Republic of the Philippines
Supreme Court
Manila

EN BANC

OFFICE OF THE COURT ADMINISTRATOR, Complainant, *- versus -* **JUDGE ELIZA B. YU, METROPOLITAN TRIAL COURT, BRANCH 47, PASAY CITY,** Respondent.	**A.M. NO. MTJ-12-1813** (Formerly A.M. No. 12-5-42-MeTC)
x----------x	
RE: LETTER DATED 21 JULY 2011 OF EXECUTIVE JUDGE BIBIANO G. COLASITO AND THREE (3) OTHER JUDGES OF THE METROPOLITAN TRIAL COURT, PASAY CITY, FOR THE SUSPENSION OR DETAIL TO ANOTHER STATION OF JUDGE ELIZA B. YU, BRANCH 47, SAME COURT.	**A.M. NO. 12-1-09-MeTC**
x----------x	
RE: LETTER DATED MAY 2, 2011 OF HON. ELIZA B. YU, PRESIDING JUDGE, METROPOLITAN TRIAL COURT, BRANCH 47, PASAY CITY.	**A.M. NO. MTJ-13-1836** (Formerly A.M. No. 11-11-115-MeTC)
x----------x	
LEILANI A. TEJERO-LOPEZ, Complainant, *- versus -* **JUDGE ELIZA B. YU, BRANCH 47, METROPOLITAN TRIAL**	**A.M. NO. MTJ-12-1815** (Formerly OCA IPI No. 11-2401-MTJ)

COURT, PASAY CITY,
Respondent.
x- -x

JOSEFINA G. LABID, **OCA IPI NO. 11-2398-MTJ**
Complainant,

- versus -

JUDGE ELIZA B. YU, METROPOLITAN TRIAL COURT, BRANCH 47, PASAY CITY,
Respondent.
x- -x

AMOR V. ABAD, FROILAN ROBERT L. TOMAS, ROMER H. AVILES, EMELINA J. SAN MIGUEL, NORMAN D.S. GARCIA, MAXIMA SAYO and DENNIS ECHEGOYEN, **OCA IPI NO. 11-2399-MTJ**
Complainants,

- versus -

HON. ELIZA B. YU, PRESIDING JUDGE, METROPOLITAN TRIAL COURT, BRANCH 47, PASAY CITY,
Respondent.
x- -x

EXECUTIVE JUDGE BIBIANO G. COLASITO, VICE EXECUTIVE JUDGE BONIFACIO S. PASCUA, JUDGE RESTITUTO V. MANGALINDAN, JR., JUDGE CATHERINE P. MANODON, MIGUEL C. INFANTE (CLERK OF COURT IV, OCC-METC), RACQUEL C. DIANO (CLERK OF COURT III, METC, BRANCH **OCA IPI NO. 11-2378-MTJ**

45), EMMA ANNIE D. ARAFILES (ASSISTANT CLERK OF COURT, OCC-METC), PEDRO C. DOCTOLERO, JR. (CLERK OF COURT III, METC, BRANCH 44), LYDIA T. CASAS (CLERK OF COURT III, METC, BRANCH 46), ELEANOR N. BAYOG (LEGAL RESEARCHER, METC, BRANCH 45), LEILANIE A. TEJERO (LEGAL RESEARCHER, METC, BRANCH 46), ANA MARIA V. FRANCISCO (CASHIER I, OCC-METC), SOLEDAD J. BASSIG (CLERK III, OCC-METC), MARISSA MASHHOOR RASTGOOY (RECORDS OFFICER, OCC-METC), MARIE LUZ M. OBIDA (ADMINISTRATIVE OFFICER, OCC-METC), VIRGINIA D. GALANG (RECORDS OFFICER I, OCC-METC), AUXENCIO JOSEPH CLEMENTE (CLERK OF COURT III, METC, BRANCH 48), EVELYN P. DEPALOBOS (LEGAL RESEARCHER, METC, BRANCH 44), MA. CECILIA GERTRUDES R. SALVADOR (LEGAL RESEARCHER, METC, BRANCH 48), JOSEPH B. PAMATMAT (CLERK III, OCC-METC), ZENAIDA N. GERONIMO (COURT STENOGRAPHER, OCC-METC), BENJIE V. ORE (PROCESS SERVER, OCC-METC), FORTUNATO E. DIEZMO (PROCESS SERVER, OCC-METC), NOMER B. VILLANUEVA (UTILITY WORKER, OCC-METC), ELSA D. GARNET (CLERK III, OCC-METC), FATIMA V. ROJAS (CLERK III, OCC-METC),

