

**MARIEL ECUBE-BADEL, PETITIONER, VS. DAVID DE LA PEÑA BADEL,
COURT STENOGRAPHER III, REGIONAL TRIAL COURT, BRANCH 68,
SAN CARLOS CITY, NEGROS OCCIDENTAL, RESPONDENT.***A.M. No. P-97-1248 (Formerly OCA IPI No. 96-99-P). June 13, 1997*

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/2dae9293ce94/>**MENDOZA, J.:**

This is a complaint for immorality filed against respondent David de la Peña Badel, Court Stenographer III of Branch 68 of the San Carlos City Regional Trial Court in Negros Occidental. The complaint was filed by his wife Mariel Ecube-Badel. The complaint charges respondent with having illicit relations with Cristina Dalida by whom it was alleged he had begot a child, a boy named Ma. Christian David Badel, and failing to make good a promissory note he had made to pay his wife P3,000.00 as support for their daughter Ivy Cherryki and his promise to pay P500.00 a month from January 1995, pursuant to the decision in a support case filed by complainant.

In his answer, respondent denied the charge against him. He claimed that after separating from complainant, he lived alone in a rented house; that he had given P2,000.00 to his wife, although he still owed P1,000.00 for the support of their child; that complainant was psychologically incapacitated to comply with her marital obligations by refusing to leave her parental home, smoking heavily, defrauding other people, and having a lover from 1991 to 1995; and that she insulted and humiliated respondent in public and threatened him when he fought her.

In reply, complainant claimed that the receipt presented by respondent to show that he had paid P2,000.00 as support for their child had been cut in order to omit a portion containing respondent's acknowledgment that he still owed her P4,000.00; that respondent evaded his obligation to give support under their compromise agreement in the case which she had filed; that respondent knew even before their marriage that she smoked heavily but just the same married her; and that after giving birth to their child, respondent left her so she decided to live with her parents. Complainant denied that she had a lover, claiming that the man alleged to be her lover was so sick, it was not possible to have sex with him, and in fact died on December 12, 1994.

The case was referred to Judge Abraham D. Caña of the Regional Trial Court, Branch 58 of San Carlos City, in Negros Occidental, for investigation, report, and recommendation. However, at the investigation held on August 7, 1996, complainant, through counsel, said that she really did not have personal knowledge whether respondent was living with another woman and had a child by her because information to this effect had only been given to her by other people and that respondent had already paid his obligation for support. For this reason, complainant said she had decided not to pursue her case. Complainant submitted an affidavit of desistance.[1]

For his part, respondent reiterated under oath his denial that he had a child named Ma. Christian Dave Badel by Cristina Dalida. He testified that he separated from his wife because they frequently quarreled; that he was living with his mother; and that he had paid the P500.00 due from him as monthly support for his daughter Ivy Cherryki Ecube Badel under the compromise agreement.

On August 21, 1996, declaring that "there are no witnesses presented by the complainant to support her

complaint, particularly on the matter of respondent living and having a child with another woman and in view of the categorical denial of the respondent of that specific and particular charge under oath,”[2] Judge Caña recommended the dismissal of the complaint against respondent.[3] However, because of the baptismal certificate of Ma. Christian Dave Badel indicating respondent to be the father of a child by Cristina Dalida, the Court returned the case to Judge Caña with direction to subpoena Cristina Dalida or the persons named as the sponsors of the child in order to get at the bottom to the matter.

It appears that a subpoena was issued to Cristina Dalida and to Ludivico Dalida, Josefa Dalida, Rose Fabiano, T. Belleza, and Cristina Combate, all of whom appeared as sponsors in the baptismal certificate of Ma. Christian Dave Badel, but the subpoena was not served upon request of respondent who said he would make a confession.[4] On December 5, 1996, respondent, assisted by counsel, admitted the charges in an affidavit which he submitted to the investigating judge. His affidavit of Confession reads in full:[5]

AFFIDAVIT OF CONFESSION

I, DAVID P. BADEL, of legal age, Filipino, married and a resident of Rizal Street, San Carlos City, Negros Occidental, Stenographer III, R.T.C., Branch 58, San Carlos City, Negros Occidental, Philippines, after having been duly sworn under oath, do hereby depose and say:

1. That I am the respondent in Administrative Case OCA-I.P.I. No. 96-99-P, entitled Mariel Ecube Badel vs. David P. Badel for “Immorality” filed by my legal wife, Mariel E. Badel, against me;
2. That the Hon. Judge Abraham D. Caña had already conducted an investigation of the said Administrative Case and had submitted his report and recommendation to the Hon. Supreme Court of Manila, but the Hon. Supreme Court has ordered him to conduct a reinvestigation of the said case and to issue a subpoena to Cristina Dalida and the Baptismal Sponsors in the baptism of Ma. Christian Dave Badel for them to appear and testify during said investigation to be conducted by him;
3. That the Hon. Judge Abraham D. Caña has already prepared the said subpoena for the aforesaid persons and has ordered Mr. Jenin Gardose, Process Server of this branch of the Regional Trial Court her in San Carlos City, Negros Occidental to serve the said subpoena to the above-named persons;
4. That I would be terribly embarrassed to the above-named persons once the subpoenae will be served upon them because I know that these persons will tell the truth on what they know about the said child Ma. Christian Dave Badel and his baptism which will all be adverse to me; hence I decided to just confess the truth about said child since anyway, eversince I told a lie to the Hon. Judge Caña during the hearing last time about the matter, I have been deeply troubled so that I’ve been suffering from sleepless nights;
5. That in the last investigation, I denied under oath before the Hon. Judge Abraham D. Caña having a child and living with another woman;
6. That said denial was wholly motivated by my overwhelming fear that I will be dismissed from service, which is my only means of livelihood and support to my two growing children, one by my estranged wife and the other by my live-in partner;
7. That I realized that what I did was wrong not only before this Court and the Hon. Supreme Court, but foremost of all, before God;
8. That after so much reckoning, I came to reconcile with God and my conscience, thus making this open confession solely for the motive of freeing myself of the guilt I have been nurturing for the past months;
9. That some time on February 20, 1985, I got married with the complainant in the instant case who is ten (10) years my senior in a simple civil ceremony in Vallehermoso, Negros Oriental, Philippines;

10. That shortly thereafter, my relations with my wife got soured and we decided to part ways;
11. That during that separation with the complainant, the latter begot our child Ivy Cherryki Badel and thereafter we reconciled to give chance to our soured relationship and for the sake of the child;
12. That nevertheless, despite our mutual efforts to start anew, our union lasted only for five (5) months, more or less and we again decided to part ways;
13. That since we parted ways, we become more of a stranger to each other and we never got the chance to see each other even though I still continued to give her and our child the support due them through an intermediary;
14. That while living a desolate life, I came to meet a woman in the name of Cristina Dalida who filled up the vacuum in my troubled life;
15. That I became close to this woman I met and succumbed to the temptation of having an illicit relations with her;
16. That out of our illicit union, a boy in the name of Ma. Christian Dave Badel was begotten;
17. That since then, I came to live with Cristina Dalida and our son Ma. Christian Dave Badel and I considered them my family to whom I could go home with after a strenuous work from the office;
18. That this new-found family of mine has given me solace and comfort and even a reason to continue living;
19. That I really have no intention of denying the paternity of said child, Ma. Christian Dave Badel because the said child together with my legitimate child, Ivy Cherryki Badel, were reported and stated by me in my Sworn Statement of Assets, Liabilities and Networth as of December 31, 1994, machine copy of which is attached hereto as Annex "A" and made an integral part hereof and the Employee's Compensation and Withholding Exemption Certificate dated June 22, 1993, machine copy of which is also attached hereto as an integral part hereof marked as Annex "B" (as well as in some other years) both of which are public documents;
20. That I have filed a case for annulment of marriage with complainant, machine copy of my petition, docketed as Civil Case No. 497, RTC Branch 57, San Carlos City, Negros Occidental being attached hereto as part hereof marked as Annex "C";
21. That I execute this Affidavit freely and voluntarily with the assistance of my counsel to shed light to everything with a firm conviction to live a truthful and honest life;
22. That with this confession, I am humble and ardently seeking the mercy and forgiveness of our Honorable Supreme Court for the make-believe stories I created and for it to give me a penalty lighter than what I deserve if its gracious heart may allow it to do;
23. That I am executing this confession with due consultation with my counsel and fully aware of its legal consequences to obviate the calling of the witnesses for whom subpoena have been issued by the Honorable Judge Caña as directed by the Honorable Supreme Court since I have already stated herein what said witnesses will be testifying about in the hearings scheduled by the Honorable Judge Caña;
24. That the affiant sayeth naught.

