

**ACTING EXECUTIVE JUDGE HENRI JP INTING, COMPLAINANT, VS.
LANI D. BORJA, COURT STENOGRAPHER, METC, BRANCH 33,
QUEZON CITY RESPONDENT.**

A.M. No. P-03-1707. July 27, 2004

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

The facts which spawned the filing of the complaint at bar are as follows:

In a Sinumpaang Salaysay/Sumbong[1] dated February 5, 1998, Abdal M. Sarip (Sarip) charged Jimmy Maruhom (Maruhom), a sheriff of the Quezon City Metropolitan Trial Court (MeTC), with Dishonesty and Misconduct arising from the alleged act of Maruhom in misrepresenting himself, along with one Robert Paudac, of being an agent of one Nelia Valera from whom he (Sarip), upon being convinced by Maruhom, purchased a house in Holy Spirit, Quezon City which was eventually demolished as having been illegally constructed on a lot said to belong to Tambunting Realty Corporation.

After Maruhom filed a Comment[2] to Sarip's complaint denying the charges, this Court, by Resolution of March 7, 2001,[3] referred the case to the Quezon City MeTC Executive Judge for investigation, report and recommendation.

The MeTC Executive Judge accordingly scheduled the case for investigation. On May 28, 2001, Sarip took the witness stand. The stenographic notes of his testimony were not transcribed, however, as by Explanation dated June 26, 2001[4] of Lani D. Borja of Branch 33 of the MeTC who took the notes, the backpack in which she placed them was snatched in the evening of June 21, 2001 by an unidentified man while she was on her way home on board a jeepney bound for Balic Balic, Sampaloc, Manila. To Borja's Explanation was attached a photocopy of a June 22, 2001 "ALARM REPORT"[5] recorded by SPO1 Jessie N. Oliveros of the Sampaloc Police reflecting the complaint of Borja about the snatching on June 21, 2001 at 6:30 p.m. The "ALARM REPORT" reads:

NATURE OF THE CASE : ROBBERY (SNATCHING) P300.00

COMPLAINANT : LANI D. BORJA Y DUCOT, 42 yrs old, married, employee, and res. At 742 T. Anzures St., Sampaloc, Manila.

LOSSES : One black backpack bag, containing the ff:

1. Cash Money worth P300.00 placed inside a ladies maroon wallet.
2. One pc. ATM Card (Allied Bank)
3. Pertinent Documents, etc.

SUSPECTS : FOUR (4) malefactors, whose description were not given.

DATE/TIME/PLACE OF OCCURRENCE : June 21, 2001 at around 6:30 p.m. committed inside the passenger jeepney located along J. Fajardo St., Governor Forbes St., Samp., Manila.

FACTS OF THE CASE:

Complainant personally came to this station and reported the aforecited case for investigation.

It appears that on or about the 22[nd] day of June 2001 at around 6:30 p.m. while complainant was on board a Balic-Balic bound passenger jeepney located along J. Fajardo St., Sampaloc, Manila, when one of the suspects who was then hanging flamboyantly at the rear end of the jeepney, suddenly snatched her backpack bag containing the aforecited losses. Once in possession, suspect, together with his cohorts, hurriedly jumped off and fled with the loot in unknown destination.

Complainant further avers that she was not able to recognize the suspects because it was already dark and their heads/faces were outside the jeepney as they were moving towards the direction of Balic-Balic Sampaloc, Manila.

In view thereof, this case will be placed under further investigation and follow-up. (Underscoring supplied)

The MeTC Executive Judge, by letter to this Court dated July 3, 2001,[6] sought an extension of the period to file his report on the case against Maruhom on account of the retaking of the testimony of Sarip due to the loss of the stenographic notes of his (Sarip's) original testimony. Despite the scheduling and rescheduling of the retaking of Sarip's testimony, Sarip never showed up.

By Order of February 5, 2002,[7] the MeTC Executive Judge forwarded the record of the case against Maruhom to the Office of the Court Administrator (OCA) "for further proceedings" in light of the failure to retake the testimony of Sarip owing to his failure to appear.

The OCA thereupon evaluated the case and by Memorandum of April 21, 2003,[8] it found the accusation against Maruhom as bereft of merit in light of the observations made therein.

WITH RESPECT TO THE LOSS OF THE STENOGRAPHIC NOTES, now the subject of the present decision, the OCA recommended that it be treated as a separate administrative case, for negligence, against stenographer Lani D. Borja; and that since she had already been "given the chance to explain her side per her letter-explanation dated 2[6], June 2001 admitting that she lost the subject stenographic notes on June 21, 2001 but claiming good faith, such explanation must be considered as a sufficient compliance [with] the requirement of due process."

On the merits of the case against Borja, the OCA found that she "is undeniably administratively liable for negligence, it appearing that she failed to ask prior permission from her immediate supervisor to bring home the court records and . . . to provide proper protection and measure to prevent the loss of the same record while in transit." The OCA hastened to suggest, however, that she be held liable for Simple Neglect of Duty and that since this was her first offense, her liability may be reduced.

Accordingly, the OCA recommended as follows:

- The instant complaint against Sheriff Dipangampong R. Maruhom, MeTC, OCC, Quezon City, be DISMISSED for lack of merit;
- The letter-report dated 03 July 2001 of then Acting Executive Judge Jenri JP Inting, MeTC, Branch 33, Quezon City reporting the loss of the stenographic notes taken during the hearing on 28 May 2001 be DOCKETED as a separate administrative case against Court Stenographer Lani D. Borja, MeTC, Branch 33,

Quezon City;

- The letter-explanation dated 26 June 2001 of Court Stenographer Lani D. Borja, MeTC, Branch 33, Quezon City admitting that she lost the subject notes on 21 June 2001 when her back pack bag was suddenly snatched by an unknown male person while she was inside a public utility jeepney bounded for Balic-Balic, Sampaloc, be NOTED.

- Court Stenographer Lani D. Borja, MeTC, Branch 33, Quezon City, be found guilty of NEGLIGENCE for failure to ask prior permission from her immediate superior to bring at home court records and for failure to provide proper protection and measure to prevent the loss of the same record and she be meted the penalty of suspension of one (1) month and one (1) day without pay with a WARNING that a repetition of similar act in the future will be dealt with more severely.

By Resolution of June 9, 2003,[9] this Court Resolved to ADOPT the first three immediately quoted recommendations of the OCA, and Required Borja and the MeTC Executive Judge to MANIFEST within twenty (20) days from notice whether they are submitting the case for resolution on the basis of the pleadings/records already filed and submitted. In compliance with this Court's directive, Borja filed a Manifestation dated October 2, 2003[10] declaring as follows:

In compliance [with] the Honorable Court's resolution dated June 9, 2003, the undersigned respectfully manifest the following:

That on June 21, 2001 at around 6:30 in the evening, the undersigned boarded a jeepney bounded for Balic-Balic, in the vicinity of J. Fajardo Street, Sampaloc Manila;

A male person boarded that same jeepney at the rear exit thereof. Suddenly, that male person grabbed and stolen (sic) the backpack bag of the undersigned where her stenographic notes for the hearing of OCA IPI No. 99-627-P, Abdal M. Sarip vs. Dipangampong R. Maruhom, held on May 28, 2001, was kept for purposes of transcribing the sane (sic) in her house due to heavy loads.

Proof of this event is the duplicate original of the Police Report executed by Police Investigator Jessie N. Oliveros and appended as Annex "A."

Henceforth, undersigned remains hopeful that the Court shall find her manifestation meritorious and the case filed against her be Dismissed.

Simple Neglect of Duty has been defined as the failure of an employee to give attention to a task expected of him and signifies a disregard of a duty resulting from carelessness or indifference.[11] That Borja failed to priorly seek the authority of her immediate superior to bring home the stenographic notes and to safeguard them reflect her disregard of a duty arising from carelessness or indifference.

The recommendation of the OCA to fault Lani D. Borja for Simple Negligence of Duty is thus well-taken. And so is the recommended penalty, this being Borja's first offense. For Section 19 of Civil Service Commission Memorandum Circular No. 19, s. 1999 classifies Simple Neglect of Duty as a less grave offense and imposes the penalty, for the first offense, of suspension for One (1) Month and One (1) Day to Six (6) Months without pay.[12]

WHEREFORE, respondent Lani D. Borja, stenographer of Branch 33 of the Metropolitan Trial Court of Quezon City, is hereby found guilty of Simple Neglect of Duty and is hereby suspended without pay for One (1) Month and One (1) Day, with warning that a repetition of the same or similar act shall be dealt with more strictly.

SO ORDERED.

Panganiban, (Chairman), and Sandoval-Gutierrez, JJ., concur.
Corona, J., on leave.

[1] Rollo at 6-7.

[2] Id. at 13.

[3] Id. at 67.

[4] Id. at 144.

[5] Id. at 145.

[6] Id. at 147.

[7] Id. at 232.

[8] Id. at 246-251.

[9] Id. at 252-253.

[10] Id. at 257.

[11] Acting Presiding Judge Leopoldo Cañete v. Nelson Manlosa, A.M. No. P-02-1547, October 3, 2003, citing Philippine Retirement Authority v. Rupa, 363 SCRA 480, (2001).

[12] Nery v. Gumolo, 397 SCRA 110, 118 (2003).

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