

JUDGE ORLANDO D. BELTRAN, COMPLAINANT, VS. VILMA C. PAGULAYAN, INTERPRETER III, RTC, BRANCH 2, TUGUEGARAO CITY, CAGAYAN, RESPONDENT.

A.M. No. P-05-2014. June 29, 2010

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PER CURIAM:

We resolve as an administrative matter[1] the complaint/affidavit dated July 18, 2001[2] of Acting Presiding Judge Orlando Beltran (Judge Beltran), Regional Trial Court (RTC), Branch 2, Tuguegarao City, charging Vilma C. Pagulayan (Pagulayan), Interpreter III of the same court, with gross misconduct. The complaint alleged that Pagulayan demanded and received P20,000.00 from the plaintiffs in Civil Case No. 5383 (entitled Heirs of Benito Acain, et al. v. Sps. Anselmo and Anicia Acain for Quieting of Title and Damages) which Judge Beltran decided in the plaintiffs' favor. The demanded sum was allegedly for Judge Beltran. After receiving the demanded sum, Pagulayan personally handed the plaintiffs an unsigned copy of Judge Beltran's decision.

Judge Beltran and the Branch Clerk of Court, Atty. Maita Grace Deray-Israel (Deray-Israel), requested the National Bureau of Investigation (NBI) District Office in Tuguegarao City, to investigate the matter. On August 6, 2001, the NBI submitted to the Office of the Court Administrator (OCA) a Final Report[3] with the recommendation that Pagulayan be charged administratively for misconduct. The NBI recommendation was based largely on the affidavits of Judge Beltran,[4] Deray-Israel[5] and plaintiffs Facundo Baccay (Baccay) and Saturnino Acain (Acain).[6]

The OCA required Pagulayan to comment on the complaint.[7] In her Comment dated September 20, 2001,[8] Pagulayan denied what she regarded as Judge Beltran's unsubstantiated accusation against her; she claimed that she did not demand nor receive any amount of money for herself or for anyone from the plaintiffs who did not even come out with a complaint/affidavit of their own. She maintained that her only involvement took place when she referred one Apolinario Allam - a friend of her husband's and a relative of Baccay and who was following up the case - to Primativa Martinez, the clerk in charge of civil cases. She was therefore surprised when, after one year, she was charged for having demanded and received money for Judge Beltran. She lamented that Judge Beltran did not even confront her about the matter, or ask her to face the alleged complainants.

At the OCA's recommendation, the Court referred the matter to the Executive Judge, RTC, Tuguegarao City, for investigation, report and recommendation within sixty (60) days from receipt.[9] Executive Judge Jimmy Henry F. Luczon, Jr.,[10] and Executive Judge Vilma T. Pauig,[11] in succession, asked that the assignment be given to another judge since they cannot conduct an impartial investigation on the case; Judge Luczon, Jr. stated that he previously filed a falsification charge against Pagulayan, while Judge Pauig declined because Pagulayan was the interpreter in her court.

On March 29, 2004, the Court re-assigned the case to the executive judge of the RTC in Aparri, Cagayan[12] - Judge Virgilio M. Alameda (Judge Alameda). On October 14, 2004, Judge Alameda submitted a Final Report through the OCA.[13] Judge Alameda found Pagulayan to be guilty of gross misconduct. The judge based his

conclusion mainly on the testimony of Baccay that Pagulayan demanded and received money from him, allegedly to be given to Judge Beltran for the favorable decision the judge rendered. Judge Alameda recommended that Pagulayan be suspended for six (6) months without pay and without benefits, in consideration of her 29 years of service in the Judiciary and because this was her first offense.

In a Resolution dated December 8, 2004,[14] the Court referred Judge Alameda's report to the OCA for evaluation, report and recommendation. In a memorandum dated April 22, 2005,[15] the OCA found Judge Alameda's conclusions to be "in accord with the evidence presented during the investigation x x x and applicable jurisprudence." Although it took into consideration the extenuating circumstances Judge Alameda cited in Pagulayan's favor, the OCA nonetheless recommended that she be found guilty of gross misconduct and be suspended for one (1) year without pay and without benefits.

