

JUDGE AMADO S. CAGUIOA (RET.), COMPLAINANT, VS. ELIZABETH G. AUCENA, COURT LEGAL RESEARCHER II, REGIONAL TRIAL COURT, BRANCH 4, BAGUIO CITY, RESPONDENT.

A.M. No. P-09-2646 (Formerly OCA I.P.I. No. 08-2911-P). June 18, 2012

Ponente: PERALTA, J.

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PERALTA, J.:

The instant administrative case arose from a letter-complaint dated February 8, 2008 of complainant Judge Amado S. Caguioa, former Presiding Judge of the Regional Trial Court, Branch 4 of Baguio City, charging respondent Elizabeth G. Aucena, Court Legal Researcher II of the same court, with Dishonesty and Falsification of Official Document relative to Civil Case No. 775-FC entitled, In the Matter of the Custody of Minors, AAA, BBB and CCC, DDD, Petitioner, v. EEE, Respondent.[1]

As borne by the records, on June 28, 2007, complainant judge issued the following Order:

In chambers the respondent mother, EEE,[2] agreed to give custody of her three (3) minor children to the custody of (sic) the petitioner-auntie of the husband. While she was allowed visitorial rights, it will always be under the watchful eyes of the petitioner-auntie as she admitted that one time she lost her temper and inflicted injuries to (sic) two of the children. She was admonished not to ever do it again.

SO ORDERED.[3]

Meanwhile, on November 10, 2007, Judge Caguioa retired from service. In his letter-complaint addressed to Executive Judge Edilberto T. Claravall,[4] Judge Caguioa alleged that the subject order was altered in January 2008, or almost two months after his retirement. Judge Caguioa said that Court Stenographer Leonila Fernandez admitted to him that she was instructed by respondent to type the following as the last sentence of the order:

In view of the agreement of the parties, this case is hereby DISMISSED.[5]

Afterwards, respondent had a copy of the Order received by the Records Section of the City Prosecutor's Office (CPO) of Baguio City. Thereafter, when the Acting Branch Clerk of Court refused to issue any certification based on the altered order, the alteration became known to the staff. Complainant stated that respondent even attempted to have the receipt of the copy of the altered order by the CPO ante-dated to make it appear that the altered order was received on June 28, 2007. With the refusal of the Acting Clerk of Court to issue the certification and the prosecutor's office to ante-date the receipt of the order, respondent had to retrieve the distributed orders and cover the alteration with correction fluid. Complainant judge concluded that although no serious damage had resulted, the act is still grave and must not be left unpunished. Thus, he asked for a proper administrative investigation regarding the incident.

After being furnished with the copy of the complaint, Executive Judge Claravall directed the respondent to explain why no administrative charge and/or criminal complaint for falsification of document should be instituted against her. In compliance with the order of the executive judge, respondent submitted her explanation.

The case was referred by Executive Judge Claravall to the Office of the Court Administrator (OCA), which docketed the complaint as OCA-I.P.I. No. 08-2911-P. The OCA forthwith required respondent to submit her Comment.

In her Comment dated October 2, 2008, respondent admitted having ordered the insertion of the sentence in the order as alleged by the complainant, but contended that it was done in good faith to complete a rather incomplete order which failed to depict the real situation, that is, that the case was already dismissed because of the agreement reached by the parties. Respondent denied that she attempted to have the date of the receipt of the order by the CPO ante-dated. She admitted, however, that her act of inserting the last sentence in the order was unjustified and apologized for this error. She begged for understanding and leniency, since the act was done purely in good faith with no malice or ill motives, and promised not to commit the same mistake in the future. She informed the Court that this is the first time that an administrative case has been filed against her and pleaded the court that her sincere apology be accepted and that she be accorded with leniency.

In his Reply, complainant declared that the reasons offered by respondent are untenable. He explained that it was incorrect for the respondent to assume that his order was incomplete, since what transpired during the hearing was that the mother gave up the custody of her children to their biological father's aunt. On the contrary, the dismissal of the case, as respondent would have wanted, would return the custody of the children to the mother.

In her Rejoinder dated December 21, 2008, respondent explained that when a certificate of finality of the case was requested, she was under the impression that no such certificate can be issued without an order expressly stating that the case was finally disposed and terminated. Thus, out of compassion for the three (3) minors involved, who had to process their papers to leave for the United States, she caused the insertion of the above-mentioned sentence but she immediately erased the sentence, upon realizing her honest mistake.

After evaluating the case, the OCA recommended that the case be re-docketed as a regular administrative matter, and respondent be found guilty of dishonesty and be suspended from the service for six (6) months, with a stern warning that a repetition of the same or similar act in the future shall be dealt with more severely.[6]

The Court, in its Resolution dated June 29, 2009, resolved to adopt and approve the recommendation of the OCA, thus:

- (1) RE-DOCKET this case as a regular administrative matter; and
- (2) HOLD respondent Elizabeth G. Aucena GUILTY of dishonesty and suspend her for six (6) months without pay, with a STERN WARNING that a repetition of the same or similar acts in the future shall be dealt with more severely.