EDUARDO E. EBREO (SHERIFF III, METC, BRANCH 45), RONALYN T. ALMARVEZ (COURT STENOGRAPHER II, METC, BRANCH 45), MA. VICTORIA C. OCAMPO (COURT STENOGRAPHER II, METC, BRANCH 45), ELIZABETH LIPURA (CLERK III METC, BRANCH 45), MARY ANN J. CAYANAN (CLERK III, METC, BRANCH 45), MANOLO MANUEL E. GARCIA (PROCESS SERVER, METC, BRANCH 45), EDWINA A. JUROK (UTILITY WORKER, OCC-METC), ARMINA B. ALMONTE (CLERK III, OCC-METC), ELIZABETH G. VILLANUEVA (RECORDS OFFICER, METC, BRANCH 44), ERWIN RUSS B. RAGASA (SHERIFF III, METC, BRANCH 44), BIEN T. CAMBA (COURT STENOGRAPHER II, METC, BRANCH 44), MARLON M. SULIGAN (COURT STENOGRAPHER II, METC, BRANCH 44), CHANDA B. TOLENTINO (COURT STENOGRAPHER II, METC, BRANCH 44), FERDINAND R. MOLINA (COURT INTERPRETER, METC, BRANCH 44), PETRONILO C. PRIMACIO, JR. (PROCESS SERVER, METC, BRANCH 45), EDWARD ERIC SANTOS (UTILITY WORKER, METC, BRANCH 45), EMILIO P. DOMINE (UTILITY WORKER, METC, BRANCH 45), ARNOLD P. OBIAL (UTILITY WORKER, METC, BRANCH 44), RICARDO E. LAMPITOC (SHERIFF III, METC, BRANCH 46),

JEROME H. AVILES (COURT STENOGRAPHER II, METC, BRANCH 46), ANA LEA M. ESTACIO (COURT STENOGRAPHER II, METC, BRANCH 46), LANIE F. AGUINALDO (CLERK III, METC, BRANCH 44), JASMINE L. LINDAIN (CLERK III, METC, BRANCH 44), RONALDO S. QUIJANO (PROCESS SERVER, METC, BRANCH 44), DOMINGO H. HOCOSOL (UTILITY WORKER, METC, BRANCH 48), EDWIN P. UBANA (SHERIFF III, METC, BRANCH 48), MARVIN O. BALICUATRO (COURT STENOGRAPHER II, METC, BRANCH 48), MA. LUZ D. DIONISIO (COURT STENOGRAPHER II, METC, BRANCH 48), MARIBEL A. MOLINA (COURT STENOGRAPHER II, METC, BRANCH 48), CRISTINA E. LAMPITOC (COURT STENOGRAPHER II, METC, BRANCH 46), MELANIE DC. BEGASA (CLERK III, METC, BRANCH 46), EVANGELINE M. CHING (CLERK III, METC, BRANCH 46), LAWRENCE D. PEREZ (PROCESS SERVER, METC, BRANCH 46), EDMUNDO VERGARA (UTILITY WORKER, METC, BRANCH 46), AMOR V. ABAD (COURT INTERPRETER, METC, BRANCH 47), ROMER H. AVILES (COURT STENOGRAPHER II, METC, BRANCH 47), FROILAN ROBERT L. TOMAS (COURT STENOGRAPHER II, METC, BRANCH 47), MAXIMA C. SAYO (PROCESS SERVER, BRANCH

47), SEVILLA B. DEL CASTILLO (COURT INTERPRETER, METC, BRANCH 48), AIDA JOSEFINA IGNACIO (CLERK III, METC, BRANCH 48), BENIGNO A. MARZAN (CLERK III, METC, BRANCH 48), KARLA MAE R. PACUNAYEN (CLERK III, METC, BRANCH 48), IGNACIO M. GONZALES (PROCESS SERVER, METC, BRANCH 48), EMELINA J. SAN MIGUEL (RECORDS OFFICER, OCC, DETAILED AT BRANCH 47), DENNIS M. ECHEGOYEN (SHERIFF III, OCC-METC), NORMAN GARCIA (SHERIFF III, METC, BRANCH 47), NOEL G. LABID (UTILITY WORKER I, BRANCH 47),

Complainant,

- versus -

HON. ELIZA B. YU, PRESIDING JUDGE, METROPOLITAN TRIAL COURT, BRANCH 47, PASAY CITY,

Respondent.

x- -x

JUDGE BIBIANO G. COLASITO, JUDGE BONIFACIO S. PASCUA, JUDGE RESTITUTO V. MANGALINDAN, JR. and CLERK OF COURT MIGUEL C. INFANTE, **OCA IPI NO. 12-2456-MTJ**

Complainants,

- versus –

HON. ELIZA B. YU, PRESIDING JUDGE, METROPOLITAN TRIAL COURT, BRANCH 47, PASAY CITY,

Respondent.

x- -x

JUDGE EMILY L. SAN GASPAR-GITO, METROPOLITAN TRIAL COURT, BRANCH 20, MANILA,
Complainant,

- versus -

JUDGE ELIZA B. YU, METROPOLITAN TRIAL COURT, BRANCH 47, PASAY CITY,
Respondent.

A.M. NO. MTJ-13-1821

Present:

SERENO, *C.J.*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
MENDOZA,
REYES,
BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
MARTIRES, and
TIJAM, *JJ.*

Promulgated:
March 14, 2017

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RESOLUTION

***PER CURIAM*:**

We hereby consider and resolve respondent Eliza B. Yu's *Motion for Reconsideration with Explanation for the Show Cause Order* filed vis-à-vis the decision promulgated on November 22, 2016 disposing against her as follows:

> **WHEREFORE**, the Court **FINDS** and **PRONOUNCES** respondent **JUDGE ELIZA B. YU GUILTY of GROSS INSUBORDINATION; GROSS IGNORANCE OF THE LAW; GROSS MISCONDUCT; GRAVE ABUSE OF AUTHORITY; OPPRESSION;** and **CONDUCT UNBECOMING OF A JUDICIAL OFFICIAL;** and, **ACCORDINGLY, DISMISSES** her from the service **EFFECTIVE IMMEDIATELY,** with **FORFEITURE OF ALL HER BENEFITS,** except accrued leave credits, and further **DISQUALIFIES** her from reinstatement or appointment to any public office or employment, including to one in any government-owned or government-controlled corporations.

