

Statement

Our job as legal educators is to shape lawyers, not fixers. That is why we take plagiarism and other forms of cheating very seriously. We do not want intellectually dishonest lawyers because we know how easily they can succumb to graver forms of corruption. But all our efforts will be in vain if the highest court tolerates the practice.

Those who copy other people's work and pass them off as their own have no place in the legal profession because the profession requires integrity. We feel very strongly about plagiarism and cheating in general because these practices undermine our purpose as educators, which is to instill in our students not just the techniques but the ideals of the legal profession.

But these are days when even the Supreme Court can twist words "out of all semblance of meaning."¹ The decision exonerating Justice Mariano del Castillo, and the "show-cause" order against the U.P. law professors, "are fitting examples."² In the first, the Court conveniently changed the definition of plagiarism to justify a member's exoneration. In the second, the Court mistook the statement of the U.P. law faculty as an "institutional attack" on the judiciary when the statement was issued precisely to preserve the rule of law in our country.

On previous occasions, the Court defined plagiarism as the act of using another's work without the author's consent.³ Plagiarism—as the Court defined it then—did not require any malicious intent. In deciding the ethics case of Justice del Castillo, however, the Court added "intent to deceive" as an essential element of plagiarism:

"...Thus, plagiarism presupposes intent and a deliberate, conscious effort to steal another's work and pass it off as one's own."⁴

Applying this definition, the Court exonerated Justice del Castillo because "...there was...never any malicious intent [on his part] to appropriate another's work as our own...."⁵

¹ H. McNeil Dixon, The Human Situation, New York, Oxford University Press, 1946, as cited by Jose W. Diokno in his Memorandum dated 15 October 1981, p. 1, in Dela Llana vs. Alba, G.R. No. 57883.

² Jose W. Diokno, Memorandum dated 15 October 1981, p. 1, in Dela Llana vs. Alba, G.R. No. 57883.

³ See *Habana v. Robles*, G.R. No. 131522. July 19, 1999 and A.M. No. 05-3-08-SC, at par. 5 ["copying a computer file that contains another person's work and submitting it for one's own credit, or using it as a model for one's own work, without the consent or permission of the owner or author of the work."].

⁴ CITE TO ETHICS DECISION & PAGE; THEN ADD: The Court also said: "...P]lagiarism is **essentially a form of fraud where intent to deceive is inherent.**"

⁵ CITE TO ETHICS DECISION & PAGE...

But plagiarism in academic circles has never required intent to deceive. For us, plagiarism caused by negligence or recklessness is still plagiarism. The lack of malicious intent may mitigate the penalty, but does not negate the plagiarism itself. With the Court's new definition of plagiarism, we are left to wonder: is this the standard that we should now apply to our students?

As Justice Maria Lourdes Sereno pointed out in her dissenting opinion, the Court's action has "...rendered tenuous its ability to positively educate and influence the future of intellectual and academic discourse."⁶

The charges against Justice del Castillo were not just about a few acts of copying without attribution: by Justice Sereno's count, they involved at least **19** separate acts of plagiarism.⁷ The acts, moreover, were not confined to the footnotes, as Justice Sereno also found unattributed statements in the body of Justice del Castillo's decision.⁸ By our academic standard, that is plagiarism. By the Court's standard, it is not. What standard should we now apply to our law students, the country's future lawyers?

The dean and law professors of the University of the Philippines deserve praise, not censure, for publicly criticizing the Supreme Court. The members of the Court may not agree with them; they may even feel hurt by the words used; but this does not justify the use of the strong arm of the law to gag the law professors into submission.

We therefore exhort the Court to abandon its new definition of plagiarism and dissolve the show-cause order against the law dean and professors of the University of the Philippines.

5 November 2010, Manila, Philippines.

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⁶ Sereno, J., dissenting opinion in A.M. No. 10-7-17-SC – In the Matter of the Charges of Plagiarism, etc. Against Associate Justice Mariano C. del Castillo, p. 29.

⁷ Id. at pp. 15-17.

⁸ Id. See par. A.1 on p. 15 ["failure to use quotation marks to indicate that the entire paragraph in the body of the decision on page 30 was not the ponente's original paragraph, but was lifted verbatim from Tam's work"]; par. B.10 on p. 16 [...phrase in the body of the decision on page 31...was lifted verbatim from page 336 of Criddle & Fox-Decent's work"]; and par. B.14 on p. 17 ["...first two sentences of page 32...was lifted verbatim from two non-adjointing sentences on pages 337-338 of Criddle & Fox-Decent's work"].

Faculty members of the College of Law:
