

JUDGE LUIS ENRIQUEZ REYES, COMPLAINANT, VS. RAQUEL S. BAUTISTA, STENOGRAPHER I, MUNICIPAL TRIAL COURT, GUGUINTO, BULACAN, RESPONDENT.

A.M. NO. P-04-1873. January 13, 2005

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PER CURIAM:

Complainant Judge Luis Enriquez Reyes charges respondent Raquel S. Bautista, Stenographer I, with misconduct for – (1) traveling abroad without securing the Supreme Court’s permission; (2) misrepresenting that the application for leave would be spent “within the Philippines” when the same was in fact spent abroad; and (3) failing to submit the transcript of stenographic notes within the required period.[1]

On September 26, 2003, respondent applied for a 22-day leave for the periods October 2-8, 2003 (forced leave) and October 9-31, 2003 (vacation leave)* to concentrate on her training as a caregiver, preparatory to possible foreign employment. On October 27, 2003, she again filed another application for vacation leave from November 3, 2003 to January 2, 2004.* Complainant averred that he approved said leave applications considering that she had been a court stenographer since 1990 and that he saw no reason to prevent her from seeking new opportunities. He reminded respondent to finish the transcription of all the stenographic notes assigned to her should she finally decide to resign. Complainant was surprised when he learned that respondent had already left the country considering that her application for leave stated that the vacation sought will be spent within the Philippines.

Per report of Erlinda U. Cabrera, Clerk of Court of complainant Judge, respondent failed to transcribe the following stenographic notes, to wit:

- Criminal Case No. 5391
Pp. vs. Lamberto Maximo
TSN dated March 13, 2003
(Cross-exam of Bernarda Llanza)

- Criminal Case No. 6714
Pp. vs. Alberto Puno
TSN dated September 13, 2001
(Prosecution’s Formal Offer)

- Criminal Case No. 5336
Pp. vs. Dolores Gutierrez[2]

- dated September 2, 1999
(Cross-examination of Lerida Joaquin)

- dated November 11, 1999
(Prosecution’s Formal Offer)

- Criminal Case No. 5492
Pp. vs. Olivia Bitangcol
- TSN dated July 15, 1999
- TSN dated September 9, 1999
- Criminal Case Nos. 8036-39-40
Pp. vs. Concepcion Garcia
TSN dated July 18, 2002
- Criminal Case No. 9372
Pp. vs. Roberto Idos
TSN dated May 9, 2002
(Cont. of cross of Mercedita Valencia)
- Criminal Case No. 6445
Pp. vs. Consolacion Dayrit
- TSN dated August 25, 2002
- TSN dated August 28, 2003[3]

On December 2, 2003, complainant issued Office Circular No. 3-2003 directing respondent to transcribe the foregoing notes within 20 days from receipt thereof,[4] but respondent failed to comply therewith.

Thereafter, complainant received respondent's resignation letter dated January 5, 2004.[5]

In her Letter-Comment,[6] respondent averred that she decided to work overseas to give her family a better future and that she was not able to secure the required clearances for travel abroad because the job offered to her in Dubai was urgently needed. She admitted that when she left the country on October 16, 2003, she had pending transcripts to accomplish. She claimed, however, that some of the transcripts listed in complainant's Office Circular No. 3-2003 were not her obligation. Respondent added that on February 23, 2004 her husband attempted to submit the transcription of the notes[7] assigned to her as of January 2004 but complainant refused to receive the same. For humanitarian reasons, respondent prays that her resignation be approved.

In his Reply to respondent's Letter-Comment,[8] complainant admitted that on February 23, 2004, respondent's husband indeed attempted to submit some transcribed stenographic notes. He refused to accept the transcripts because he doubted their veracity considering that respondent was, at the time of the submission, already out of the country. He decided not to allow the notes to become part of the records to avoid adverse consequences.

After evaluation, the Office of the Court Administrator (OCA) recommended that the case be re-docketed as a regular administrative matter and that respondent be dismissed from the service with forfeiture of benefits and with prejudice to reemployment in the government.[9]

Upon being required by the Court,[10] complainant manifested that he is willing to submit the case for resolution on the basis of the pleadings filed.[11] However, respondent failed to file her manifestation, which is deemed waived.

The recommendation of the OCA is well-taken.

Per OCA Circular No. 6-2003,[12] the Policy on Filing of Applications for Maternity, Paternity, Sick, Vacation, Special Privilege, Forced Leave and Leave to be Spent Abroad, provides:

VI. Leave to be Spent Abroad.

All foreign travels of judges and court personnel, regardless of the number of days, must be with prior permission from the Supreme Court through the Chief Justice and the Chairmen of the Divisions pursuant to the resolution in A.M. 99-12-08-SC (Memorandum Order No. 14-2000 dated 6 November 2000). In line with the policy, the judge or court personnel concerned must submit the following:

x x x x x x x x

For Court Personnel:

- application or request addressed to the Court Administrator, stating therein the purpose of the travel abroad;
- application for leave covering the period of the travel abroad duly recommended by the Executive Judge/Presiding Judge;
- clearance as to money and property accountability;
- clearance as to pending criminal and administrative case filed against him/her, if any; and
- for court stenographer, clearance as to pending stenographic notes for transcription from his/her court and from the Court of Appeals.

Likewise, OCA Circular No. 49-2003,[13] states –

B. Vacation Leave to be Spent Abroad.

Pursuant to the resolution in A.M. No. 99-12-08-SC dated 6 November 2000, all foreign travels of judges and court personnel, regardless of the number of days, must be with prior permission from the Supreme Court through the Chief Justice and the Chairmen of the Divisions.

1. Judges and court personnel who wish to travel abroad must secure a travel authority from the Office of the Court Administrator. The judge or court personnel must submit the following:

x x x x x x x x

(b) For Court Personnel:

- application or letter-request addressed to the Court Administrator stating the purpose of the travel abroad
- application for leave covering the period of the travel abroad, favorably recommended by the Presiding Judge or Executive Judge;
- clearance as to money and property accountability
- clearance as to pending criminal and administrative case filed against him/her, if any
- for court stenographer, clearance as to pending stenographic notes for transcription from his/her court and from the Court of Appeals
- Supreme Court clearance

x x x x x x x x

5. Any violation of the leave laws, rules or regulations, or any misrepresentation or deception in connection with an application for leave shall be a ground for disciplinary action (Sec. 67, Omnibus Rules on Leave).

For violation of the foregoing circulars in traveling abroad without securing the necessary permission for foreign travel, respondent should be held administratively liable.

Moreover, the misrepresentation in respondent's leave application that her vacation will be spent within the Philippines, when she in fact spent the same abroad where she worked as a caregiver, amounts to dishonesty punishable by dismissal from service. The alleged urgency of her job abroad is no justification to her dishonest conduct which has no place in the judiciary. In *Recio v. Acuña*,^[14] a sheriff was dismissed for going on a 6 month sick leave to cover up his employment overseas as a contract worker, thus –

Respondent Acuña's act of going abroad without permission of this Court is in violation of Memorandum Order No. 26 which provides that:

x x x x x x x x

Requests for permission to travel abroad from members and employees of the judiciary shall henceforth be obtained from the Supreme Court.

Acuña is likewise guilty of dishonesty for applying for a sick leave on the pretext that he was seriously ill, in order to conceal his absence from the country. This is just one of the several grounds for disciplinary action that he committed under P.D. 807, Section 36(b) Article IX, to wit:

“(b) The following shall be grounds for disciplinary action:

(1) Dishonesty

x x x x x x x x

(3) Neglect of duty

x x x x x x x x

(24) Pursuit of private business, vocation or profession without the permission required by the Civil Service rules and regulations

x x x x x x x x

(27) Conduct prejudicial to the best interest of the service.

The above are serious infractions which warrant respondent Acuña's dismissal from service.... (Emphasis added)^[15]

Respondent is also guilty of gross neglect of duty for failing to transcribe the stenographic notes within the required 20 day period and for leaving the country knowing that she had pending transcripts to accomplish. Administrative Circular No. 24-90, dated 12 July 1990, states –

2. (a) All stenographers are required to transcribe all stenographic notes and to attach the transcripts to the record of the case not later than twenty (20) days from the time the notes are taken. The attaching may be done by putting all said transcripts in a separate folder or envelope, which will then be joined to the record of the case. (Emphasis added)

x x x x x x x x

7. A stenographer shall not be allowed to travel abroad if he has pending untranscribed notes, unless otherwise ordered by the Court upon urgent grounds.