Respondent **JUDGE ELIZA B. YU** is directed to show cause in writing within ten (10) days from notice why she should not be disbarred for violation of the Lawyer's Oath, the Code of Professional Responsibility, and the Canons of Professional Ethics as outlined herein.

Let a copy of this decision be furnished to the Office of the Court Administrator for its information and guidance.

SO ORDERED.[1]

In her motion, the respondent repeatedly denies committing all the administrative offenses for which she was held guilty, and insists on the absence of proof to support the findings against her. She pleads that the Court reconsiders based on the following:

1. Noncompliance with A.O. No. 19-2011

The complaint against her was premature because of the pendency of her protest against night court duty. A.O. No. 19-2011 did not carry a penal provision, and was only directory because of the use of the permissive word *may*. In addition to A.O. No. 19-2011 being non-compliant with the requirements of a valid administrative order, the requirement of night court duty violated Section 5, Rule XVII of the *Omnibus Rules Implementing Book V of the Administrative Code*,[2] which limited the working hours for government officials and employees. It was also not illegal to write to the Secretary of the Department of Tourism (DOT) considering that he was the requesting authority regarding the rendering of the night court duty. She did not publicly broadcast her disobedience to A.O. No. 19-2011 when she wrote the letter to the Secretary. There was no law prohibiting her from writing the protest letters. At any rate, she had the right to do so under the Freedom of Speech Clause. She did not refuse to obey A.O. No. 19-2011 because she actually allowed her staff to report for night duty. She did not willfully and intentionally disobey because her protest had legal basis. She would also violate Section 3(a)[3] of

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[1] *Rollo* (A.M. No. MTJ-12-1813), pp. 888-889.

[2] Section 5. Officers and employees of all departments and agencies except those covered by special laws shall render not less than eight hours of work a day for five days a week or a total of forty hours a week, exclusive of time for lunch. As a general rule, such hours shall be from eight o'clock in the morning to twelve o'clock noon and from one o'clock to five o'clock in the afternoon on all days except Saturdays, Sundays and Holidays.

[3] Section 3. *Corrupt practices of public officers.* In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

(a) Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter, or allowing himself to be persuaded, induced, or influenced to commit such violation or offense.

Republic Act No. 3019 (*Anti-Graft and Corrupt Practices Act*) if she would comply with the patently illegal A.O. No. 19-2011.[4]

2. Refusal to honor the appointments of Ms. Mariejoy P. Lagman and Ms. Leilani Tejero-Lopez

The respondent claims that she did not refuse to honor the appointment because rejection was different from protesting the appointment. She merely exercised her statutory right as a judge to question the appointment of the branch clerk of court assigned to her sala. Under Canon 2, Section 3 of the *New Code of Judicial Conduct for the Philippine Judiciary*,[5] she was mandated to bring to the proper authorities the irregularities surrounding the appointments. Moreover, the contents of the complaint letter and the protest could not be used against her pursuant to the constitutional right against self-incrimination. She did not also commit any act of cruelty against Ms. Tejero-Lopez; on the contrary, it was Ms. Tejero-Lopez who "went beyond the norms of decency by her persistent and annoying application in my court that it actually became a harassment." Her opposition against the appointment of Ms. Lagman was meritorious. She only employed the wrong choice of words with her choice of the term *privileged communication* that was viewed negatively. T here was no proof of the alleged verbal threats, abuse, misconduct or oppression committed against Ms. Tejero-Lopez. It was not proper to penalize a judge based on a "letter with few words that other people find objectionable."[6]

3. Show-cause order respondent issued against fellow judges

The respondent posits that the show-cause order she issued to her fellow judges had legal basis because "anything that is legal cannot be an assumption of the role of a tyrant wielding power with unbridled breath."[7] It was premature to rule that she thereby abused and committed misconduct because she did not issue any ruling on the explanation by the other judges.[8] She did not violate Section 5, Canon 3 and Section 8, Canon 4 of the *Code of Judicial Conduct*. What the other judges should have done was to avail themselves of the appropriate remedy.[9]

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4 *Rollo* (A.M. No. MTJ-12-1813), pp. 935-962.

5 Sec. 3. Judges should take or initiate appropriate disciplinary measures against lawyers or court personnel for unprofessional conduct of which the judge may become aware.

6 *Rollo* (A.M. No. MTJ-12-1813), pp. 964-981.

