

ANONYMOUS LETTER-COMPLAINT AGAINST ATTY. MIGUEL MORALES, CLERK OF COURT, METROPOLITAN TRIAL COURT OF MANILA

A.M. NO. P-08-2519 (FORMERLY A.M. OCA IPI NO. 05-2155-P). November 19, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court are two anonymous complaints: docketed as A.M. No. P-08-2519 charging Atty. Miguel Morales (Atty. Morales), Branch Clerk of Court, Branch 17, Metropolitan Trial Court (MeTC) of Manila of misconduct; and A.M. No. P-08-2520 charging Atty. Morales, together with Isabel Siwa (Siwa), Court Stenographer, Branch 16; William Calda (Calda), Administrative Officer III, Office of the Clerk of Court (OCC); Amie Grace Arreola (Arreola), Branch Clerk of Court, Branch 4, and Atty. Henry P. Favorito (Atty. Favorito), Clerk of Court VI, OCC, all of the MeTC, Manila of misconduct, graft and corruption and moonlighting.

A.M. No. P-08-2519

In an unsigned and undated letter which the Office of the Court Administrator (OCA) received on February 24, 2005, the writers, who claim to be employees of the OCC-MeTC of Manila, allege that Atty. Morales, then detailed at the OCC, was consuming his working hours filing and attending to personal cases, such as administrative cases against employees in his old sala, using office supplies, equipment and utilities. The writers aver that Atty. Morales's conduct has demoralized them and they resorted to filing an anonymous complaint in fear of retaliation from Atty. Morales.[1]

Assistant Court Administrator (ACA) now Deputy Court Administrator (DCA) Reuben P. dela Cruz, conducted a discreet investigation on March 8, 2005 to verify the allegations of the complaint. However, since the office of Atty. Morales was located at the innermost section of the Docket/Appeals Section of the OCC, DCA Dela Cruz failed to extensively make an observation of the actuations of Atty. Morales. On March 16, 2005, a spot investigation was conducted by DCA Dela Cruz together with four NBI agents, a crime photographer and a support staff. The team was able to access the personal computer of Atty. Morales and print two documents stored in its hard drive, a Petition for Relief from Judgment for the case entitled, "Manolo N. Blanquera, et al. v. Heirs of Lamberto N. Blanquera" in the name of Atty. Jose P. Icaonapo, Jr. (Atty. Icaonapo) filed with the Court of Appeals, and a Pre-trial Brief for the case entitled, "Pentacapital Investment Corp. v. Toyoharu Aoki, et al." also in the name of Atty. Icaonapo, which was filed before Branch 1, Regional Trial Court (RTC), Manila. Atty. Morales's computer was seized and taken to the custody of the OCA.[2] Upon Atty. Morales's motion however, the Court ordered the release of said computer with an order to the Management Information Systems Office of the Supreme Court to first retrieve the files stored therein.[3]

Atty. Morales filed a letter-complaint addressed to then Chief Justice Hilario G. Davide, Jr. against DCA Dela Cruz and his companions for alleged conspiracy and culpable violation of Secs. 1,[4] 2[5] & 3[6] of Art. III of the Constitution relative to the spot investigation. Said letter-complaint was indorsed by the Chief Justice to the Court

Administrator on March 31, 2005 for appropriate action.[7] Atty. Morales's wife, Francisca Landicho-Morales also filed a letter-complaint dated February 15, 2005 against Judge Crispin B. Bravo, Presiding Judge of MeTC Branch 16 Manila, Lenin Bravo, former Clerk of the said branch and Judge Cristina Javalera-Sulit, Presiding Judge of MeTC Branch 18, Manila for violations of the law and ethical standards which was indorsed by Chief Justice Davide to the Court Administrator for preliminary inquiry.[8] Although diligent efforts were made to ascertain from the OCA Legal Office the current status of Atty. Morales's case against DCA Dela Cruz, the same however, could not be determined.

Parenthetically, Atty. Favorito, together with more than a hundred employees of the MeTC Manila, wrote an undated letter to Chief Justice Davide assailing the spot investigation conducted by DCA Dela Cruz.[9] Said letter was indorsed by Chief Justice Davide to DCA Dela Cruz on March 28, 2005 for his comment.[10] No comment can be found in the records of herein administrative cases.

In a 1[st] Indorsement dated April 14, 2005, then Court Administrator Presbitero J. Velasco, Jr. (now Associate Justice of the Supreme Court) directed Atty. Morales to comment on the undated anonymous letter-complaint.[11]

In his Manifestation which the OCA received on April 27, 2005, Atty. Morales alleged that: the anonymous letter-complaint should not have been given due course as there is no truth to the allegations therein; the OCA took almost a year to act on the anonymous letter-complaint which did not have the proper indorsement from the Office of the Chief Justice; even though he brought to the OCC his personal computer, such act is not prohibited; he did not use his computer to write pleadings during office hours and neither did he use paper of the OCC; the "raid" conducted by DCA Dela Cruz without search and seizure orders violated his right to privacy and the articles seized therewith should be considered inadmissible.[12]