IN WITNESS I HEREUNTO AFFIX MY SIGNATURE this 5th day of December 1996 at San Carlos City, Negros Occidental, Philippines.

(SGD.) DAVID P. BADEL

Affiant

SUBSCRIBED AND SWORN to before me this 5th day of December 1996 at San Carlos City, Negros Occidental.

(SGD.) FLORITA L. ESCORIAL

2nd Asst. City Prosecutor II

Based on respondent's admissions, Judge Caña found him guilty of immorality and perjury and recommended his suspension without pay for one (1) year.

The court concurs in the findings and conclusions of the investigating judge: Respondent is guilty of immorality and of lying, and he admits it. Under Rule XIV, §23 (o) of the Civil Service Rules and applicable rulings, immorality is considered a grave offense and is punished by suspension for 6 months and 1 day to 1 year for the first offense and, for the second offense, by dismissal. In *Burgos v. Aquino*,^[6] this court suspended a court stenographer for six months for maintaining illicit relations with the complainant's husband and for perjury in not disclosing in her personal information sheet that she had a daughter as a result of that relationship. Similarly in *Nalupta, Jr. v. Tapeç*,^[7] a deputy sheriff was suspended for six months for having a relationship with a woman other than his wife by whom he had two children.

The question is whether respondent should be merely suspended or whether he should be dismissed from the service in view of his apparent decision to continue his extra marital relation with Cristina Dalida by whom he has a child. As already noted, respondent declares that it is "this new-found family," which has given him "solace and comfort and even a reason to continue living." Instead of expressing remorse or even regret for having left his wife, he announces that he has in fact brought an action for annulment of his marriage.

This is not the place for determining respondent's alleged reason for leaving his family. That is for the annulment court to decide. What is material in this case is that without his marriage being first dissolved, respondent has lived with another woman and founded another family. Nonetheless, the question is important in determining whether respondent's offense is his first (in which case he should be suspended) or already his second one (in which case he should be dismissed), since he is maintaining his illicit relations even after being found guilty of immorality.

The Court, in discharging its constitutional duty of supervising lower courts and their personnel, has not lost sight of the fact that the institution over which it presides is essentially composed of human beings who, as such, are naturally prey to weakness and prone to errors which respondent has admitted experiencing. For this reason, the Court views the filing by respondent of a petition to annul his previous marriage as an effort on his part legally if not morally to put his personal conduct in order. Accordingly, it has decided to treat this case as respondent's first offense and to impose on him the corresponding penalty of suspension. Considering that he lied before finally admitting his offense and only because the evidence against him is well-nigh clear, suspension for one year without pay should be imposed on him without prejudice to the filing of another complaint for grave immorality should the annulment case fail and he continues maintaining illicit relations. It would be more prudent to suspend judgment on the question whether he is guilty of a second offense so as to justify dismissing him from the service, pending the decision in the annulment case.

WHEREFORE, respondent is suspended without pay for one year. Respondent is required forthwith to inform the Court, through the Office of the Court Administrator, of the outcome of the case for annulment now pending in the Regional Trial Court, Branch 57 of San Carlos City, Negros Occidental.

Let a copy of this decision be entered in respondent's personal record and another one furnished the Office of the Court Administrator for its information and guidance.

SO ORDERED.

Regalado, (Chairman), Romero, Puno, and Torres, Jr., JJ., concur.

[1] Copy Rollo, pp. 42-43.

[2] TSN of hearing of August 17, 1996, p. 9; Id., p. 30.

[3] Report and Recommendation dated August 21, 1996 of Judge Abraham D. Caña; Id., pp. 32-41.

[4] Report and Recommendation dated December 13, 1996 of Judge Abraham D. Caña, Annex C.

[5] Id., Annex D.

[6] 249 SCRA 504 (1995).

[7] 220 SCRA 505 (1993).

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