A motion for reconsideration, dated August 25, 2009, was filed by the respondent praying that the Court reduce the penalty imposed upon her, because a six (6)-month suspension is too harsh considering that she is a widow and the only one supporting her five (5) children.

On September 9, 2009, in response to the motion for reconsideration, the Court issued a Resolution amending[7] its June 29, 2009 resolution to read as follows:

- 1) RE-DOCKET this case as a regular administrative matter; and,
- 2) REQUIRE the parties to MANIFEST to the Court if they are willing to submit the case for resolution based on the pleadings filed, within ten (10) days from receipt of herein resolution.[8]

In response to the latest resolution of the Court, the respondent, on October 1, 2009, filed her Manifestation and Motion informing the Court that she was willing to submit the case for resolution based on the pleadings and

motions filed, and likewise, manifested that she had already commenced serving her suspension from September 2, 2009 to September 30, 2009, in view of the earlier resolution of the Court, dated June 29, 2009.

In a Resolution dated December 9, 2009, the Court referred back the case to the OCA for evaluation, report and recommendation. The OCA, in its Report dated March 30, 2010, recommended that respondent should be liable for dishonesty and suspended for six months, with a stern warning that a repetition of the same or similar acts shall be dealt with more severely, and that the period respondent did not work, pursuant to the June 29, 2009 resolution, should be deducted from the 6-month suspension, and considered as partial service of her penalty.

The Court's Ruling

The Court finds the recommendation of the OCA to be well taken and, thus, holds respondent administratively liable for dishonesty.

The Code of Conduct and Ethical Standards for Public Officials and Employees enunciates the State's policy of promoting a high standard of ethics and utmost responsibility in the public service. And no other office in the government service exacts a greater demand for moral righteousness and uprightness from an employee than the judiciary. Persons involved in the dispensation of justice, from the highest official to the lowest clerk, must live up to the strictest standards of integrity, probity, uprightness and diligence in the public service. As the assumption of public office is impressed with paramount public interest, which requires the highest standards of ethics, persons aspiring for public office must observe honesty, candor and faithful compliance with the law.[9]

Respondent committed dishonesty by causing the unauthorized insertion of an additional sentence in the trial court's order. Dishonesty has been defined as a disposition to lie, cheat, deceive or defraud. It implies untrustworthiness, lack of integrity, lack of honesty, probity or integrity in principle on the part of the individual who failed to exercise fairness and straightforwardness in his or her dealings.[10] By her act, she has compromised and undermined the public's faith in the records of the court below and, ultimately, the integrity of the Judiciary.[11] To tolerate such act would open the floodgates to fraud by court personnel.

Respondent's contention that she just inserted the sentence in order to complete a rather incomplete order, and to depict the real situation, i.e., that the case was already dismissed because of the agreement reached by the parties, is not acceptable. The insertion of an additional sentence in an order of the trial court, regardless of the reason is not among her duties.[12] A legal researcher's duty focuses mainly on verifying legal authorities, drafting memoranda on evidence, outlining facts and issues in cases set for pre-trial, and keeping track of the status of cases.[13]

In *Salvador v. Serrano*, [14] the Court held that courts have the inherent power to amend and control their process and orders to make them conformable to law and justice. But such power rests upon the judge and not to clerks of court who only perform adjudicative support functions and non-adjudicative functions. In the same vein, the power to amend court orders cannot be performed by a legal researcher. It is well to remind that court personnel are obliged to accord the integrity of court records of paramount importance, as these are vital instruments in the dispensation of justice.

Under Section 52 (A) (1), [15] Rule IV of the Uniform Rules on Administrative Cases in the Civil Service, [16] promulgated by the Civil Service Commission through Resolution No. 99-1936 dated August 31, 1999 and implemented by Memorandum Circular No. 19, series of 1999, dishonesty is a grave offense punishable by dismissal from the service for the first offense. However, the Court, in certain instances, has not imposed the penalty of dismissal due to the presence of mitigating factors such as the length of service, being a first-time offender, acknowledgment of the infractions, and remorse by the respondent.[17] The Court has also ruled that

where a penalty less punitive would suffice, whatever missteps may be committed by labor ought not to be visited with a consequence so severe. It is not only for the law's concern for the workingman; there is, in addition, his family to consider. Unemployment brings untold hardships and sorrows on those dependent on wage earners.[18]

The compassion extended by the Court in these cases was not without legal basis. Section 53, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service, grants the disciplining authority the discretion to consider mitigating circumstances in the imposition of the proper penalty.

Considering that this is respondent's first offense in her twenty-two (22) years of service in the Judiciary, the admission of her act and her sincere apology for her mistake, her firm resolve not to commit the same mistake in the future, and taking into account that she is a widow and the only one supporting her five children, the recommended penalty of suspension for a period of six (6) months is in order.