7 Id. at 982.

8 Id. at 986.

9 Id. at 985-986.

4. Refusal to sign the leave of absence of Mr. Noel Labid

The refusal to sign the application for leave of absence had factual and legal bases.[10] Moreover, she should be presumed to have acted in good faith if she misconstrued the rules on approval of application of leave.[11]

5. Allowing on-the-job trainees

The respondent claims that she did not order the trainees to perform judicial tasks. She asserts that she could not remember their affidavit. She had no personal knowledge that the trainees were made to serve as assistant court stenographers. Based on what she heard, the trainees were only in the premises of her court for a few hours. She reminds that she allowed the trainees to merely observe proceedings. OCA Circular No. 111-2005 was impliedly amended when paralegals and law students were allowed to be trained under the Hustisyeah Project.[12]

6. Designation of an officer-in-charge and ordering reception of evidence by a non-lawyer

The respondent denies having violated CSC Memorandum Circular No. 06-05 when she designated an officer-in-charge. There was no proof showing that she willfully and deliberately intended to cause public damage. In fact, the OCA recognized Mr. Ferdinand Santos as the OIC of her branch in several letters. There was no proof that she violated Section 9, Rule 30 of the *Rules of Court*. The *ex parte* reception of evidence by a non-lawyer clerk of court was allowed under the *Rules of Court*, as well as by Section 21(e), Administrative Circular No. 35-2004, and Administrative Circular No. 37-93.[13]

7. Allowing criminal proceedings to continue despite the absence of counsel

The respondent merely followed the *Rules of Criminal Procedure* in allowing criminal proceedings despite absence of counsel. In so doing, she relied in good faith on the rulings in *People v. Arcilla*,[14] *Bravo v. Court of Appeals*,[15] and *People v. Malinao*.[16]Under Section 1(c), Rule 115 of the *Rules of Criminal Procedure*, the accused may be allowed to defend himself in person without the assistance of counsel.[17]

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10 Id. at 988.
11 Id. at 989.
12 Id. at 995-996.
13 Id. at 997.
14 G.R. No. 116237, May 15, 1996, 256 SCRA 757.
15 G.R. No. L-48772, May 8, 1992, 208 SCRA 531.
16 G.R. No. L-63735, April 5, 1990, 184 SCRA 148.
17 *Rollo* (A.M. No. MTJ-12-1813), pp. 997-1009.

8. Sending of inappropriate email messages

The respondent maintains that the e-mail messages were hearsay because the certification by the SC-MISO was not presented to her, depriving her of the opportunity to object. Her granting access by the MISO to her private e-mails was conditional to prove tampering. Her *Lycos* e-mail account was hacked. She did not completely waive her right to privacy. Considering that she did not authenticate said e-mail messages, the same were inadmissible for being hearsay. The e-mail messages with her full name written in capital letters as the sender did not emanate from her because her *Yahoo*! and MSN accounts carried her name with only the first letters being capitalized. The e-mails reproduced in the decision were not the same messages that she had requested Judge San Gaspar-Gito to delete. There were words that she did not write on the e-mail messages pertaining to her demand for reimbursement of $10.00. Her writing style was different from what appeared in the e-mail messages. She denies having opened the "Rudela San Gaspar" account. It was wrong to penalize her based on assumptions and speculations. She did not commit electronic libel. Her funny and innocent comments were not actionable documents. The certification by the SC MISO was not an authentication as to the truthfulness of the contents of the e-mail messages and as to the identification of the sender or author of the messages. It was wrong and unjust to impute wrongdoing to her when there was no proof that she had sent the inappropriate messages. The disclaimer in the e-mails were not printed in the decision; hence, the messages were inadmissible. The presentation of the messages without her consent as the sender was covered by the exclusionary rule. Letters and communications in writing were guaranteed and protected by Sections 2,[18] 3(1),[19] Article III of the 1987 Constitution, and Article 723 of the *Civil Code*,[20] Articles 226[21] and 228[22] of the *Revised Penal Code*,

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[18] Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

[19] Section 3. (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise, as prescribed by law.

[20] Article 723. Letters and other private communications in writing are owned by the person to whom they are addressed and delivered, but they cannot be published or disseminated without the consent of the writer or his heirs. However, the court may authorize their publication or dissemination if the public good or the interest of justice so requires.

[21] Article 226. *Removal, concealment or destruction of documents.* - Any public officer who shall remove, destroy or conceal documents or papers officially entrusted to him, shall suffer:

1. The penalty of *prision mayor* and a fine not exceeding 1,000 pesos, whenever serious damage shall have been caused thereby to a third party or to the public interest.

2. The penalty of *prision correccional* in its minimum and medium period and a fine not exceeding 1,000 pesos, whenever the damage to a third party or to the public interest shall not have been serious.

In either case, the additional penalty of temporary special disqualification in its maximum period to perpetual disqualification shall be imposed.

[22] Article 228. *Opening of closed documents.* - Any public officer not included in the provisions of the next preceding article who, without proper authority, shall open or shall permit to be opened any closed papers, documents or objects entrusted to his custody, shall suffer the penalties of *arresto mayor*, temporary spcial disqualification and a fine of not exceeding 2,000 pesos.

> Section 2756 of the *Revised Administrative Code*,[23] Sections 32[24] and 33[25] of the R.A. No. 8792. There was no proof that she had apologized through e-mail, and had sent messages with sexual undertones and lewd graphics. Judge Gito had a dirty mind because nothing was wrong with the 69 image by Felicien Rops. She (respondent) did not commit internet stalking. She had difficulty in remembering the private communications, which were taken out of context. It was Judge Gito who must have a problem because she had kept the trash messages. She (respondent) did not transgress any law. The allegations against her were hearsay. She submitted a letter proposal for a "win-win" solution so that she would not pursue any criminal action against Judge Gito. She did not violate Section 8, Canon 4 of the *New Code of Judicial Conduct* because it was one of her staff who had typed the letter addressed to Atty. San Gaspar. To find her to have abused her power and committed impropriety was unwarranted. Her absence from the investigation conducted by Justice Abdulwahid could not be taken against her and could not be construed as her admission of wrong doing or as an evasion of truth. There was no proof that she had used the phrase *our court* to advance her personal interest.[26]

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[23] The respondent is referring to the *Administrative Code of 1917* (Act No. 2711) whose Section 2756 states:

> Section 2756. Unlawful opening or detention of mail matter. – Any person other than an officer or employee of the Bureau of Posts who shall unlawfully detain or open any mail matter which has been in any post office, or in or on any authorized depository for mail matter, or in charge of any person employed in the Bureau of Posts; or who shall secrete or destroy any such mail matter, or shall unlawfully take any mail matter out of any post office, or from any person employed in the Bureau of Posts, before it is given into the actual possession of the person to whom it is addressed, or his duly authorized agent, shall be punished by a fine of not more than one thousand pesos or by imprisonment for not more than one year, or both.

[24] Section 32. *Obligation of Confidentiality.* - Except for the purposes authorized under this Act, any person who obtained access to any electronic key, electronic data message or electronic document, book, register, correspondence, information, or other material pursuant to any powers conferred under this Act, shall not convey to or share the same with any other person.

[25] Section 33. *Penalties.* - The following acts shall be penalized by fine and/or imprisonment, as follows:

(a) Hacking or cracking which refers to unauthorized access into or interference in a computer system/server or information and communication system; or any access in order to corrupt, alter, steal, or destroy using a computer or other similar information and communication devices, without the knowledge and consent of the owner of the computer or information and communications system, including the introduction of computer viruses and the like, resulting in the corruption, destruction, alteration, theft or loss of electronic data messages or electronic documents shall be punished by a minimum fine of One Hundred Thousand pesos (₱100,000.00) and a maximum commensurate to the damage incurred and a mandatory imprisonment of six (6) months to three (3) years;

(b) Piracy or the unauthorized copying, reproduction, dissemination, or distribution, importation, use, removal, alteration, substitution, modification, storage, uploading, downloading, communication, making available to the public, or broadcasting of protected material, electronic signature or copyrighted works including legally protected sound recordings or phonograms or information material on protected works, through the use of telecommunication networks, such as, but not limited to, the internet, in a manner that infringes intellectual property rights shall be punished by a minimum fine of one hundred thousand pesos (₱100,000.00) and a maximum commensurate to the damage incurred and a mandatory imprisonment of six (6) months to three (3) years;

(c) Violations of the Consumer Act or Republic Act No. 7394 and other relevant to pertinent laws through transaction covered by or using electronic data messages or electronic documents, shall be penalized with the same penalties as provided in those laws;

(d) Other violations of the provisions of this Act, shall be penalized with a maximum penalty of one million pesos (₱1,000,000.00) or six (6) years imprisonment.

[26] *Rollo* (A.M. No. MTJ-12-1813), pp. 1010-1033.

Ruling of the Court

We deny the respondent's *Motion for Reconsideration with Explanation for the Show Cause Order* for the following reasons.

1.
The respondent's *Motion for Reconsideration* is denied for lack of merit

The submissions tendered in the respondent's *Motion for Reconsideration with Explanation for the Show Cause Order* were matters that the Court had already exhaustively considered and fully resolved in the decision of November 22, 2016. We deem it unnecessary to dwell at length on such submissions. We still hold and declare that the respondent flagrantly and blatantly violated the Lawyer's Oath, and several canons and rules of the *Code of Professional Responsibility*, the *Canon of Judicial Ethics* and the *New Judicial Code of Conduct*.

Nonetheless, we propose to expound on some points for greater enlightenment on the issues and grounds taken into consideration in removing the respondent from the Judiciary, and for purposes of providing the requisite predicate to the ruling on the directive for her to show sufficient cause in writing why she should not also be disbarred from the Roll of Attorneys.

The respondent insists that there was no proof to support the adverse findings of the Court. She is absolutely mistaken. The records involved in these cases were voluminous, because they consisted of the affidavits and other evidence submitted by the several complainants as well as her own pleadings and motions, most of which constituted proof of her administrative wrongdoings. As the *per curiam* decision of November 22, 2016 indicated, her explanations vis-à-vis the complaints often backfired against her, and all the more incriminated her by systematically exposing her personal and professional ineptitude and stilted logic. In short, the evidence against her was too compelling to ignore, and sufficed to warrant the supreme action of her removal from the Judiciary. She was more than aware that the quantum of evidence required in administrative proceedings like these was substantial evidence, or that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion.[27]

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[27] *Monticalbo v. Maraya, Jr.*, A.M. No. RTJ-09-2197, April 13, 2011, 648 SCRA 573, 579

The respondent's argument that she was deprived of the guarantee against self-incrimination has no basis. As a judge, she was quite aware that the constitutional guarantee only set the privilege of an individual to refuse to answer incriminating questions that may directly or indirectly render her criminally liable. The constitutional guarantee simply secures to a witness – whether a party or not – the right to refuse to answer any particular incriminatory question.[28] The privilege did not prohibit legitimate inquiry in non-criminal matters. At any rate, the rule only finds application in case of oral testimony and does not apply to object evidence. As the Court has pointed out in *People v. Malimit*:[29]