In a letter dated April 12, 2005, Atty. Morales applied for optional retirement[13] which the Court approved in its Resolution dated October 12, 2005 subject to the withholding of his benefits pending resolution of cases against him, the instant case included.[14]

A.M. No. P-08-2520

In another unsigned letter dated April 1, 2004, the writers who claim to be employees of the OCC-MeTC, Manila, charge Atty. Morales, Arreola, Atty. Favorito, Calda and Siwa of the following offenses: Atty. Morales and Arreola, who are both detailed in the OCC, leave the office after logging-in only to return in the afternoon, which acts are allowed by Atty. Favorito; Atty. Morales and Arreola were not given assignments and whenever they are at the office, they do nothing but play computer games; Siwa is also allowed by Atty. Favorito to lend money and rediscount checks during office hours using court premises; many people from different offices go to the OCC because of the business of Siwa; Atty. Favorito also allows two of Siwa's personal maids to use the OCC as their office in rediscounting checks; and Atty. Favorito and Calda charge P50.00 to P500.00 from sureties claiming said amounts to be processing fees without issuing receipts therefor.[15]

In the same spot investigation conducted by DCA De La Cruz on March 16, 2005, a partly hidden plastic box was discovered containing the amount of P65,390.00 and six commercial checks, which Siwa voluntarily opened to the team. These were also confiscated and turned over to the custody of the OCA.[16]

In a letter to then Chief Justice Davide dated April 12, 2005, Siwa requested that said money and personal belongings that were confiscated be returned to her immediately and that a formal investigation be conducted regarding DCA Dela Cruz's conduct during the spot investigation.[17] The seized items were later returned to Siwa[18] while her letter-complaint was indorsed by the Chief Justice to the Court Administrator on April 18, 2005 for appropriate action.[19] As with the complaint filed by Atty. Morales, however, the status of Siwa's

complaint could not be ascertained despite diligent efforts at inquiring about the matter from the OCA Legal Office.

In a 1st Indorsement dated April 14, 2005, the OCA directed Atty. Morales, Atty. Favorito, Calda, Arreola and Siwa to comment on the letter-complaint.[20]

Atty. Morales submitted the same Manifestation he submitted in A.M. P-08-2519.

Siwa in her Comment avers that: the anonymous letter-complaint should not have been given due course as it contravened Sec. 46(c) of Executive Order No. 292 and the implementing rules; it was not subscribed and sworn to by the complainant and there is no obvious truth to the allegations therein; while she admits that she is involved in the business of rediscounting checks, such is a legitimate endeavor, in fact, there are other employees of the court engaged in the same business; she is also not aware of any rule prohibiting her from engaging in said endeavor; she does not use the OCC to conduct her business and she is mindful of her duties as a government employee; thus, she has a staff to do the encashment of the checks; there were rare occasions when her staff members were stationed at the corridors to lend cash to employees but while said occasions may have occurred during office hours, her staff cannot be blamed for the same since the employees go to them; she has never neglected her duty as a court stenographer -- in fact, her last performance rating was "very satisfactory"; it is a known fact that because of the meager pay given to government employees, most augment their income by engaging in business; she should not be singled out for being enterprising and industrious; and it is unfair to accuse her of wrongdoing at a time when she has voluntarily retired from government service due to health reasons.[21]

A month after the incident, Siwa filed for optional retirement[22] which the Court approved in its Resolution[23] dated October 12, 2005, with the proviso that the amount of P30,000.00 shall be retained from the money value of her earned leave credits pending resolution of the present case.

Calda explains in his letter dated April 25, 2005 that: the fees of P50.00 and P500.00 were charged in connection with the filing of surety and cash bonds pursuant to Rule 141 of the Revised Rules of Court and that corresponding official receipts were issued; at nighttime, he is the one authorized to approve the filing of surety bonds since he is the highest ranking officer of a skeletal force detailed for night court duty; he has been with the MeTC for 16 years, rose in rank, was never involved in any controversy and would never tarnish his reputation.[24]

Arreola asserts that: her record of arrival and departure was always signed by her superiors without question because it reflected the correct entries; she is always in the office even when there is typhoon; and she has proven herself useful in the OCC by answering queries of litigants and verifications from other offices and attending to complaints.[25]

In compliance, Atty. Favorito adopted the comments of Atty. Morales, Calda and Arreola and denied that he committed the acts alluded to in the anonymous letter-complaint.[26] Atty. Favorito also incorporated in his comment a letter of the employees of the OCC-MTC Manila disowning the alleged anonymous complaint.[27]

In a Resolution dated July 27, 2005, the Court, upon recommendation of the OCA, consolidated the two complaints and referred the same to the Executive Judge of the MeTC, Manila for investigation, report and recommendation.[28]

Report of the Investigating Judge

In her Report dated September 1, 2006, MeTC Executive Judge Ma. Theresa Dolores C. Gomez-Estoesta states

that discreet observation of the daily working activities of Atty. Morales and Siwa could no longer be done as the two had already availed themselves of their optional retirement; thus, random interviews with employees who had proximate working activities with them were resorted to, as well as perusal of court records.[29]

