

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
ADMER L. FERRER, UTILITY WORKER I, MUNICIPAL TRIAL COURT
IN CITIES, BRANCH 2, GENERAL SANTOS CITY, RESPONDENT.**

A.M. No. P-94-1088. December 17, 1997

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PER CURIAM:

Respondent Admer L. Ferrer was a utility worker at Branch 2 of the Municipal Trial Court in Cities (MTCC) of General Santos City. He was charged with qualified theft in connection with the loss of a .45 caliber pistol and three magazines with nine rounds of live ammunition, which have been offered in evidence in a criminal case pending in the court. Based on the same incident, the Office of the Court Administrator (OCA) also administratively charged him on October 17, 1994 with dishonesty and grave misconduct in this case.

Respondent was required to answer, but failed to do so despite the show cause resolution of February 15, 1995 as well as the resolutions of May 17, 1995 and March 13, 1996 imposing upon him a fine of P500.00 and increasing such fine to P1,000.00, respectively. A copy of the resolution dated March 13, 1996 imposing a P1,000.00 fine on him for failure to file his answer, was returned to this Court on the ground that respondent was no longer at the address given. The Court required the Clerk of Court of Branch 2 of the MTCC of General Santos City to inform it of respondent's present address, but in her reply, Clerk of Court Norma C. Yumang stated that when she saw respondent's parents, she was told that respondent had left his parent's home after getting married on December 1995, apparently without letting them know where he resides at present. Accordingly, the Court, in its resolution dated November 27, 1996, considered respondent to have waived his right to file an answer and referred the case to Executive Judge Teodoro A. Dizon, Jr. of the Regional Trial Court of General Santos City for investigation, report, and recommendation. Because Judge Dizon had to undergo an eye operation for cataract, the case was transferred to Executive Judge Antonio S. Alano.

For consideration of the Court are the investigation report of Judge Alano dated June 9, 1997 and the OCA memorandum dated October 10, 1997, both recommending the dismissal of the case.

It appears that on October 27, 1994, respondent tendered his resignation effective that day. On May 30, 1995, Pablo C. Caintic was appointed in his place. The Civil Service Commission approved Caintic's appointment on June 7, 1995. To date respondent has not, however, claimed his retirement benefits. According to the OCA memorandum, "the Office of Administrative Services and the Fiscal Management and Budget Office did not have any knowledge that [respondent] had a[n administrative] case. Said offices became aware of respondent's case only after receipt of the Court's November 14, 1994 Resolution [requiring respondent to file his answer to the complaint]. Respondent's resignation was, therefore, accepted as part of the normal business of said Offices."

Both the OCA and the investigating judge recommend the dismissal of the case on the ground that respondent's resignation had rendered the case moot, in accordance with the ruling in *Diamalon v. Quintillan*, [1] that "As an administrative proceeding is predicated on the holding of an office or position in the Government and there being no doubt as to the resignation of the respondent Judge having been accepted as of August 31, 1997, there is

nothing to stand in the way of the dismissal of the [administrative complaint against him].”

This, however, is not an iron-clad rule. Court employees with pending administrative cases may be allowed to retire but payment of a portion of their retirement benefits may be withheld to answer for any administrative liability that may be adjudged against them. In this case, there is no doubt as to respondent’s guilt as shown by his plea of guilty to simple theft in the criminal case filed against him. It is noteworthy that respondent has not seen fit to controvert the evidence against him in this case. Despite notices sent to him by the Court, including citation for contempt for failure to file his answer, and despite the subpoena issued to him by Judge Alano, respondent has chosen to remain silent.

In this connection, the Court takes notice of the apparent lack of coordination between the Office of the Court Administrator and the Office of Administrative Services which led to the acceptance of the respondent’s resignation despite the pendency of an administrative case against him. The concerned officials are admonished to take the necessary steps to prevent a repeat of similar incidents in the future.

WHEREFORE, respondent is found GUILTY of dishonesty and grave misconduct and his retirement and all other benefits , including leave credits, are accordingly declared FORFEITED. Respondent is also DISQUALIFIED from reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco, Panganiban, and Martinez, JJ., concur.

[1] 29 SCRA 347 (1969).

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