

ATTY. PACIFICO CAPUCHINO, COMPLAINANT, VS. STENOGRAPHER MARIPI A. APOLONIO, LEGAL RESEARCHER CARINA C. BRETANIA, COURT STENOGRAPHER ANDREALYN M. ANDRES, COURT STENOGRAPHER ANA G...*A.M. NO. P-04-1771 (FORMERLY OCA I.P.I. NO. 03-1618-P). September 05, 2011*

Ponente: BRION, J.

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This administrative case involves eight (8) personnel of the Municipal Trial Court in Cities (MTCC), Santiago City, Isabela, Branch 2, namely: Branch Clerk of Court Romeo B. Aspiras; Stenographers Maripi A. Apolonio, Andrealyn M. Andres and Ana Gracia E. Santiago; Legal Researcher Carina C. Bretania; Interpreter Ma. Anita G. Gatcheco; Clerk IV Fe L. Alvarez; and Process Server Eugenio P. Taguba (respondents). They were charged with Grave Misconduct and Violation of the Anti-Wire Tapping Act (Republic Act No. 4200) in two identical complaints, both dated January 20, 2003, filed by Atty. Pacifico Capuchino with the Office of the Ombudsman[1] (Ombudsman) and this Court.[2] The Ombudsman, in an Order[3] dated July 31, 2003, referred the complaint to the Office of the Court Administrator (OCA) for appropriate action, "considering that the respondents are court personnel"[4] who are under the administrative supervision of this Court.[5] It dismissed the criminal aspect of the complaint without prejudice to the outcome of the present administrative case against the respondents.

THE COMPLAINT

Atty. Capuchino alleged that he was the counsel of the accused in Criminal Case No. II-4066, entitled "People of the Philippines v. Marirose Valencia," for violation of Batas Pambansa Blg. 22, filed with the MTCC of Santiago City, Isabela, Branch 2. The accused, Marirose Valencia, was convicted of the offense charged and was ordered to pay private complainant Reynaldo Valmonte the amount of P120,000.00, plus interest at the rate of 12% per annum computed from the time of the filing of the criminal case. Atty. Capuchino filed a motion for reconsideration of Valencia's conviction. Pending resolution of the motion for reconsideration, he tried to settle the case amicably with Valmonte.

On May 9, 2001, Atty. Capuchino and Valencia met with Valmonte at the MTCC. They offered Valmonte the amount of P120,000.00, asking him to withdraw the criminal case he filed against Valencia. Valmonte refused and demanded a higher amount. As they failed to come to a settlement by lunchtime, they agreed to schedule another meeting. Apprehensive of carrying a big amount, Valencia requested Tessie Duque (who was the only personnel left in the court at that time) to hold the money for safekeeping until their next meeting with Valmonte. Duque initially refused to receive the money, but relented when Valencia insisted; she agreed to hold the money temporarily, and issued a provisional receipt for the amount.

Meanwhile, the court denied Atty. Capuchino's motion for reconsideration and issued a Writ of Execution. To show her readiness to settle her obligation, Valencia presented the provisional receipt issued by Duque for the

P120,000.00.

The respondents, claiming that Duque was not authorized to receive money from litigants even for safekeeping purposes, brought the matter to the attention of Judge Maxwell Rosete. Judge Rosete required Duque to comment on the respondents' report. Instead of filing the required comment, Duque filed a motion to set the case for hearing.