> **[The right against self-incrimination]**, as put by Mr. Justice Holmes in *Holt vs. United States*, "x x x **is a prohibition of the use of physical or moral compulsion, to extort communications from him x x x" It is simply a prohibition against legal process to extract from the [accused]'s own lips, against his will, admission of his guilt. It does not apply to the instant case where the evidence sought to be excluded is not an incriminating statement but an object evidence.** Wigmore, discussing the question now before us in his treatise on evidence, thus, said:
>
> > If, in other words (the rule) created inviolability not only for his [physical control of his] own vocal utterances, but also for his physical control in whatever form exercise, then, it would be possible for a guilty person to shut himself up in his house, with all the tools and indicia of his crime, and defy the authority of the law to employ in evidence anything that might be obtained by forcibly overthrowing his possession and compelling the surrender of the evidential articles — a clear *reduction ad absurdum*. In other words, **it is not merely compulsion that is the kernel of the privilege, x x x but *testimonial compulsion*.**[30]

The respondent's correspondences were outside the scope of the constitutional proscription against self-incrimination. She had not been subjected to testimonial compulsion in which she could validly raise her right against self-incrimination. Worthy to recall is that she had herself voluntarily waived her right to be present and to confront the complainant and her witnesses and evidence during the administrative investigation conducted by CA Associate Justice Hakim Abdulwahid. She was emphatically granted the opportunity to confront the complainant and her witnesses but the voluntary and knowing waiver of her presence divested her of the right to insist on the right to confrontation, if any.

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[28] *People v. Ayson*, G.R. No. 85215, July 7, 1989, 175 SCRA 216, 227; citing *Suarez v. Tengco*, G.R. No. L-17113, May 31, 1961, 2 SCRA 71, 73.

[29] G.R. No. 109775, November 14, 1996, 264 SCRA 167.

[30] Id. at 176.

The respondent contends that she was not given the opportunity to raise her objection to the certification issued by the SC-MISO. This contention is dismissed also because of the same voluntary waiver of her presence from the proceedings held before Justice Abdulwahid.

At any rate, the respondent alternatively pleads for compassion and mercy, and vows not to repeat the same transgressions. In this connection, she would have the Court consider in her favor the following mitigating circumstances pursuant to Section 48, Rule 10 of the *Revised Rules of Administrative Cases in Civil Service*,[31] which provides thus:

1. Medications on allergies as analogous circumstance to an unsubstantiated charge;

2. Good faith on each the unsubstantiated charge xxx;

3. First time offense of the unsubstantiated charge;

4. Lack of education or lack of experience on administrative matters as analogous circumstance to the unsubstantiated charge;

5. Newness or short number in the judicial service as analogous circumstance to the unsubstantiated charge;

6. Very different work culture from previous employment as unsubstantiated charge;

7. Lack of prejudice to the public as analogous circumstance to the unsubstantiated charge;

8. Remorse for not listening to the unsolicited advices of Court Administrator Jose Midas Marquez and Assistant Court Administrator

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[31] Section 48. Mitigating and Aggravating Circumstances.— In the determination of the penalties to be imposed, mitigating and/or aggravating circumstances attendant to the commission of the offense shall be considered.

The following circumstances shall be appreciated:

a. Physical illness;
b. Good faith;
c. Malice;
d. Time and place of offense;
e. Taking undue advantage of official position;
f. Taking undue advantage of subordinate;
g. Undue disclosure of confidential information;
h. Use of government property in the commission of the offense;
i. Habituality;
j. Offense is committed during office hours and within the premises of the office or building;
k. Employment of fraudulent means to commit or conceal the offense;
l. First offense;
m. Education;
n. Length of service; or
o. Other analogous circumstances.

Thelma Bahia as analogous circumstance to the unsubstantiated charge;

9. Lack of intent to commit any wrong as analogous circumstance to the unsubstantiated charge;

10. Previously received awards in the performance of his duties to the unsubstantiated charge; and

11. Outstanding court performance as to cases disposal for year to the unsubstantiated charge.[32]

The respondent's pleading is unworthy of sympathy.

Firstly, the respondent does not thereby present any compelling argument on how her having medications for allergies was analogous to physical illness under Section 48(a) of the *Revised Rules of Administrative Cases in Civil Service*. Although the list of circumstances in Section 48 is not exclusive because the provision expressly recognizes *other analogous circumstances*, she cannot simply state any situation without pointing out why it would be analogous to the listed circumstances. The Court is unable to appreciate how her consumption of medications for allergies could generate arrogance, insubordination, gross ignorance of laws, and offensive conduct that manifested themselves in the periods material to the administrative complaints.

Secondly, the respondent's overall conduct negated her allegation of good faith. Good faith implies the lack of any intention to commit a wrongdoing. Based on the totality of her acts and actuations, her claims of good faith and lack of intent to commit a wrong cannot be probable. According to *Civil Service Commission v. Maala*,[33] good faith as a defense in administrative investigations has been discussed in this wise:

> In common usage, the term "good faith" is ordinarily used to describe that state of mind denoting "honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry; an honest intention to abstain from taking any unconscientious advantage of another, even through technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious."
>
> In short, good faith is actually a question of intention. Although this is something internal, **we can ascertain a person's intention by relying not on his own protestations of good faith, which is self-**

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[32] *Rollo* (A.M. No. MTJ-12-1813), pp. 1037-1038.

[33] G.R. No. 165253, August 18, 2005, 467 SCRA 390, 399.