The following employees were interviewed: Rueben Duque, Clerk of Court, Branch 16, MeTC; Beneluz Dumlao, Records Officer I; Marilou Magbag, Clerk III; Estrella Rafael, Records Officer I; Lydia dela Cruz, Records Officer III; Raymundo Bilbao, Clerk III; Marie Joy Valle, Clerk IV, and Ma. Lizabeth Marcelino, Administrative Officer II, all of the OCC; Rosie Jose, freelance bondswoman, and Norberto D. Soriano, authorized representative of the Commonwealth Insurance Company.[30]

After conducting her investigation, Judge Estoesta found:

Insofar as Atty. Morales, Atty. Favorito, Calda and Arreola are concerned, the investigation immediately stumbled into a dead end. No one from the OCC personnel who were interviewed would give a categorical and positive statement affirming the charges against the said personnel. While almost all confirmed that Atty. Morales maintained his own computer and printer at the OCC, nobody could state for certain that what he worked on were pleadings for private cases. Rafael, who was seated right next to Atty. Morales at the OCC merely said that what preoccupied Atty. Morales were his own administrative cases. She did not notice Atty. Morales engage in private work in his computer although she saw Atty. Icaonapo drop by the office every now and then to personally see Atty. Morales. Rafael explained however that this could be because Atty. Icaonapo was the counsel of Atty. Morales in his administrative cases. While documents referring to private cases were found in the hard drive of the computer of Atty. Morales, and while the writing style is similar to that of the Manifestation he filed in this case, still no definite conclusion could be drawn that he has composed the said pleadings at the OCC during official working hours. A close examination of the Pre-Trial Brief signed by Atty. Icaonapo and filed with the RTC Branch 1, Manila also revealed that the paper and the printer used were not the same as that used in the office of Atty. Morales.[31]

There was also no evidence to support charges of extortion against Atty. Favorito and Calda. Two bondsmen who were randomly interviewed denied that Atty. Favorito and Calda exacted illegal sums from them. The amounts they charged could actually refer to legal fees.[32]

As to Arreola, the charge against her also has no basis. The interviewees were unanimous in saying that Arreola was always around the office, and that while she fetched her son from a nearby school, she did so during lunch or after office hours. Random checks on Arreola also revealed that she was always at the OCC and at Branch 30 where she was reassigned.[33]

As to Siwa, she candidly admitted that she was engaged in lending and discounting activities at her station, through her own staff which she had maintained for said purpose. Because of her business, a number of employees, even those from other government agencies, usually huddled at her station to hold transactions. Branch Clerk of Court Ruben Duque relates that a number of people would often go to their office looking for Siwa for lending and rediscounting. Assuming that Siwa is not prohibited from engaging in said business, still it has distracted her from her duties as a stenographer. A random check on the court records of Branch 16 showed that Siwa had not yet submitted a complete transcription of 7 stenographic notes in 5 cases, 3 of which already had decisions rendered. In one case, the testimonies of two prosecution witnesses had to be re-taken to fill in the gap which not only wasted precious time of the court but also distressed the efforts of the prosecution in the presentation of its case.[34]

Judge Estoesta recommended as follows:

- In OCA IPI No. 05-2155-P [now A.M. No. P-08-2519], with no substantial evidence taken to prove the

charges in the anonymous letter-complaint filed against Atty. Miguel C. Morales, it is RECOMMENDED that the same be ordered dismissed;

- In OCA IPI No. 05-2156-P [now A.M. No. P-2520], likewise, with no substantial evidence taken to prove the charges in the anonymous letter-complaint filed against Atty. Miguel C. Morales, Atty. Henry P. Favorito, William Calda and Amie Grace Arreola, it is RECOMMENDED that the same be ordered dismissed insofar as said court employees are concerned; and

- In OCA IPI No. 05-2156-P [now A.M. No. P-08-2520] insofar as it concerns Ms. Isabel Siwa, it is RECOMMENDED that she be directed to explain why she still has stenographic notes pending for transcription despite having already availed of an optional retirement pay.[35]

The report was referred to the OCA for its evaluation, report and recommendation.[36]

OCA Report and Recommendation

The OCA, through ACA Antonio H. Dujua, in its November 7, 2007 Memorandum, states that it does not entirely concur with the findings and recommendation of Judge Estoesta.

Instead the OCA submits the following findings.

On Atty. Morales: The allegation that Atty. Morales had been using his personal computer to draft pleadings for private counsels was established in the spot inspection on March 16, 2005. The hard drive of Atty. Morales's computer yielded a pre-trial brief and a petition for relief from judgment with the name of Atty. Icaonapo. The said pre-trial brief was the same pleading that was submitted to RTC Branch 1, Manila by Atty. Icaonapo on February 10, 2003. Atty. Morales in his Manifestation dated April 25, 2005 failed to refute the evidence that emanated from his computer and instead chided the OCA for confiscating the same.

On Siwa: While she insisted that the anonymous letter should not have been given due course, she admitted in her April 28, 2005 Manifestation to being involved in the business of rediscounting checks, claiming that she was not the only employee engaged in the same, and that she maintained her own personnel to do the rediscounting which stretched to the premises of the MeTC-OCC where Atty. Favorito is the Clerk of Court.[37]

The OCA concluded that: Atty. Morales and Siwa should be found guilty of gross misconduct. Atty. Morales, for preparing pleadings for private counsels and litigants; and Siwa, for engaging in the business of rediscounting checks during office hours; gross misconduct carries the penalty of dismissal from the service even for the first offense, and while Atty. Morales and Siwa have already left the judiciary, the Court can still direct the forfeiture of their benefits; Atty. Favorito should also be held liable for neglect of duty because as Clerk of Court of the MeTC-OCC, he was negligent in allowing the nefarious activities of Atty. Morales and Siwa to happen right inside the confines of the MeTC-OCC.[38]

On Arreola and Calda: The OCA agrees with Judge Estoesta that the charges against them should be dismissed for lack of concrete evidence.[39]

The OCA then recommended:

(a)

That (resigned) Clerk of Court Miguel C. Morales, Branch 17, and (retired) Court Stenographer Isabel A. Siwa, Branch 16, both of the Metropolitan Trial Court, Manila be found GUILTY of Gross Misconduct with forfeiture of the benefits due them excluding accrued leave credits;

(b)

That Clerk of Court Henry P. Favorito of the MeTC-OCC, Manila be found GUILTY of Simple Neglect of Duty and suspended without pay for a period of one (1) month and one (1) day, with a stern warning that a repetition of the same or similar acts in the future shall be dealt with more severely; and

(c)

That the charges made in the April 1, 2004 anonymous letter against Clerk of Court Amie Grace A. Arreola, Branch 4 and Administrative Officer III William Calda, OCC, both of the MeTC, Manila be DISMISSED for lack of merit.[40]

The Court's Ruling.

The Court partly adopts the findings and recommendations of the OCA with some modifications.

An anonymous complaint is always received with great caution, originating as it does from an unknown author. Such a complaint, however does not justify outright dismissal for being baseless or unfounded for the allegations therein may be easily verified and may, without much difficulty, be substantiated and established by other competent evidence. Indeed, complainant's identity would hardly be material where the matter involved is of public interest.[41]

Liability of Atty. Morales.

The two anonymous letters charge Atty. Morales with the following offenses: attending to personal cases while using official time, office supplies, equipment and utilities, leaving the office after logging-in in the morning only to return in the afternoon, and playing computer games whenever he was at the office.

It is undisputed that pleadings for private cases were found in Atty. Morales's personal computer in the MeTC-OCC and Atty. Morales could not provide any satisfactory explanation therefor. Such fact, by itself, could already make Atty. Morales liable for simple misconduct for it hints of impropriety on his part. The Court has always stressed that all members of the judiciary should be free from any whiff of impropriety, not only with respect to their duties in the judicial branch but also to their behavior outside the court as private individuals, in order that the integrity and good name of the courts of justice shall be preserved.[42]

Atty. Morales, in defense, argues that since the pleadings were acquired from his personal computer which DCA Dela Cruz confiscated without any valid search and seizure order, such evidence should be considered as the fruits of a poisonous tree as it violated his right to privacy.

Both the Investigating Justice and the OCA failed to discuss this matter. The Court however finds it proper to squarely address such issue, without prejudice to the outcome of the administrative case filed by Atty. Morales against DCA Dela Cruz regarding the same incident. The finding of guilt or exoneration of Atty. Morales hinges on this very crucial question: Are the pleadings found in Atty. Morales's personal computer admissible in the present administrative case against him?

The Court answers in the negative.

Enshrined in our Constitution is the inviolable right of the people to be secure in their persons and properties against unreasonable searches and seizures, which is provided for under Section 2, Article III thereof.[43] The exclusionary rule under Section 3(2), Article III of the Constitution also bars the admission of evidence obtained in violation of such right.[44] The fact that the present case is administrative in nature does not render the above principle inoperative. As expounded in *Zulueta v. Court of Appeals*,[45] any violation of the aforesaid constitutional right renders the evidence obtained inadmissible for any purpose in any proceeding.

There are exceptions to this rule one of which is consented warrantless search.[46]

DCA Dela Cruz in his report claims that that they were able to obtain the subject pleadings with the consent of Atty. Morales.[47] The Court finds however that such allegation on his part, even with a similar allegation from one of his staff,[48] is not sufficient to make the present case fall under the category of a valid warrantless search.

Consent to a search is not to be lightly inferred and must be shown by clear and convincing evidence.[49] It must be voluntary in order to validate an otherwise illegal search; that is, the consent must be unequivocal, specific, intelligently given and uncontaminated by any duress or coercion.[50] The burden of proving, by clear and positive testimony, that the necessary consent was obtained and that it was freely and voluntarily given lies with the State.[51] Acquiescence in the loss of fundamental rights is not to be presumed and courts indulge every reasonable presumption against waiver of fundamental constitutional rights.[52] To constitute a valid consent or waiver of the constitutional guarantee against obtrusive searches, it must be shown that (1) the right exists; (2) that the person involved had knowledge, either actual or constructive, of the existence of such right; and (3) the said person had an actual intention to relinquish the right.[53]

In this case, what is missing is a showing that Atty. Morales had an actual intention to relinquish his right. While he may have agreed to the opening of his personal computer and the printing of files therefrom, in the presence of DCA Dela Cruz, his staff and some NBI agents during the March 16, 2005 spot investigation, it is also of record that Atty. Morales immediately filed an administrative case against said persons questioning the validity of the investigation, specifically invoking his constitutional right against unreasonable search and seizure.

While Atty. Morales may have fallen short of the exacting standards required of every court employee, unfortunately, the Court cannot use the evidence obtained from his personal computer against him for it violated his constitutional right.

As the Court has staunchly declared:

The Bill of Rights is the bedrock of constitutional government. If people are stripped naked of their rights as human beings, democracy cannot survive and government becomes meaningless. This explains why the Bill of Rights, contained as it is in Article III of the Constitution, occupies a position of primacy in the fundamental law way above the articles on governmental power.

The right against unreasonable search and seizure in turn is at the top of the hierarchy of rights, next only to, if not on the same plane as, the right to life, liberty and property, which is protected by the due process clause. This is as it should be for, as stressed by a couple of noted freedom advocates, the right to personal security which, along with the right to privacy, is the foundation of the right against unreasonable search and seizure "includes the right to exist, and the right to enjoyment of life while existing."

x x x x

Unreasonable searches and seizures are the menace against which the constitutional guarantees afford full protection. While the power to search and seize may at times be necessary to the public welfare, still it may be exercised and the law enforced without transgressing the constitutional rights of the citizens, for the enforcement of no statute is of sufficient importance to justify indifference to the basic principles of government.[54]

And as there is no other evidence, apart from the pleadings, retrieved from the unduly confiscated personal computer of Atty. Morales, to hold him administratively liable, the Court has no choice but to dismiss the charges herein against him for insufficiency of evidence.

Liability of Siwa.

The Court agrees with the OCA that Siwa should be administratively disciplined for engaging in the business of lending and rediscounting checks.

Siwa admits engaging in the business of lending and rediscounting checks, claiming that it was a legitimate endeavor needed to augment her meager income as a court employee; that she is not aware of any rule prohibiting her from engaging in the business of rediscounting checks; that there are other employees engaged in the same business; and that she employs her own staff to do the encashment of the checks as she always attends to and never neglects her duties as a stenographer.[55]

Siwa is clearly mistaken.

Officials and employees of the judiciary are prohibited from engaging directly in any private business, vocation, or profession even outside office hours to ensure that full-time officers of the court render full-time service so that there may be no undue delay in the administration of justice and in the disposition of cases.[56] The nature of work of court employees requires them to serve with the highest degree of efficiency and responsibility and the entire time of judiciary officials and employees must be devoted to government service to ensure efficient and speedy administration of justice.[57] Indeed, the Court has always stressed that court employees must strictly observe official time and devote every second moment of such time to public service.[58] And while the compensation may be meager, that is the sacrifice judicial employees must be willing to take.

As pronounced by the Court in *Biyaheros Mart Livelihood Association, Inc. v. Cabusao, Jr.*:

Government service demands great sacrifice. One who cannot live with the modest salary of a public office has no business staying in the service. He is free to seek greener pastures elsewhere. The public trust character of the office proscribes him from employing the facilities or using official time for private business or purposes.[59]

Siwa's offense is compounded by the fact that she was previously verbally instructed by her superior, MeTC Branch 16 Presiding Judge Crispin B. Bravo, to stop using court premises for her business. But she ignored the same, prompting the latter to issue a written Memorandum dated January 18, 2005 asking her to explain why she was still using the office in "transacting/attending" to her lending and rediscounting business when she was already verbally instructed to desist therefrom in December 2004.[60]

Siwa apologized and promised not to let it happen again, in her letter dated January 21, 2005.[61] Siwa also admitted that she was using her house-helper in the rediscounting of checks and allowed the latter to use the court premises in the conduct of the same.[62]

Her allegation that she never neglected her duty as a stenographer is also belied by the findings of the Investigating Judge, who in her random check of records, discovered that Siwa had not yet submitted a complete transcription of 7 stenographic notes in 5 cases (3 criminal and 2 civil cases), in three of which decisions were already rendered.[63] In one case, the testimonies of the prosecution witnesses had to be re-taken.[64] Thus, contrary to Siwa's assertion, she was not able to satisfactorily perform her duties as a court stenographer while engaging in private business.

Her argument that her business is a legal endeavor also cannot excuse her from liability. Many "moonlighting" activities pertain to legal acts that otherwise would be countenanced if the actors were not employed in the public sector. And while moonlighting is not normally considered a serious misconduct, nonetheless, by the very nature of the position held, it amounts to a malfeasance in office.[65]

Siwa conducted her business within the court's premises, which placed the image of the judiciary, of which she is part, in a bad light. Time and again, the Court has held that the image of a court of justice is mirrored in the

conduct, official and otherwise, of the personnel who work thereat; thus the conduct of a person serving the judiciary must, at all times, be characterized by propriety and decorum, and be above suspicion so as to earn and keep the respect of the public for the judiciary.[66]

Siwa's infraction constitutes conduct prejudicial to the best interest of the service which, under Sec. 52 A (20) of Rule IV of the Uniform Rules on Administrative Cases in the Civil Service, carries the penalty of suspension of 6 months and 1 day to 1 year for the first offense and dismissal for the second offense. Since this is her first offense and considering the October 12, 2005 Resolution of the Court in A.M. No. 12096-Ret. which approved Siwa's application for optional retirement, retaining only the amount of P30,000.00 from the money value of her earned leave credits pending resolution of the instant case, the Court finds she should be imposed the penalty of fine in the amount of P30,000.00.

Liability of Atty. Favorito.

There is no evidence to show that Atty. Favorito knows or should have known that Atty. Morales had copies of pleadings for private cases in his personal computer for which Atty. Favorito could be held liable for neglect of duty as supervisor. As to Siwa's lending and rediscounting activities, however, the Court finds that Atty. Favorito was remiss in addressing said matter which activity took place in the court's premises which was under his responsibility.

Clarifications, however, should be made.

The OCA in its Memorandum dated November 7, 2007 stated that:

x x x in her April 28, 2005 Manifestation, Siwa admitted to being involved in the business of rediscounting checks, claiming that 'she is not the only employee engaged in the same business.' Respondent [Siwa] even had the audacity to admit that she 'maintained my own personnel' to do the rediscounting which stretched to the premises of the MeTC-OCC, where respondent Favorito is the Clerk of Court.[67] (Emphasis supplied)

A review of the records, however, would show that what Siwa submitted is not a "Manifestation" but a "Comment" dated April 28, 2005 and there, instead of stating that her rediscounting activities stretched to the premises of the MeTC-OCC, she actually denied that she used the OCC to conduct said business. Pertinent portions of said Comment reads:

4.1. Respondent admits that she is involved in the business of rediscounting checks x x x.

x x x x

4.2. Respondent, however, denies that she uses the Office of the Clerk of Court to conduct this business x x x.

4.3. There are other occasions when the said staff will be stationed at the corridors to lend emergency cash to employees in need. The said occasions may have occurred during office hours, for which, the respondent's staff may not be blamed since it was the employees themselves who go to them. However, these instances were rare. It should also be emphasized that these transactions occurred outside of the offices and within the common or public areas.[68] (Emphasis supplied)

Thus, Siwa never admitted that her business stretched to the premises of the OCC-MeTC but only claimed that her staff used "corridors" which were "common or public areas" for their transactions.

Still, Atty. Favorito failed to address such matter and to prevent such activities from taking place, even if they were conducted in the corridors, since such areas are still part of the court's premises. As Clerk of Court of the OCC, it is Atty. Favorito's duty to plan, direct, supervise and coordinate the activities of all divisions/sections/units in the OCC.[69] He should therefore be reprimanded for his failure to duly supervise and

prevent such activities from happening within his area of responsibility.

Liability of Atty. Favorito and Calda on the extortion charges.

On the claim that Atty. Favorito and Caldo extorted money from sureties without issuing receipts therefor, the Court finds no cogent reason to deviate from the findings of the Investigating Judge and the OCA.

Investigating Judge Estoesta found that:

x x x the charges of "extortion" levelled against Atty. Henry P. Favorito and Mr. William Calda x x x suffered from loose ends.

Random interviews with two (2) bondsmen denied that Atty. Favorito and Mr. Calda exacted such amounts.

The P50.00 and P500.00 specified to as "processing fee" could actually refer to the Legal Fees mandated under Section 8 (o) and Section 21 (c) of Rule 141, as follows x x x

Here, it is obvious that the anonymous letter-complainant has no understanding whatsoever of the legal fees charged by Office of the Clerk of Court.

This actually hints of the fact that said anonymous letter-complainant may not be a personnel of the Office of the Clerk of Court after all.

The extortion charge slapped against Atty. Favorito and Mr. Calda, therefore, rings empty.[70]

Such finding was affirmed by the OCA in its Memorandum dated November 7, 2007 which recommended the dismissal of said charges against Atty. Favorito and Calda for lack of concrete proof.[71]

Liability of Arreola on absence during office hours.

As with the extortion charges against Atty. Favorito and Calda, the Court finds no sufficient evidence to hold Arreola administratively liable.

As reported by Judge Estoesta:

x x x the charge against Ms. Amie Grace Arreola regarding her habit of leaving the office after logging-in found no concrete corroboration.

The interviewees were actually unanimous in saying that Ms. Arreola was not prone to such habit as she is always around the office. Ms. Arreola may have been known to fetch her son at a nearby school but she has always done so during lunch hours and after office hours.

As a matter of fact, at a time when the MeTC was stricken by a debilitating brown-out schedule in the afternoon sometime [in] July 2006, Ms. Arreola was still around, having been one of the skeletal force who volunteered to stay on. The undersigned has personally seen her around 5:30 p.m. of the same day.

As a matter of fact, several random checks on Ms. Arreola by the undersigned herself revealed that she has always been around at the OCC and at Branch 30 where she was re-assigned as Branch Clerk of Court. At times, personal visits were made, interspersed by telephone calls between 8:00 a.m. to 10:30 a.m. where Ms. Arreola proved herself to be always at the office.

Needless to say, therefore, the charge against Ms. Arreola is certainly without basis.[72]

The OCA agreed with the said finding and likewise recommended the dismissal of the charges against Arreola.[73]

It is well-settled that in administrative proceedings, the quantum of proof necessary for a finding of guilt is

substantial evidence or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The complainant has the burden of proving, by substantial evidence, the allegations in the complaint. That is, in the absence of evidence to the contrary, what will prevail is that respondent has regularly performed his or her duties.[74] Reliance on mere allegations, conjectures and suppositions will leave an administrative complaint with no leg to stand on, and charges based on mere suspicion and speculation cannot be given credence.[75]

Since there is no proof, apart from the allegations of the letter-complaint, to hold Atty. Favorito, Calda and Arreola liable for the afore- stated charges against them, the Court deems it proper to dismiss said charges for lack of merit.

Other matters.

In view of the initial findings of Investigating Judge Estoesta that Siwa was remiss in her duty of transcribing stenographic notes assigned to her, the OCA is hereby directed to conduct an audit investigation on Siwa's transcription of stenographic notes to determine the full extent of the notes she failed to transcribe on time. If warranted, such matter shall be treated as a separate case to be given a new docket number and assigned to another ponente for evaluation.

The OCA should also report on the status of the complaint filed by Atty. Morales which the Court received on March 31, 2005, the complaint of Isabel Siwa dated April 12, 2005, and the letter-complaint of Atty. Favorito together with other MeTC employees which the Court received on March 28, 2005, against DCA Dela Cruz, regarding the spot investigation conducted on March 16, 2005 regarding this case.

WHEREFORE, the Court finds Isabel Siwa, Court Stenographer of Branch 16, Metropolitan Trial Court, Manila, GUILTY of conduct prejudicial to the best interest of the service and is FINED in the amount of P30,000.00 to be deducted from the money value of her leave credits which was set aside per Resolution dated October 12, 2005 in A.M No. 12096-Ret. entitled Application for Retirement Benefits under Section 13-A of R.A. No. 8291 of Ms. Isabel A. Siwa, Court Stenographer II, MeTC, Manila, Branch 16.

Atty. Henry P. Favorito, Clerk of Court of the Office of the Clerk of Court is REPRIMANDED for his failure to supervise the lending and rediscounting activities of Siwa which took place in the court's premises. The extortion charges against him are DISMISSED for lack of merit.

The charges against Atty. Miguel Morales, former Branch Clerk of Court, Branch 17, are DISMISSED for insufficiency of evidence. Deputy Court Administrator Reuben de la Cruz is advised to be more circumspect in the performance of his duties.

The charges against William Calda, Administrative Officer of the Office of the Clerk of Court, and Amie Grace Arreola, formerly Branch Clerk of Court of Branch 4 now Clerk of Court of Branch 30, both of the Metropolitan Trial Court of Manila, are DISMISSED for lack of merit.

The Office of the Court Administrator is DIRECTED to conduct an audit investigation on Isabel Siwa's transcription of stenographic notes in view of the finding of Judge Ma. Theresa Dolores C. Gomez-Estoesta in her Investigation Report dated September 1, 2006 in A.M. No. P-08-2519 and A.M. P-08-2520 (formerly A.M. OCA IPI No. 05-2155-P and A.M. OCA IPI No. 05-2156-P) that Siwa has not submitted a complete transcription of stenographic notes in several cases assigned to her. Said matter shall be treated as a separate case, to be given a new docket number and assigned to a new ponente for final resolution.

SO ORDERED.

Puno, C.J., Quisumbing, Carpio, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, Leonardo-De Castro, and Brion, JJ., concur.
Ynares-Santiago, J., on leave.

[1] A.M. No. P-08-2519, rollo, p. 2.

[2] A.M. No. P-08-2519, rollo, pp. 4-23, 70-71.

[3] Per Resolution dated April 5, 2006, id. at 60, 33-34.

[4] Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

[5] Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

[6] Section 3. (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law.

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

[7] A.M. No. P-08-2519, rollo, p. 37.

[8] A.M. No. P-08-2519, rollo, p. 50.

[9] Id. at 38-43.

[10] Id. at 44.

[11] Id. at 24.

[12] A.M. No. P-08-2519, rollo, pp. 25-27.

[13] Id. at 51.

[14] See October 12, 2005 Resolution in A.M. No. 12097-Ret. (Application for Separation Benefits under Section 11, Paragraph (b) of R.A. No. 8291 of Atty. Miguel C. Morales, Clerk of Court III, MeTC, Manila, Branch 17). There were two other pending cases against Morales at the time of the Resolution: A.M. No. P-05-1950 and A.M. OCA IPI No. 03-1555-P. A Resolution was promulgated on August 30, 2006 in A.M. No. P-1950 entitled *Bravo v. Morales* (A.M. No. P-05-1950, August 30, 2006, 500 SCRA 154) where Morales was found guilty of conduct unbecoming a court employee and fined P2,000.00 while A.M. OCA IPI No. 03-1555-P was dismissed on September 4, 2006.

[15] A.M. No. P-08-2520, rollo, pp. 1-2.

[16] A.M. No. P-08-2520, rollo, pp. 3, 10.

[17] Id. at 23-26.

[18] See OCA Memorandum dated November 7, 2007, A.M. No. P-08-2519, rollo, p. 121.

[19] A.M. No. P-08-2520, rollo, pp. 22.

[20] Id. at 57-61.

[21] A.M. No. P-08-2520, rollo, pp. 15-19.

[22] OCA Report dated June 14, 2005, id. at 75.

[23] See Third Division's October 12, 2005 Resolution in A.M. No. 12096-Ret. (Application for Retirement Benefits under Section 13-A of RA 8291 of Ms. Isabel A. Siwa, Court Stenographer II, MeTC, Manila, Branch 16).

[24] A.M. No. P-08-2520, rollo, p. 47.

[25] Id. at 49-50.

[26] Id. at 34.

[27] Id. at 45.

[28] A.M. No. P-08-2519, rollo, p. 55.

[29] A.M. No. P-08-2519, rollo, pp. 68-69.

[30] Id. at 69.

[31] A.M. No. P-08-2519, rollo, pp. 70-71.

[32] Id. at 71-72.

[33] Id. at 72.

[34] A.M. No. P-08-2519, rollo, pp. 72-75.

[35] Id. at 75.

[36] Id. at 119.

[37] A.M. No. P-08-2519, rollo, pp. 122-124.

[38] A.M. No. P-08-2519, rollo, pp. 124.

[39] Id.

[40] Id. at 25.

[41] Re: Anonymous Complaint Against Angelina Casareno-Rillorta, Officer-in-Charge, Office of the Clerk of Court, A.M. No. P-05-2063, October 27, 2006, 505 SCRA 537, 543; Anonymous Complaint Against Pershing T. Yared, Sheriff III, Municipal Trial Court in Cities, Canlaon City, A.M. No. P-05-2015, June 28, 2005, 461 SCRA 347, 355.

[42] *Salazar v. Limeta*, A.M. No. P-04-1908, August 16, 2005, 467 SCRA 27.

[43] Sec. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under

oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

[44] Caballes v. Court of Appeals, G.R. No. 136292, January 15, 2002, 373 SCRA 221, 231.

[45] G.R. No. 107383, February 20, 1996, 253 SCRA 699, 704 citing Art. III, Sec. 3 (2) of the 1987 Constitution.

[46] Caballes v. Court of Appeals, supra note 44.

[47] A.M. No. P-08-2519, rollo, p. 5.

[48] Affidavit of Atty. Ryan A. Tuazon dated April 7, 2005, A.M. No. P-08-2520, id. at 89.

[49] Caballes v. Court of Appeals, supra note 44.

[50] Id.

[51] Id.

[52] People v. Tudtud, G.R. No. 144037, September 26, 2003, 412 SCRA 142, 168.

[53] Caballes v. Court of Appeals, supra note 44; People v. Tudtud, supra note 52.

[54] People v. Tudtud, supra note 52, at 168-169.

[55] A.M. No. P-08-2520, rollo, pp. 17-18.

[56] Benavidez v. Vega, A.M. No. P-01-1530, December 13, 2001, 372 SCRA 208, 212.

[57] Biyaheros Mart Livelihood Association, Inc. v. Cabusao, Jr., A.M. No. P-93-811, June 2, 1994, 232 SCRA 707.

[58] Anonymous v. Grande, AM No. P-06-2114, December 5, 2006, 509 SCRA 495, 501.

[59] Biyaheros Mart Livelihood Association, Inc. v. Cabusao, Jr., supra note 57, at 713.

[60] A.M. No. P-08-2520, rollo, p. 05.

[61] Id. at 06.

[62] Id. at 10.

[63] See Report, A.M. No. P-08-2519, rollo, pp. 73-74. Crim. Case Nos. 257579-CR; 344073-CR; 311894-896-CR; Civil Case Nos. 159097-CV; 168109-CV.

[64] See Report, A.M. No. P-08-2519, rollo, pp. 75, 89. Crim. Case Nos. 257579-CR; 344073-CR; 311894-896-CR; Civil Case Nos. 159097-CV; 168109-CV.

[65] Baron v. Anacan, A.M. No. P-04-1816, June 20, 2006, 491 SCRA 313, 320.

[66] Id. at 323.

[67] A.M. No. P-08-2519, rollo, pp. 123-124.

[68] A.M. No. P-08-2520, rollo, p. 17.

[69] 2002 Manual for Clerks of Court, Chapter VII, D(1).

[70] A.M. No. P-08-2519, rollo, pp. 71-72.

[71] Id. at 124.

[72] A.M. No. P-08-2519, rollo, p. 72.

[73] Id. at 72.

[74] Re: Anonymous Complaint Against Angelina Casareno-Rillorta, *supra* note 41.

[75] Mikrostar Industrial Corp. v. Mabalot, A.M. No. P-05-2097, December 15, 2005, 478 SCRA 6, 11.

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