the duty of an attorney [t]o observe and maintain the respect due to courts of justice and judicial officers.”³²

For the foregoing reasons, We adopt the findings and recommendation of the IBP to suspend respondent from the practice of law for a period of one year.

WHEREFORE, respondent Atty. Orlando A. Fua, Jr. is found guilty of violating the Lawyer’s Oath and the Code of Professional Responsibility. Respondent is **SUSPENDED** from the practice of law for a period of one year, effective upon receipt of this Resolution. He is **STERNLY WARNED** that a repetition of the same offense or similar acts shall be dealt with more severely.

Respondent is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

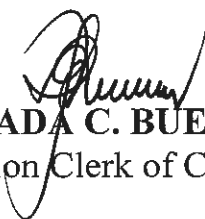
Let copies of this Resolution be furnished to: (1) the Office of the Bar Confidant to be appended to respondent’s personal record as an attorney-at law; (2) the Integrated Bar of the Philippines for its information and guidance; and (3) the Office of the Court Administrator for circulation to all courts in the country.

³¹ *Re: CA-G.R. CV NO. 96282 v. Atty. Santamaria*, 833 Phil. 33, 40 (2018).

³² *Id.*

SO ORDERED.” *Marquez, J., on official business.*

By authority of the Court:



LIBRADA C. BUENA
Division Clerk of Court *mm 1/14*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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DEC 15 2022

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