On June 15, 2005, the Court resolved to re-docket the case as a regular administrative matter and required the parties to manifest whether they are willing to submit the case for decision based on the pleadings and the records on file.[16]

On August 9, 2005, Pagulayan filed a Compliance[17] manifesting that she wanted to present her evidence. She had failed to do so, however, because she travelled to the United States of America (USA) for medical check-up from July 28, 2004 to December 15, 2004, while her counsel of record withdrew from the case at the time she was to present evidence. Again, the Court referred the matter to the OCA for appropriate action.[18] The OCA, while acknowledging that a full blown investigation had already been conducted vis-à-vis the complaint and Pagulayan had been given every opportunity to present her side, recommended that she be given fifteen (15) days to present her witnesses and submit her evidence to Judge Alameda.

On December 14, 2005, the Court approved the OCA's recommendation.[19] In the meantime, Judge Alameda was transferred to the RTC, Manila,[20] prompting the Court to direct the new executive judge - Judge Rolando R. Velasco (Judge Velasco) - to take over from Judge Alameda and to continue the investigation.[21]

On July 24, 2006, Judge Velasco submitted a Report which the Court referred to the OCA for evaluation, report and recommendation.[22] The OCA, in turn, submitted its Report[23] to the Court on January 2, 2007. This Report is summarized below.

OCA Report: The Case for Judge Beltran

Judge Beltran's evidence consisted of the following: (1) Exhibit "A," Judge Beltran's affidavit dated July 18, 2001; (2) Exhibit "B," joint affidavit of Baccay and Acain dated July 13, 2001; (3) Exhibit "C," affidavit dated July 18, 2001 of Branch Clerk of Court Deray-Israel; (4) Exhibit "E," NBI Report dated August 3, 2001; and the testimonies of Judge Beltran, Deray-Israel and Facundo Baccay.

Judge Beltran deposed that he rendered the decision in favor of the plaintiffs Baccay and Acain based on the merits of the evidence presented, and not for any monetary consideration. To protect his integrity, he requested the NBI to investigate after he received reports of circulating rumors that money had been demanded for the judgment. Deray-Israel testified that the duplicate original copy of Judge Beltran's decision which Pagulayan personally handed to the plaintiffs is an unsigned carbon original copy that bears only her (Deray-Israel) initials to signify that the copy is authentic. Baccay and Acain stated under oath that Pagulayan demanded and received the amount of P20,000.00 from them, allegedly to be given to Judge Beltran, and that thereafter, she personally delivered to them an unsigned copy of the decision.

OCA Report: The Case for Pagulayan

Pagulayan offered the following pieces of evidence: (1) Exhibit "1," judgment dated July 17, 2000 and Exhibits "2" and "2-C," registry return receipts, to show that the copy of the judgment was officially received by Baccay on July 17, 2000; (2) Exhibit "3-D," affidavit dated September 14, 2001 of Apolinario B. Allan stating that - he is the relative of the plaintiff by affinity and a friend of Pagulayan's husband; when he followed up the case, he was referred by Pagulayan to Mrs. Martinez, the clerk in charge of civil cases; and that he did not ask money from anybody; and (3) Pagulayan's and Mrs. Martinez's testimonies.

Mrs. Martinez testified that a judgment dated July 17, 2000 was rendered in Baccay's civil case, and that Deray-Israel gave her a copy of the judgment but she could not remember when it was given to her. As clerk in charge of civil cases, she accordingly prepared copies of the decision for the parties' lawyers and for the defendant. She identified the registry return cards presented in evidence, although she admitted that copies with return cards were not sent through the mails so that the records do not bear the stamp mark of the post office.[24]

For her part, Pagulayan declared that she retired as court interpreter in March 2006 after service for 32 years. She vehemently denied that she demanded money (allegedly reduced to P20,000.00 from the initial P30,000.00) from Baccay and Acain on the instruction of Judge Beltran for the favorable decision the judge rendered; and neither had she seen Baccay and Acain. She reasoned out that she could not have committed the imputed act as she would not risk losing her long years of service in the government. She did not know why Judge Beltran would charge her, but surmised that it must be because of "something (she said) against the judge."

Like Judge Alameda, Judge Velasco found Pagulayan guilty of gross misconduct as her evidence failed to overcome Judge Beltran's evidence. Judge Velasco recommended that Pagulayan be found guilty of gross misconduct and be suspended for one (1) year without pay and without benefits.

The OCA Evaluation and Recommendation

In considering the evidence, the OCA excluded the testimonies of Judge Beltran and Deray-Israel for being hearsay because they both admitted that they had no personal knowledge of the act complained of.

After considering Pagulayan's evidence, the OCA opined that assuming that the signature of Baccay in the registry return receipt[25] to be his, Pagulayan failed to establish who actually served the copy of the decision on Baccay; her own witness - the clerk for civil cases (Martirez) - admitted that the copy did not pass through the mails and was not stamped received by the post office. Martirez also admitted that it has been the practice in the court to serve copies of decisions on the plaintiff's counsel and not on the plaintiff himself, unless the latter would ask for a copy. She clarified, however, that the plaintiffs did not ask her for a copy of the decision. Extra copies of decisions are usually kept in her unlocked drawer. The OCA concluded that in light of Martirez's testimony, the possibility cannot be ruled out that either Pagulayan gave a copy to the plaintiffs, or two (2) copies of the decision were given to them.

Under this analysis, the OCA opined that Pagulayan's guilt or innocence rests on the sole testimony of Baccay and, in this respect, cited Judge Alameda's earlier evaluation that "[B]y and large, the Court finds the testimony of Baccay to be credible and the Court has no reason to doubt his testimony. Baccay has no reason to falsely testify against Pagulayan. He has no motive to fabricate a story against Pagulayan as there is no evidence of any misunderstanding between them in the past. Evidently, he agreed to testify x x x to simply attest to the truth of his allegations."

Thus the OCA, like Judge Alameda and Judge Velasco, found Pagulayan's guilt to have been established. It reiterated the recommendation it made in its memorandum dated April 22, 2005[26] to hold Pagulayan administratively liable for gross misconduct and to suspend her from the service for one (1) year without pay and

without benefits. It further recommended that the action on her application for early retirement be deferred pending the service of her suspension. It observed that it is the practice of judges and court personnel facing administrative cases, where the evidence appears to be irrefutable, to file their resignation or application for early retirement ahead of the resolution of their cases so that a mere fine would be imposed on them in lieu of the graver penalties of dismissal, forfeiture of benefits, as well as suspension from the service.

THE COURT'S RULING

At the outset, we emphasize that Pagulayan was given all the opportunity to be heard. In fact, the charge against her was investigated twice. Notably, the second investigation (by Judge Velasco) was conducted to give her the chance, after she had pleaded with the Court, to present her evidence. She failed to present evidence in the first opportunity given to her (in the investigation by Judge Alameda), as she then travelled to the USA while her counsel of record withdrew his appearance.

We find OCA's analysis of the evidence to be well-founded. Baccay's testimony that she gave money to Pagulayan upon Pagulayan's demand, to our mind, should prevail over Pagulayan's denial that she received money from him. While Pagulayan presented a copy of the registry return receipt with notation "5383-judgment-7-17-2k"[27] with Baccay's signature, the OCA noted that Pagulayan failed to establish who actually served Baccay's copy of the judgment. We note in this regard Martirez's testimony that court decisions, although covered by a registry return card indicating service, do not go through the mails because service is through a process server. This negates Pagulayan's obvious attempt to show that a party other than herself, gave a copy of the decision to Baccay; Martirez herself could not have been the source as she testified that neither Baccay nor Acain came to her to ask for a copy of the decision, and that extra copies of the decisions are usually kept in her unlocked table drawer. The P20,000.00 demanded and given, largely unrefuted except by Pagulayan's denial, is consistent with the claim that Pagulayan was the source of Baccay's copy of the decision.

We accept without hesitation Baccay's testimony showing that Pagulayan indeed committed the transgression Judge Beltran charged. No explanation is necessary to account for Judge Beltran's reason for charging Pagulayan. What Pagulayan did is the nightmare of every decisionmaker and magistrate who is usually the last to know that somebody has used his or her name to ask for money - "para kay Fiscal o para kay Judge" as mulcters reputedly always say.

Pagulayan's misconduct, it must be stressed, brought dishonor to the administration of justice in particular and, to the public service in general. As the OCA aptly put it -

Time and again the Honorable Supreme Court had held that the conduct of each employee of a court of justice must, at all times, not only be characterized with propriety and decorum, but above all else, be above suspicion. The conduct and behavior required of every court personnel from the presiding judge to the lowliest clerk must always be beyond reproach and circumscribed with heavy burden of responsibility. Every employee of the judiciary should be an example of integrity, probity, uprightness, honesty and diligence. We believe that the respondent failed to observe these very exacting standards. Her acts indeed corrode the dignity and honor of the courts and shake the people's faith and trust in the judiciary.

Indeed, Pagulayan failed to live up to the standards of honesty and integrity required in the public service. In the words of the Constitution, public office is a public trust[28] and Pagulayan betrayed this trust.

Under Civil Service rules,[29] gross misconduct is a grave offense and punishable by dismissal. For the enormity of the transgression she committed, Pagulayan deserved no less than dismissal. She should not be treated with leniency, for she committed the worst kind of graft in the judiciary and should not lightly be punished, lest others may be emboldened to follow her nefarious example. Public service, especially the judiciary, has no place for

corrupt personnel like Pagulayan and she should not be allowed to escape the mandated penalty through the expedient of retirement that she availed of on April 1, 2006.[30] While Pagulayan may no longer be dismissed because of her retirement, she can still be sanctioned with a forfeiture of her retirement benefits. Under Section 58(a) of the Revised Uniform Rules of Administrative Cases, the penalty of dismissal carries with it, among other administrative disabilities, the forfeiture of retirement benefits.

WHEREFORE, premises considered, respondent Vilma C. Pagulayan, Interpreter III, Regional Trial Court, Branch 2, Tuguegaro City, is hereby found **LIABLE** for gross misconduct for the extortion she committed against Facundo Baccay by falsely using the name, and to the prejudice, of Judge Orlando Beltran. She shall suffer the penalty of forfeiture of her retirement benefits, except accrued leave credits, with prejudice to any re-employment in any branch or instrumentality of the government.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, and Mendoza, JJ., concur.

[1] P-05-2014 (formerly OCA IPI No. 01-1207-P).

[2] Rollo, p. 8.

[3] Id. at 1-5.

[4] Supra note 2.

[5] Rollo, p. 3, E(b), NBI Report.

[6] Id. at 4, E(c), NBI Report

[7] 1[st] Indorsement dated August 22, 2001.

[8] Rollo, pp. 13-16.

[9] Id. at 34; Resolution dated July 24, 2002.

[10] Id. at 37; Judge Luczon, Jr.'s Manifestation dated August 19, 2002.

[11] Id. at 42; Judge Panig's Manifestation dated August 19, 2002.

[12] Id. at 44; Resolution of March 29, 2004.

[13] Id. at 86-99.

[14] Id. at 102.

[15] Id. at 103-108.

[16] Id. at 109; Resolution dated June 15, 2005.

[17] Id. at 110-111.

[18] Id. at 113.

[19] Id. at 123.

[20] Id. at 129; letter dated January 20, 2006 of Executive Judge Rolando R. Velasco.

[21] Id. at 130; Resolution dated March 27, 2006.

[22] Resolution dated September 18, 2006.

[23] Ibid.

[24] TSN, June 30, 2006, pp. 294-296.

[25] Exh. "2-C," Rollo, p. 143.

[26] Supra note 15.

[27] Rollo, p. 143, Exh. "2-C."

[28] Santiago B. Burgos v. Vicky A. Baes, Clerk of Court, Clerk of Court II, MCTCC, President Roxas, Capiz, A.M. No. 05-2002, December 17, 2008, 574 SCRA 159.

[29] Revised Uniform Rules on Administrative Cases, Sec. 52 A(3).

[30] Resolution dated December 10, 2008.

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