WHEREFORE, respondent ELIZABETH G. AUCENA, Court Legal Researcher II, Regional Trial Court, Branch 4 of Baguio City, is found GUILTY of dishonesty. She is hereby SUSPENDED for a period of six (6) months without pay, effective immediately upon her receipt of this Decision. She is STERNLY WARNED that a repetition of the same or similar acts in the future shall be dealt with more severely. The period of suspension that respondent had previously served shall be DEDUCTED from the six-month suspension and shall be considered as partial service of the penalty imposed.

SO ORDERED.

Bersamin[,**] Abad, Villarama,[***] and Perlas-Bernabe, JJ., concur.
Peralta, J., (Acting Chairperson),[*]

[*] Per Special Order No. 1228 dated June 6, 2012.

[**] Designated Acting Member in lieu of Associate Justice Jose Catral Mendoza, Jr., per Special Order No. 1241 dated June 14, 2012.

[***] Designated Acting Member in lieu of Associate Justice Presbitero J. Velasco, Jr., per Special Order No. 1229 dated June 6, 2012.

[1] The minors are referred to as AAA, BBB and CCC; the minors' biological father's aunt as DDD; and the children's mother EEE, per Republic Act No. 9262 and A.M. No. 04-10-11-SC. See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[2] *Id.*

[3] Order of the trial court, dated June 28, 2007, without the additional sentence.

[4] RTC, First Judicial Region, Baguio City.

[5] Order of the trial court, dated June 28, 2007, with the additional sentence.

[6] Evaluation and recommendation submitted by Court Administrator Jose P. Perez (now a member of this Court) and Deputy Court Administrator Reuben P. De La Cruz.

[7] The Court ruled to amend the June 29, 2009 Resolution because in said resolution, it adopted the recommendation of the OCA to impose disciplinary sanction when the parties have not yet submitted their respective pleadings.

[8] Resolution of the Court dated September 9, 2009.

[9] Office of the Court Administrator v. Flores, A.M. No. P-07-2366 (Formerly OCA I.P.I. No. 07-2519-P), April 16, 2009, 585 SCRA 82, 91-92.

[10] Re: Deceitful Conduct of Ignacio S. Del Rosario, Cash Clerk III, Records and Miscellaneous Matter Section, Checks Disbursement Division, FMO-OCA, A.M. No. 2011-05-SC, September 06, 2011.

[11] Judge Almario v. Atty. Resus, 376 Phil. 857, 869 (1999).

[12] The duties of a Legal Researcher in the RTC are described under 2.2.1 of Chapter 6, of the 2002 Revised Manual for Clerks of Court, to wit:

2.2.1.1. verifies authorities on questions of law raised by parties-litigants in cases brought before the Court as may be assigned by the Presiding Judge;

2.2.1.2. prepares memoranda on evidence adduced by the parties after the hearing;

2.2.1.3. prepares outlines of the facts and issues involved in cases set for pre-trial for the guidance of the Presiding Judge;

2.2.1.4. prepares indexes to be attached to the records showing the important pleadings filed, the pages where they may be found, and in general, the status of the case;

2.2.1.5. prepares and submits to the Branch Clerk of Court a monthly list of cases or motions submitted for decision or resolution, indicating therein the deadlines for acting on the same; and

2.2.1.6. performs such other duties as may be assigned by the Presiding Judge or the Branch Clerk of Court.

[13] Apita v. Estanislao, A.M. No. P-06-2206, March 16, 2011, 645 SCRA 367, 372.

[14] A.M. No. P-06-2104 (Formerly OCA I.P.I. No. 02-1484-P), January 31, 2006, 481 SCRA 55, 69-70.

[15] SEC. 52. Administrative offenses with its corresponding penalties are classified into grave, less grave, and light, depending on the gravity or depravity and effects on the government service. A. The following are grave offenses with their corresponding penalties:

1. Dishonesty

1[st] offense - Dismissal

[16] Amending Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292.

[17] Re: Unauthorized Disposal of Unnecessary and Scrap Materials in the Supreme Court Baguio Compound, and the Irregularity on the Bundy Cards of Some Personnel, A.M. No. 2007-17-SC, July 7, 2009, 592 SCRA 12; Arganosa-Maniego, v. Salinas, Utility Worker I, Municipal Circuit Trial Court, Macabebe-Masantol, Macabebe, Pampanga, A.M. No. P-07-2400 (Formerly OCA I.P.I. No. 07-2589-P), June 23, 2009, 590 SCRA 531; Office of the Court Administrator v. Flores, supra; De Vera v. Rimas, A.M. No. P-06-2118 (Formerly OCA I.P.I. No. 05-2189-P), June 12, 2008, 554 SCRA 253; De Guzman, Jr. v. Mendoza, A.M. No. P-03-1693, March 17, 2005, 453 SCRA 565; Office of the Court Administrator v. Ibay, A.M. No. P-02-1649, November 29, 2002, 393 SCRA 212.

[18] Arganosa-Maniego v. Salinas, Utility Worker I, Municipal Circuit Trial Court, Macabebe-Masantol, Macabebe, Pampanga, supra, at 547.

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