> **serving, but on evidence of his conduct and outward acts.** (bold emphasis supplied)

The respondent is reminded that her removal from the Judiciary by reason of her gross insubordination and gross misconduct did not proceed only from her non-compliance with A.O. No. 19-2011. Other acts and actuations were also efficient causes, namely: (1) her refusal to abide by the directive of MeTC Executive Judge Bibiano Colasito that resulted in the disruption of orderliness in the other Pasay City MeTCs to the prejudice of the public service and public interest; (2) her direct communications to the DOT Secretary and other agencies that seriously breached established protocols, thereby opening an irregular avenue to publicly broadcast her defiance to the directive of the Court itself; and (3) her willful disregard of the direct advice by the Court Administrator despite the latter being the official expressly authorized by law to assist the Court in exercising administrative supervision over all lower courts and personnel.[34]

Furthermore, we emphatically observed and pointed out in the decision of November 22, 2016 the following:

> In all, Judge Yu **exhibited an unbecoming arrogance** in committing insubordination and gross misconduct. By her refusal to adhere to and abide by A.O. No. 19-2011, **she deliberately disregarded her duty to serve as the embodiment of the law at all times. She thus held herself above the law by refusing to be bound by the issuance of the Court as the duly constituted authority on court procedures and the supervision of the lower courts.** To tolerate her insubordination and gross misconduct is to abet lawlessness on her part. She deserved to be removed from the service because she thereby revealed her unworthiness of being part of the Judiciary. (Bold emphasis supplied)

We have stated in the decision of November 22, 2016 that the respondent's recalcitrant streak did not end with her unbecoming repudiation of and defiance to A.O. No. 19-2011. To recall, she also exhibited extreme arrogance in rejecting the valid appointments of Ms. Lagman and Ms. Tejero-Lopez despite being fully aware that the appointing powers pertained to and were being thereby exercised by the Court, and that she was bereft of any discretion to control or reject the appointments. Under no circumstance could she be justified in draping herself with the mantle of good faith in regard to her insubordination and arrogance.

We also reject the respondent's appeal for relief based on her supposed lack of experience as a neophyte judge, and her previously

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[34] See Presidential Decree No. 828, as amended by Presidential Decree No. 842.

received awards and outstanding court performance. Lack of experience had no relevance in determining her administrative liabilities for acts and actuations fundamentally irregular or contrary to judicial ethical standards. We even believe that her being a novice in the Judiciary, instead of mitigating her liability, could have aggravated her offense, for her being a neophyte judge should have impelled her instead to practice greater prudence and caution in her daily actuations and performance. But instead of pausing and hesitating, she acted rashly and imprudently by condescendingly asserting herself over her peers, by flagrantly disobeying her superiors, including this Court, and by ignoring obvious boundaries that should have kept her in check or reined her in. On the other hand, the awards for outstanding performances as a professional and as a judge, far from accenting her good qualities as a person, rather highlighted her unworthiness to remain on the Bench by showing that her misconduct and general bad attitude as a member thereof has put the awards and recognitions in serious question.

2.
Disbarment is also to be imposed on the respondent

The respondent's accountability did not end with her removal from the Judiciary. In the decision of November 22, 2016, we declared that her misdemeanor as a member of the Bench could also cause her expulsion from the Legal Profession through disbarment. Consequently, we directed her to show good and sufficient cause why her actions and actuations should not also be considered grounds for her disbarment, justifying our directive in the following manner, *viz.*:

> The foregoing findings may already warrant Judge Yu's disbarment.
>
> A.M. No. 02-9-02-SC, dated September 17, 2002 and entitled *Re: Automatic Conversion of Some Administrative Cases Against Justices of the Court of Appeals and the Sandiganbayan; Judges of Regular and Special Courts; and Court Officials Who are Lawyers as Disciplinary Proceedings Against Them Both as Such Officials and as Members of the Philippine Bar*, relevantly states:
>
> > Some administrative cases against Justices of the Court of Appeals and the Sandiganbayan; judges of regular and special courts; and court officials who are lawyers are based on grounds which are likewise grounds for the disciplinary action of members of the Bar for violation of the Lawyer's Oath, the Code of Professional Responsibility, and the Canons of Professional Ethics, or for such other forms of breaches of

> conduct that have been traditionally recognized as grounds for the discipline of lawyers.
>
> In any of the foregoing instances, the administrative case shall also be considered a disciplinary action against the respondent Justice, judge or court official concerned as a member of the Bar. The respondent may forthwith be required to comment on the complaint and show cause why he should not also be suspended, disbarred or otherwise disciplinarily sanctioned as a member of the Bar. Judgment in both respects may be incorporated in one decision or resolution.

Under Section 27, Rule 138 of the *Rules of Court*, an attorney may be disbarred on the ground of gross misconduct and willful disobedience of any lawful order of a superior court. Given her wanton defiance of the Court's own directives, her open disrespect towards her fellow judges, her blatant abuse of the powers appurtenant to her judicial office, and her penchant for threatening the defenseless with legal actions to make them submit to her will, we should also be imposing the penalty of disbarment. The object of disbarment is not so much to punish the attorney herself as it is to safeguard the administration of justice, the courts and the public from the misconduct of officers of the court. Also, disbarment seeks to remove from the Law Profession attorneys who have disregarded their Lawyer's Oath and thereby proved themselves unfit to continue discharging the trust and respect given to them as members of the Bar.