On September 24, 2002, Atty. Capuchino and Valencia went to the MTCC to attend the hearing on their motion for the withdrawal of the money deposited with Duque. The hearing did not materialize because Judge Rosete was absent. Atty. Capuchino went to see Aspiras to inquire about the next scheduled hearing. Instead of attending to their request, respondents Aspiras, Apolonio and Taguba casually led them to the court sala and asked them questions about the money they entrusted to Duque. Atty. Capuchino later learned that their conversations had been tape recorded by Apolonio with the aid of the other court personnel. The tapes were then used by the respondents to report the illegal deposit to then Chief Justice Hilario G. Davide, Jr., in a letter-complaint dated October 3, 2002.[6] They asked for an immediate investigation "before it is blown out of proportion." [7] The respondents' letter-complaint was later docketed as A.M. No. P-05-1958, entitled "Office of the Court Administrator v. Duque." [8]

Atty. Capuchino claimed that his and his client's conversations with Aspiras, Apolonio and Taguba were recorded by Apolonio, with the assistance of the other court personnel, without his and his client's knowledge, in violation of the Anti-Wire Tapping Act. He further claimed that all the respondents conspired with each other to illegally record their conversations.

In separate 1[st] Indorsements,[9] all dated May 7, 2003, the OCA required the respondents to comment on the charges against them.

In a Joint Comment[10] dated June 16, 2003, respondents Bretania, Gatcheco, Santiago and Andres denied having instigated or influenced Judge Rosete to issue an Order directing Duque to comment on the allegation that she has no authority to receive money from court litigants, even for safekeeping purposes. They also denied involvement in the taping incident. Gatcheco and Andres further claimed that they did not report for work on the date the incident complained of transpired, as they were on leave. They submitted photocopies of their Daily Time Record in support of their contentions.

Respondent Alvarez, in her Comment[11] dated June 16, 2003, denied involvement in the incident. Although she intended to keep silent about the incident, she signed the administrative complaint prepared by Taguba because "she is interested to know the truth, no more, no less." [12]

For his part, Taguba claimed that he filed a complaint against Duque because he believed that Duque's act "was improper as it is unauthorized and unlawful;" and that he was not motivated by malice in filing the complaint. Further, he argued that Atty. Capuchino has no cause to file the present complaint as the criminal case of his client had already been terminated.[13]

Aspiras and Apolonio, in their joint Comment[14] dated June 16, 2003, asserted that "the contention that the alleged tape record[ing] is inadmissible in evidence by virtue of R. A. No. 4200 cannot hold water because[:] the matters covered are clothed with public interest - the interest of the Judiciary itself to stand with unblemished integrity." [15]

Atty. Capuchino filed a Reply[16] dated July 18, 2003 to the respondents' comments, contending that violation of a law cannot be condoned, no matter how good and noble the intention of the perpetrators is. He averred that as a lawyer, it is his duty to call attention to violations of the law. He cannot see any reason why the respondents made

a big fuss over the provisional receipt issued by Duque, but he can discern their sinister motives. On the respondents' allegation that he has nothing at stake or interest to file the present case, he counter-argued that the respondents were the ones who have no stake or interest in the money privately entrusted to Duque and who merely pretended that they were doing a "messianic act." He referred to respondent Taguba as a "false messiah" who has a string of cases for extortion filed with this Court. He also said that seven of the respondents came to see him at this house several times to apologize, to plead for mercy, and to ask for the withdrawal of the case against them.

On the recommendation of the OCA, the Court issued a Resolution,[17] dated January 14, 2004, ordering the redocketing of Atty. Capuchino's complaint as a regular administrative matter; and referring the case to the Executive Judge of the MTCC, Santiago City, Isabela, for investigation, report and recommendation. Hence, the present administrative case.

Judge Ruben R. Plata, (then the Executive Judge of the MTCC of Santiago City, Isabela) inhibited himself from the case on the ground that all the respondents have filed an administrative complaint against him, docketed as A.M. OCA I.P.I. No. 03-1483-MTJ, and that he filed against all the respondents a criminal case for perjury and libel with the Office of the Prosecutor of Manila.[18]

In a Resolution dated March 31, 2004, the case was instead referred to Judge Fe Albano Madrid, Executive Judge, Regional Trial Court, Santiago City, Isabela, for investigation, report and recommendation.[19]

During the scheduled hearings of the case, Atty. Capuchino could not appear as he had suffered a stroke and was under medication. All the eight (8) respondents moved to dismiss the complaint for lack of basis, and for Atty. Capuchino's failure to appear and to present evidence against them. They manifested that they have nothing more to add to their comments filed with the Court.