Similarly in *Ibay v. Lim*,^[16] a court stenographer was found guilty of gross neglect of duty and violation of a Supreme Court administrative circular for traveling abroad with pending untranscribed notes and without securing the needed clearance. Pertinent portion of the decision reads:

B. Serious Neglect of Duty

x x x x x x x x

For all her shortcomings in the transcription of her stenographic notes as demonstrated herein above, the respondent has shown her utter lack of dedication to the functions of her office. As a trial court stenographer she knows, or ought to know, that she performs an important role in running the machinery of our trial court system and that transcripts of stenographic notes are vital for the speedy disposition of cases. In the several cases that are the subject of Judge Ibay's complaint it took the respondent years to submit her TSNs. Even Judge Ibay's predecessor in Branch 135, now retired Justice Omar Amin, had complained to the Court Administrator about respondent's delinquency in the transcription of stenographic notes (Exh. F, letter dated January 30, 1996, of then Judge Amin to the Court Administrator). Clearly, the respondent not only failed to comply with the rigorous standards required of all public officers and employees but worse, her act eroded the faith of the affected litigants in the judiciary.

D. Flagrant Violation of Paragraph 7 of Administrative Circular No. 24-90.

x x x x x x x x

It is thus clear that her two travels abroad were both in violation of Administrative Circular No. 24-90 as she had pending untranscribed notes, not especially authorized by the court, and without securing permission from the Court Administrator (Resolution of the Supreme Court En Banc dated February 26, 1991, circularized per Circular No. 30-91 dated September 30, 1991).

Justice Molina recommended that respondent Lim be dismissed from the service for gross neglect of duty, grave misconduct and violation of administrative circulars of the Supreme Court. The OCA agreed and adopted the said Report and Recommendation.

This recommendation of the Office of the Court Administrator is well-taken. (Emphasis supplied)[17]

In the instant case, considering that respondent is guilty of dishonesty, gross neglect of duty and violation of Supreme Court administrative circulars, she should be dismissed from the service as recommended by the Office of the Court Administrator.[18]

The image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel – hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a true temple of justice.[19]

WHEREFORE, in view of all the foregoing, respondent Raquel S. Bautista, Stenographer I of the Municipal Trial Court of Guiguinto, Bulacan is found guilty of dishonesty, gross neglect of duty and violation of Supreme Court administrative circulars and is **DISMISSED** from the service with forfeiture of all benefits and privileges, except accrued leave credits, if any, with prejudice to re-employment in any branch or instrumentality of the government, including government-owned and controlled corporations and financial institutions.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

[1] Letter-Complaint dated January 6, 2004, Rollo, p. 001. See also complainant's Motion for Speedy Resolution of the Case at Rollo, p. 026.

* Excluding Saturdays, Sundays and holidays.

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[2] Also spelled as “Gutierrez” in some parts of the Rollo.

[3] Rollo, pp. 009-010.

[4] Id., p. 011.

[5] Id., p. 013.

[6] Id., p. 016.

[7] People v. Garcia, Criminal Case No. 8036-3940, 18 July 2002; People v. Gutierrez, Criminal Case No. 5336, 2 September 1999 and 11 November 1999; People v. Bitangcol, Criminal Case No. 5492, 9 September 1999; People v. Dayrit, Criminal Case No. 6447, 25 April 2002; and People v. Puno, Criminal Case No. 6714, 13 September 2001.

[8] Rollo, p. 023.

[9] Id., p. 031.

[10] In a Resolution dated August 16, 2004, the Court required the parties to manifest whether they are willing to submit the case for resolution based on the pleadings filed within ten days from notice hereof.

[11] Manifestation dated September 9, 2004.

[12] Dated January 9, 2003.

[13] Dated May 20, 2003.

[14] A.M. No. P-90-452, 7 April 1993, 221 SCRA 70.

[15] Id., pp. 73-74.

[16] A.M. No. P-99-1309, 11 September 2000, 340 SCRA 107.

[17] Id., pp. 111-112.

[18] Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service (Resolution No. 991936, effective September 27, 1999), provides –

RULE IV – PENALTIES

x x x x x x x x

Section 52. Classification of Offenses. - Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following are grave offenses with their corresponding penalties:

1. Dishonesty

1st Offense – Dismissal

2. Gross Neglect of Duty

1st Offense – Dismissal

X X X X X X X X

Section 58. Administrative Disabilities Inherent in Certain Penalties.

a. The penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision.

[19] Judge Cajot v. Cledera, supra.

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