

**ATTY. NOREEN T. BASILIO, CLERK OF COURT, COMPLAINANT, VS.
MELINDA M. DINIO, COURT STENOGRAPHER III, BRANCH 129,
REGIONAL TRIAL COURT, CALOOCAN CITY, RESPONDENT.**

A.M. No. P-09-2700 (FORMERLY OCA I.P.I. No. 08-2976-P). November 15, 2010

Ponente: BRION, J.

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BRION, J.:

In a Report dated August 11, 2008,[1] Atty. Noreen T. Basilio (Atty. Basilio), Clerk of Court of Branch 129, Regional Trial Court (RTC), Caloocan City, accused Court Stenographer Melinda M. Dinio (Dinio) of disrespectful conduct and insubordination due to the latter's refusal to remit to the Office of the Clerk of Court (Caloocan City) a portion of the amount of three hundred pesos (P300.00) she received as payment for a copy of her stenographic notes.

According to Atty. Basilio, as testified to by Court Aide Teodorico B. Ibas (Ibas)[2] and Court Stenographer Evelyn R. Santander (Santander),[3] Atty. Jobert Pahilga (Atty. Pahilga) came into their office on July 30, 2008, at around 9:30 in the morning. He approached stenographers Dinio and Santander and requested for a copy of the stenographic notes taken at the hearings of his case. Atty. Pahilga paid them the amount of five hundred pesos (P500.00); two hundred pesos (P200.00) to Santander and three hundred pesos (P300.00) to Dinio, with the request that the transcripts be made available before his next scheduled hearing.

After Atty. Pahilga left the office, Atty. Basilio advised the stenographers to remit a portion of the amount they received to the Office of the Clerk of Court, in compliance with Section 11, Rule 141 of the Rules of Court,[4] and Administrative Matter (A.M.) No. 04-2-04-SC.[5] Dinio, in an angry tone, protested: "wala akong pera, wala namang nakakita ah, niyayari ko pa nga yan sa bahay, ako gumagastos, ako nagbabayad ng kuryente at ilaw." (I don't have any money. Besides, no one saw it. I finished them at home, spending my own money to pay for electricity.) Atty. Basilio retorted that she was witness to the payment by Atty. Pahilga, and told her that there was no reason for her not to remit the money considering that the other stenographers were remitting the payments made to them. Furious with Atty. Basilio's comments, Dinio - pointing at the judge's chambers - shouted at her, "eh di magsumbong ka, pumasok ka dun! Ngayon na!" (I don't care if you report me. Go there! Now!). Atty. Basilio was stunned by Dinio's reaction and was rendered speechless.

Hours after the incident, Atty. Basilio reported the matter to Hon. Thelma C. Trinidad-Pe Aguirre (Judge Pe Aguirre), the Presiding Judge of Branch 129. Judge Pe Aguirre called for a meeting the next day to remind the office staff to observe administrative rules and regulations. Atty. Basilio noticed that after the meeting, Dinio did not even express any remorse on how she had treated her. Nor did Dinio ever remit the money paid to the Office of the Clerk of Court.

In her Comment,[6] Dinio admitted the truth of her alleged verbal statement that she transcribes her stenographic notes at home. She explained that due to the heavy workload in their branch - consisting of attending hearings of cases, transcribing stenographic notes, and typing the drafts and final copies of orders and decisions issued by the

court - she had to bring work home every night and finish the transcripts in the wee hours of the morning to prevent the accumulation of pending notes for transcription. In order to offset the expenses of doing her work at home and to buy things she regularly needs for her work, such as a tape recorder, blank tapes and batteries, she charges the requesting parties the amount of ten pesos (P10.00) per page of the transcript of stenographic notes (TSN), which is the amount prescribed under the Rules of Court and by A.M. No. 04-2-04-SC.

Dinio added that she has been working with the court for almost fifteen (15) years and it is only now that someone filed a complaint against her. She supposed that Atty. Basilio's allegations resulted from a misunderstanding as the latter was new and could have not been that acquainted with how people in the office often joked around and how these jokes are not to be taken seriously. Atty. Basilio could have misinterpreted her words, said in jest, as acts of insubordination.

From a review of the case records, the Office of the Court Administrator (OCA) found Dinio liable for disrespectful conduct and violation of Section 14, Rule 136 and Section 11, Rule 141 of the Rules of Court (Rules) for the non-remittance of payment of TSN. While the offense committed by Dinio carries a penalty of suspension from one (1) month and 1 day to six (6) months, the OCA deemed it reasonable and sufficient to recommend the imposition of a fine of five thousand pesos (P5,000.00) in order not to hamper office operations. The OCA also recommended that Dinio be given a stern warning that a repetition of the same or similar act shall be dealt with more severely.

In a Resolution dated October 23, 2009,[7] this Court ordered the redocketing of the instant complaint as a regular administrative matter and required the parties to manifest their willingness to submit the matter for resolution within ten days from notice, based on the pleadings already filed.

For failure of both parties to file their manifestation, this Court, in another Resolution,[8] required them to show cause why they should not be disciplinarily dealt with, or held in contempt, and to comply with its order within ten (10) days from notice.

In a letter dated August 31, 2010,[9] Mr. Nestor G. Dela Cruz (Dela Cruz), Officer-in-Charge of Branch 129, RTC Caloocan City, informed this Court that their office had received a letter-envelope addressed to Atty. Basilio, containing a notice of this Court's resolution dated July 28, 2010. As Atty. Basilio was no longer connected with their office as of December 2008, and upon the instructions of Judge Pe-Aguirre, Dela Cruz advised her of the notice, by mobile phone; she responded by indicating her intent to secure a copy of the "show cause" resolution.

THE COURT'S RULING

We agree with the OCA's evaluation of the evidence and the applicable law, and, thus, find respondent Melinda M. Dinio, Court Stenographer III, Branch 129, RTC, Caloocan City, liable for disrespectful conduct toward a superior and for violation of Section 14, Rule 136 and Section 11, Rule 141 of the Rules of Court. We, likewise, affirm the OCA's recommended penalty of a fine of five thousand pesos (P5,000.00) considering that this is the respondent's first offense.

In addressing the allegations against her, respondent excused herself from liability by arguing that her failure to remit the TSN fees was justified by the expenses she incurred in doing most of her transcription at home. Due to the heavy workload and the limited number of stenographers in their court, the respondent admitted, and even took pride in, the fact that she brings home ninety-five percent (95%) of her work. Though one may find commendable her zealousness in bringing home her transcripts for transcription, it is still not an excuse for her not to remit a portion of her collection from requests of copies of TSN. Section 11, Rule 141 of the Rules of Court

clearly provides that payment for requests of copies of the TSN shall be made to the Clerk of Court, and that a third of the portion of such payment accrues to the Judicial Development Fund (JDF), with only two-thirds thereof to be paid to the stenographer concerned. Thus, the stenographer is not entitled to the full amount of the TSN fees. Payment likewise cannot be made to her as the payment is an official transaction that must be made to the Clerk of Court.

As correctly observed by the OCA, the respondent's act of bringing stenographic notes to be transcribed at home is irregular and not permitted by law. Section 14, Rule 136 of the Rules of Court states that no record shall be taken from the clerk's office without an order from the court, except as otherwise provided by the rules. Stenographic notes are deemed official documents that form part of the record of a case.[10] In the absence of an authorization from the court, the stenographic notes cannot be removed from the record and be brought home, even if the purpose is to work on these notes.

On the charge of disrespectful conduct, respondent displayed her lack of respect to her superior in the reckless and impolite manner she retorted to Atty. Basilio, particularly when she dared her to go to Judge Pe Aguirre's chambers to report her receipt of the money paid. Atty. Basilio, as then Clerk of Court of Branch 129, held a higher rank than the respondent and had every right to enforce and correct what she correctly considered a violation of regulations. Thus, the respondent should have accorded her the respect she deserved even if, at the time the complaint was filed, she had been an official of the court for only eight months. Professionalism, respect for the rights of others, good manners and right conduct are expected of all judicial officers and employees, because the image of the judiciary is necessarily mirrored in their actions.[11]

Furthermore, the fact that the complainant resigned three (3) months after the filing of the present complaint cannot, in any way, be an indication of guilt on her part, as the respondent insinuated. Neither can such resignation have the effect of exonerating the respondent from liability. In the first place, Atty. Basilio is not the party accused of committing an irregularity in the performance of duty. If someone should show any sign of guilt, it should be the respondent and not the complaining party. Secondly, the Court already acquired jurisdiction over the present case upon the filing of the administrative complaint. Jurisdiction, once acquired, is not lost by the resignation of the complaining party; it continues until the case is terminated.[12]

In addition to the penalty for the charges the respondent faces, we impose on her a fine of one thousand pesos (P1,000.00) for her failure to comply with this Court's resolution dated July 28, 2010. This resolution required her and complainant Atty. Basilio to show cause why they should not be disciplinarily dealt with or held in contempt for their failure to file the manifestations this Court ordered. The respondent's non-compliance cannot be condoned as it is an added manifestation of the disregard she has for authority.

WHEREFORE, we find Melinda M. Dinio, Court Stenographer III, Branch 129, Regional Trial Court, Caloocan City, GUILTY of disrespectful conduct and for violation of the provisions of Rules 136 and 141 of the Rules of Court and a FINE of Five Thousand Pesos (P5,000.00) is IMPOSED on her, with the STERN WARNING that a repetition of the same or similar offense will be dealt with more severely.

She is, likewise, FINED One Thousand Pesos (P1,000.00) for her failure to comply with the Resolution of this Court dated July 28, 2010.

SO ORDERED.

Carpio Morales, Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Rollo, pp. 1-5.

[2] Id. at 8-9.

[3] Id. at 10-11.

[4] Sec. 11. Stenographers. - Stenographers shall give certified transcript of notes taken by them to every person requesting the same upon payment to the Clerk of Court of (a) TEN (P10.00) PESOS for each page of not less than two hundred and fifty words before the appeal is taken and (b) FIVE (P5.00) PESOS for the same page, after the filing of the appeal, provided, however, that one-third (1/3) of the total charges shall accrue to the Judiciary Development Fund (JDF) and the remaining two-thirds (2/3) to the stenographer concerned. (10a)

[5] Re: Proposed Revision of Rule 141, Revised Rules of Court; this Resolution of the Court increased the fee for each page of certified copies of any record, judgment or entry from six pesos (P6.00) to ten pesos (P10.00).

[6] Rollo, pp. 15-17.

[7] Id. at 30.

[8] Id. at 34; dated July 28, 2010.

[9] Id. at 35.

[10] De Guzman v. Bagadiong, A.M. No. P-96-1220, February 27, 1998, 286 SCRA 585.

[11] In Re: Ms. Edna S. Cesar, RTC, Br. 171, Valenzuela City, A.M. No. 00-11-526-RTC, September 16, 2002, 388 SCRA 703, citing Ibay v. Lim, A.M. No. P-99-1309, September 11, 2000, 340 SCRA 107; Navarro v. Navarro, A.M. No. 00-01, September 6, 2000, 339 SCRA 709.

[12] Office of the Ombudsman v. Estandarte, G.R. No. 168670, April 13, 2007, 521 SCRA 155.

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