In her undated Report,[20] Judge Madrid found that the respondents were not guilty of misconduct, reporting that:

The investigating judge believes that Atty. Capuchino would not care to appear and substantiate his complaint. He was not a party to the taped conversation. He was not prejudiced by the letter-complaint of Eugenio Taguba against Tessie Duque nor about the taped conversation. I suppose that the complaint against the respondents is just a means to get back at them because of the expose they made regarding the P120,000.00. At any rate, the Investigating Judge believes that the outrage of the court employees which prompted them to bring to the attention of the Supreme Court what they believe was an illegal transaction of another court employee is definitely not a misconduct.

As the matters raised in the present administrative case were related to the letter-complaint filed by Taguba and the other respondents against Duque, the OCA recommended the consolidation of the present administrative case with A.M. No. P-05-1958 (formerly A.M. OCA I.P.I. No. 03-1718-P).[21] However, no consolidation was effected because A.M. No. P-05-1958 had already been decided on February 7, 2005.

THE OCA's REPORT & RECOMMENDATION

In an Evaluation Report dated October 12, 2005,[22] the OCA disagreed with the findings of Judge Madrid. It found that the act of respondents Taguba, Aspiras, Apolonio and Santiago of surreptitiously taping their conversations with Atty. Capuchino and Valencia, without the latter's knowledge and consent, constitutes misconduct and/or conduct unbecoming of a court employee.

The OCA also confirmed Atty. Capuchino's allegation that respondent Taguba had been charged with several administrative cases before this Court. Taguba, together with respondents Apolonio and Andres, was found guilty of gambling during office hours in A.M. No. P-01-1517, and was suspended for one (1) month and one (1) day.

Taguba was also found guilty of violation of Republic Act No. 3019 and conduct unbecoming a court employee in A.M. No. P-05-1942, and was suspended for six (6) months.

The OCA recommended that:

- the criminal aspect of the case be referred back to the Ombudsman for proper disposition;
- respondents Taguba, Apolonio and Santiago be suspended for one (1) month for misconduct;
- respondents Gatcheco and Andres be exonerated as they were absent when the act complained of transpired;
- the issue of Aspiras' administrative liability be declared moot and academic as he has retired from the service; and
- the instant case against Bretania be dismissed as her participation in the act complained of could not clearly be established.

On December 14, 2005, the Court issued a Resolution: (1) exonerating respondents Gatcheco and Andres of the complaint against them, (2) declaring the complaint against Aspiras moot and academic, and (3) dismissing the complaint against Bretania.[23] Also, on the recommendation of the OCA,[24] the Court dismissed in its Resolution dated July 31, 2006,[25] the complaint against Alvarez for insufficiency of evidence. Hence, the present administrative case only relates to respondents Taguba, Apolonio and Santiago.

THE COURT'S RULING

The issue in an administrative case is not essentially about the wrong inflicted on the complainant by the respondent; the main question is whether the accused employee breached the norms and standards of service in the judiciary.[26] We resolve this case based on this perspective and not on the basis of whether respondents Taguba, Apolonio and Santiago violated the Anti-Wire Tapping Act.

Taguba denied that he was motivated by malice in bringing Valencia's deposit of funds to Judge Rosete's attention and in filing a complaint against Duque based on the taped conversation. He believed that the taping was for the good of the service; all he wanted was to ferret out the truth. He insisted that Atty. Capuchino has no cause to file the complaint against them because the criminal case of his client had already been terminated. Santiago denied any participation in the taping, insisting that she was implicated because she was the owner of the tape recorder used. It was borrowed from her by somebody whom she could no longer remember. On her part, Apolonio, together with Aspiras, maintained that the accusation against them cannot prosper because the matters covered are matters of public interest - the interest of the Judiciary itself.

The Court finds the respondents' contentions without merit. Their concerted acts - of leading Atty. Capuchino and Valencia into the court sala, engaging them in conversation regarding the money deposited with Duque, taping their conversation without Capuchino's & Valencia's knowledge, and later using the taped conversation as basis of the complaint they filed against Duque - constitute misconduct. Santiago's claim that she forgot who borrowed her tape recorder and for what purpose it was borrowed is not credible.

The Court observes that there exists animosity among the judges and employees of the court. When the present case was referred to Judge Plata for investigation, he inhibited himself on the ground that the respondents had filed a complaint against him and that he had also filed a criminal case against all of them. The filing of the complaint against Duque was instigated by Taguba. Initially signed only by Taguba, he prevailed upon the other respondents to co-sign his letter addressed to then Chief Justice Hilario G. Davide, Jr., which was later docketed as A.M. No. P-05-1958. He introduced as evidence in this complaint the tape recorded conversation. Although

Duque was penalized for simple misconduct, the Court found that there "was no evidence that she was moved by evident bad faith, dishonesty or hatred"[27] in receiving Valencia's money for safekeeping. We cannot say the same of Taguba's actions in the animosity-ridden atmosphere apparently obtaining in the MTCC of Santiago City.

Making false accusations and sowing intrigues are acts unbecoming of a public servant. They run against the principles of public service envisioned by the 1987 Constitution and by the Code of Conduct and Ethical Standards for Public Officials & Employees (Republic Act No. 6713). These acts divert the attention of public employees and the courts from their more important tasks, and result in undue wastage of government resources; they cannot be tolerated if we are to demand the highest degree of excellence and professionalism among public employees, and if we are to preserve the integrity and dignity of our courts.[28]

Misconduct, on the other hand, is a transgression of some definite or established rule of action; more particularly, it is unlawful behavior by the public officer and refers as well to wrongful or improper behavior under applicable provisions of the Code of Ethics. The term "gross" connotes something "out of all measure; beyond allowance; flagrant; shameful such conduct as is not be excused." [29] For administrative liability to attach, it must be established that the respondent was moved by bad faith, dishonesty, hatred or other similar motives.[30]

Clearly, substantial evidence exists in this case to hold Taguba guilty of gross misconduct punishable by dismissal from the service even for the first offense. Not only did he disregard the terms of the Anti-Wiretapping Act within court premises where the public should feel most secure about their personal liberties. He undertook the act to secure evidence against a co-employee; he obtained and used the taped conversation as basis for a complaint against Duque who was penalized for the deposit she had accepted. We cannot accept, under these circumstances, any claimed absence of bad faith after considering the devious method Taguba employed and the purpose that it served, however lofty Taguba thought his purpose had been.

Unfortunately, we can no longer impose the penalty of dismissal on Taguba because he has retired from the service on disability effective September 1, 2006. Additionally, we recently found Taguba guilty of gross misconduct in another case -- A.M. No. MTJ-08-1727, entitled "Milagros Villaceran and Omar T. Miranda v. Judge Maxwell Rosete and Process Server Eugenio Taguba, etc." [31] -- for soliciting P25,000.00 from the defendant in a pending case with the promise that he would work for the defendant's acquittal. In lieu of the dismissal that at that point we could no longer impose because of his previous retirement, the Court -- "given the gravity of respondent Taguba's offense" -- ordered the forfeiture of Taguba's disability retirement benefits. While we therefore find Taguba administratively liable in the present case, we have run out of administrative penalties to impose on him. Nothing, however, can stop us from holding and declaring him liable for the gross misconduct that he stands charged with.

For their participation in the illegal tape recording of the complainant and his client, the Court finds respondents Apolonio and Santiago guilty of simple misconduct. We so rule given the evidence that they merely followed the lead of Taguba. Under the Uniform Rules on Administrative Cases in the Civil Service, simple misconduct is a less grave offense punishable by suspension for one (1) month and one (1) day to six (6) months for the first offense, and dismissal for the second offense.[32]

Since the penalty of dismissal can no longer be imposed on respondent Taguba, we can only reiterate the directive in A.M. No. MTJ-08-1727[33] ordering the forfeiture of his remaining retirement benefits.

Respondent Maripi A. Apolonio has previously been found guilty of simple misconduct for gambling during office hours, together with respondents Taguba and Andres, in A.M. No. P-01-1517.[34] They were suspended for one (1) month and one (1) day. Since this is Maripi A. Apolonio's second offense, the penalty of dismissal should be imposed. We opt, however, to merely order her **SUSPENSION** from the service for one (1) year effective

immediately, in light of our recognition that her present act is different in nature from her first offense; the elements of perversity and impenitence that are considered in a repetition of the same offense are not necessarily present. Thus, we accord her the benefit of the doubt.

This is respondent Ana Gracia E. Santiago's first offense; thus, the Court hereby imposes on her a lighter penalty and orders her **SUSPENSION** from the service for only six (6) months.

WHEREFORE, the Court finds respondent Eugenio P. Taguba guilty of **GROSS MISCONDUCT**, and respondents Maripi A. Apolonio and Ana Gracia E. Santiago guilty of **SIMPLE MISCONDUCT**.

Maripi A. Apolonio is ordered **SUSPENDED** for one year effective immediately, with the warning that any similar or graver offense at any time in the future shall merit the penalty of outright dismissal.

Ana Gracia E. Santiago is hereby ordered **SUSPENDED** for six (6) months effective immediately, with the warning that any similar or graver offense at any time in the future shall merit the penalty of outright dismissal.

Let a copy of the records of OMB-L-C-03-0619-E be returned to the Office of the Ombudsman and a copy of this Decision be furnished the said Office, for appropriate action with respect to the criminal aspect of the case.

SO ORDERED.

Carpio, (Chairperson), Brion, Peralta,[*] Mendoza, [**] and Sereno, JJ., concur.

[*] Designated additional Member vice Associate Justice Jose P. Perez per Raffle dated August 24, 2011.

[**] Designated additional Member vice Associate Justice Bienvenido L. Reyes per Special Order No. 1066 dated August 23, 2011.

[1] Rollo, p. 151.

[2] Id. at 1.

[3] Id. at 207-209.

[4] Id. at 208.

[5] *Maceda v. Vasquez*, G.R. No. 102781, April 22, 1993, 221 SCRA 464.

[6] Rollo, pp. 12-13.

[7] Id. at 13.

[8] 491 Phil. 128 (2005).

[9] Rollo, pp. 54-61.

[10] Id. at 67-69.

[11] Id. at 77-80.

[12] Id. at 78.

[13] Id. at 89-90.

[14] Id. at 98-100.

[15] Id. at 100.

[16] Id. at 137-139.

[17] Id. at 215.

[18] Id. at 218.

[19] Id. at 241.

[20] Id. at 247-250.

[21] Id. at 289-295.

[22] Id. at 300-310.

[23] Id. at 311.

[24] Id. at 338-340.

[25] Id. at 347.

[26] Mutia v. Pacariem, A.M. No. P-06-2170, July 11, 2006, 494 SCRA 448; and Camus, Jr. v. Alegre, A.M. No. P-06-2182, August 12, 2008, 561 SCRA 744.

[27] Office of the Court Administrator v. Duque, supra note 8, at 532.

[28] Mendoza v. Buo--Rivera, A.M. No. P-04-1784, April 28, 2004, 428 SCRA 72; and Mutia v. Pacariem, supra note 26.

[29] Santos v. Arcaya-Chua, A.M. No. RTJ-07-2093, February 13, 2009, 579 SCRA 17, 30.

[30] Office of the Court Administrator v. Duque, supra note 8; and Camus v. Alegre, supra note 26.

[31] Decision dated March 22, 2011.

[32] Section 52B(2).

[33] Decision dated March 22, 2011.

[34] Supra note 26.

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