The administrative charges against respondent Judge Yu based on grounds that were also grounds for disciplinary actions against members of the Bar could easily be treated as justifiable disciplinary initiatives against her as a member of the Bar. This treatment is explained by the fact that her membership in the Bar was an integral aspect of her qualification for judgeship. Also, her moral and actual unfitness to remain as a Judge, as found in these cases, reflected her indelible unfitness to remain as a member of the Bar. At the very least, a Judge like her who disobeyed the basic rules of judicial conduct should not remain as a member of the Bar because she had thereby also violated her Lawyer's Oath.

Indeed, respondent Judge Yu's violation of the fundamental tenets of judicial conduct embodied in the *New Code of Judicial Conduct for the Philippine Judiciary* would constitute a breach of the following canons of the Code of Professional Responsibility, to wit:

> CANON 1 — A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND FOR LEGAL PROCESSES.
>
> Rule 1.02 — A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.
>
> CANON 6 — THESE CANONS SHALL APPLY TO LAWYERS IN GOVERNMENT SERVICE IN THE DISCHARGE OF THEIR OFFICIAL TASKS.

> Rule 6.02 — A lawyer in the government service shall not use his public position to promote or advance his private interests, nor allow the latter to interfere with his public duties.
>
> CANON 11 — A LAWYER SHALL OBSERVE AND MAINTAIN THE RESPECT DUE TO THE COURTS AND TO JUDICIAL OFFICERS AND SHOULD INSIST ON SIMILAR CONDUCT BY OTHERS.
>
> Rule 11.03 — A lawyer shall abstain from scandalous, offensive or menacing language or behavior before the Courts.

The Court does not take lightly the ramifications of Judge Yu's misbehavior and misconduct as a judicial officer. By penalizing her with the supreme penalty of dismissal from the service, she should not anymore be allowed to remain a member of the Law Profession.

However, this rule of fusing the dismissal of a Judge with disbarment does not in any way dispense with or set aside the respondent's right to due process. As such, her disbarment as an offshoot of A.M. No. 02-9-02-SC without requiring her to comment on the disbarment would be violative of her right to due process. To accord due process to her, therefore, she should first be afforded the opportunity to defend her professional standing as a lawyer before the Court would determine whether or not to disbar her.

In her comment, the respondent reiterates her submissions in the *Motion for Reconsideration with Explanation for the Show Cause Order*. Considering that we have dismissed her pleadings altogether for the reasons given earlier, her disbarment is now inevitable.

Section 27, Rule 138 of the *Rules of Court* reads:

> Sec. 27. *Attorneys removed or suspended by Supreme Court on what grounds*. — A member of the bar may be removed or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or **other gross misconduct in such office**, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for **any violation of the oath which he is required to take before the admission to practice, or for a willful disobedience of any lawful order of a superior court**, or for corruptly or willfully appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

Accordingly, gross misconduct, violation of the Lawyer's Oath, and willful disobedience of any lawful order by the Court constitute grounds to disbar an attorney. In the respondent's case, she was herein found to have committed all of these grounds for disbarment, warranting her immediate disbarment as a consequence.

We deem it worthwhile to remind that the penalty of disbarment being hereby imposed does not equate to stripping the respondent of the source of her livelihood. Disbarment is intended to protect the administration of justice by ensuring that those taking part in it as attorneys should be competent, honorable and reliable to enable the courts and the clients they serve to rightly repose their confidence in them.[35]

Once again, we express our disdain for judges and attorneys who undeservedly think too highly of themselves, their personal and professional qualifications and qualities at the expense of the nobility of the Law Profession. It is well to remind the respondent that membership in the Law Profession is not like that in any ordinary trade. The Law is a noble calling, and only the individuals who are competent and fit according to the canons and standards set by this Court, the law and the *Rules of Court* may be bestowed the privilege to practice it.[36]

Lastly, every lawyer must pursue only the highest standards in the practice of his calling. The practice of law is a privilege, and only those adjudged qualified are permitted to do so.[37] The respondent has fallen short of this standard thus meriting her expulsion from the profession.

WHEREFORE, the Court **DENIES** the *Motion for Reconsideration with Explanation for the Show Cause Order* with **FINALITY**; **DISBARS EFFECTIVE IMMEDIATELY** respondent **ELIZA B. YU** pursuant to A.M. No. 02-9-02-SC for violation of the Lawyer's Oath, the *Code of Professional Responsibility*, and the *Canons of Professional Ethics*; and **ORDERS** the striking off of respondent **ELIZA B. YU**'s name from the Roll of Attorneys.

Let copies of this resolution be furnished to: (a) the Office of the Court Administrator for dissemination to all courts throughout the country for their information and guidance; (b) the Integrated Bar of the Philippines;

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[35] *Office of the Court Administrator v. Tormis*, A.C. No. 9920, August 30, 2016; *Avancena v. Liwanag*, A.M. No. MTJ-01-1383, July 17, 2003, 406 SCRA 300, 305.

[36] *Sanchez v. Somoso*, A.C. No. 6061, October 3, 2003, 412 SCRA 569. 572.

[37] *Avancena v. Liwanag*, supra at 304.

and (c) the Office of the Bar Confidant to be appended to the respondent's personal record as a member of the Bar.

SO ORDERED.

MARIA LOURDES P.A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

SAMUEL R. MARTIRES
Associate Justice

NOEL G. TIJAM
Associate Justice

CERTIFIED XEROX COPY:
FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT