

JUDGE ALEJANDRO C. SILAPAN, COMPLAINANT, VS. BERNANDO ALCALA, COURT INTERPRETER, COURT OF FIRST INSTANCE OF DAVAO DEL NORTE, BRANCH I, TAGUM, DAVAO DEL NORTE, RESPONDENT.

Adm. Matter No. P-2316. May 16, 1983

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is an administrative case which was initiated, *motu proprio*, by Executive Judge Alejandro C. Silapan of the Court of First Instance of Davao del Norte, against Bernardo Alcala, Court Interpreter, for grave misconduct in office, prolonged absence and negligence in the performance of official duty, docketed thereat as Administrative Matter No. 2-79.

It appears from the records that on August 13, 1979, then Administrative Services OIC Adelaida A. Cabe of this Court, addressed a telegram to Executive Judge Alejandro C. Silapan, which reads:

"EXECUTIVE JUDGE ALEJANDRO SILAPAN
CFI TAGUM DAVAO DEL NORTE

PLEASE FORWARD TO THIS OFFICE IMMEDIATELY RESIGNATION LETTER INTERPRETER
BERNANDO ALCALA TOGETHER WITH HIS CLEARANCES FROM MONEY PROPERTY
ACCOUNTABILITY AND AS TO PENDING CRIMINAL ADMINISTRATIVE CASE FOR
ACCEPTANCE

ADMINISTRATIVE SERVICES OIC CABE"
(File 201 of Respondent)

On October 2, 1979, Administrative Services OIC Adelaida A. Cabe sent another telegram to Executive Judge Alejandro C. Silapan, which reads:

"EXECUTIVE JUDGE ALEJANDRO SILAPAN
CFI TAGUM DAVAO DEL NORTE

INFORMING APPOINTMENT BENEDICTA HILARIO AS INTERPRETER CANNOT BE PROCESSED
UNTIL AFTER ACCEPTANCE RESIGNATION BERNANDO ALCALA STOP REITERATING OUR
REQUEST TO FORWARD TO THIS OFFICE IMMEDIATELY ALLEGED RESIGNATION LETTER
INTERPRETER ALCALA TOGETHER WITH HIS CLEARANCES FROM MONEY PROPERTY
ACCOUNTABILITY AND AS TO PENDING CRIMINAL ADMINISTRATIVE CASE FOR
ACCEPTANCE

ADMINISTRATIVE SERVICES OIC CABE"
(p. 1, rec.)

On October 10, 1979, Executive Judge Alejandro C. Silapan issued a memorandum addressed to respondent requiring him to explain in writing and under oath within 48 hours from receipt thereof why he should not be investigated for the aforementioned charges. Thus, pertinent portions of said memorandum read as follows:

"1. Official records show that aside from your several absences in previous months, on June 15, 18, 19, 20, 25, 26, 27 and 28, 1979 you were absent from office, although on some of those dates you were seen loitering in the premises of the courthouse. You even came in chambers two or three times before morning session began, repeatedly telling me about your final decision to resign in order to engage in a more profitable undertaking for a bigger income because your salary is very low and not enough to support your growing family. Then, about the end of June, you came to tell me that you already filed your terminal leave to take effect July 1, 1979 to last for 45 days, after which you will be out of the service.

"During the early part of your terminal leave you presented to me a law graduate holder of a civil service eligibility who is your friend and recommended him to me as your replacement. But the man never returned nor filed his application which led me to the conclusion that he must have decided that he did not like the job.

"Believing in your honesty, integrity, sincerity and good conduct as an employee that you will not renege from your 'final decision' to resign, I favorably endorsed to the Supreme Court the application of Benedicta Hilario for appointment upon the expiration of your terminal leave, but only to find out from the OIC Clerk of Court after receipt of the aforequoted telegram that you have withdrawn from him your application for terminal leave of absence not long from its filing, without giving me information, thereby committing an act of dishonesty, insincerity and gross misconduct which does not only constitute an affront to the dignity and integrity of the undersigned but placed him in an embarrassing situation, not only before the Supreme Court but also with respect to the applicant who spent so much time and effort out of her school work as a teacher to secure the necessary documents supporting her application.

"2. That since July 1 up to this writing you have been out of office which constitutes an unjustified prolonged absence and gross negligence in the performance of official duty, to the great prejudice of the service and public interest because the smooth trial of cases and speedy administration of justice have been seriously disrupted for lack of a regular interpreter" (pp. 2-4, rec.).

In his answer dated October 12, 1979, respondent explained that he withdrew his application for terminal leave on August 28, 1979 after the officer-in-charge of the Office of the Clerk of Court had shown him the telegram from the Supreme Court requesting that his resignation letter be forwarded; that on that day he was touched when everybody in the office advised him to report back to work; that thereafter, he informed the Judge that he was reporting for duty but the Judge told him: "I have already recommended somebody, nakakahiya, why did you not plan it well? You better look for another job"; that he became worried and confused not only because of the foregoing incident but also his business transactions had failed; and thus he resolved to stay out of the court and take a wait-and-see attitude (p. 5, rec.).

On October 16, 1979, Judge Silapan issued two orders.

The first order reads:

"Court interpreter Bernando Alcala having chosen to explain instead of resigning, let this case be captioned 'In re BERNANDO ALCALA, for dishonesty, grave misconduct in office, prolonged absence and negligence in the performance of official duty' and docketed as 'Administrative Matter No. 2-79, for investigation.'"

The second order likewise reads:

"It appearing that explanation in writing was received from court interpreter Bernando Alcala, let this case be investigated on October 25, 1979, at 8:30 A.M. to be continued at 1:30 in the afternoon, with intransferable character.

"Court interpreter Alcala is notified to be present in his defense, with the assistance of counsel if he so desires. His non-appearance will be deemed a waiver of the right to be heard and the case will be submitted for resolution" (pp. 7-8, rec.).

On the day of the scheduled hearing of October 25, 1979, upon motion of respondent, the case was re-set to October 29, 1979. Thus:

"When this case was called for investigation, the respondent court interpreter appeared and moved for postponement, alleging as his grounds that he is not yet ready for trial because (1) he has not yet finalized his agreement with his counsel in the person of Atty. Amado Ceniza; (2) because of the complicacies of life; (3) that he wants a representative of the Civil Service Commission to be present during the investigation by this Court; and (4) that he is filing a motion for inhibition.

"On the second ground which is complicacies of life, it is believed that the same has nothing to do with this investigation. On the third ground that a representative of the Civil Service Commission must be present during the investigation, the same has no basis in law. On the fourth ground that the respondent will file a petition for inhibition of this judge to investigate the case, the same also is not well-founded because it is precisely the duty of the executive judge to investigate cases of personnel in this court. But in the interest of justice and to give a chance to the respondent to be represented by counsel, the herein investigation is postponed to Monday, October 29, 1979 at 8:30 in the morning to be continued at 1:30 in the afternoon, definitely with intransferable character" (p. 10, rec.).

On October 29, 1979, respondent failed to appear at the hearing despite due notice and the case was reset to November 5, 1979. Thus:

"When this case was called for hearing at five minutes to 10, Mr. Bernando Alcala did not appear despite the fact that he was duly notified. This setting is intransferable in character and Mr. Alcala was duly advised about it during the last hearing.

"His non-appearance this morning would be sufficient ground for this court to have the case submitted and resolved but, in order to give him one last chance to ventilate his defenses, if any, let this case be reset to November 5, 1979, definitely for the last time and with intransferable character.

"If Mr. Alcala will not still appear and be ready during the next scheduled hearing, the court will already resolve this administrative matter in accordance with law" (p. 15, rec.).

On November 5, 1979, respondent again failed to appear despite due notice. Hence, Judge Silapan proceeded with the scheduled hearing by calling to the witness stand the court bailiff and the deputy clerk of court.

Accordingly, Judge Silapan submitted to this Court his report and recommendation contained in the following First Indorsement dated November 9, 1979:

"Respectfully endorsed to the Honorable Court Administrator, Supreme Court, Manila, the complete record of Adm. Matter No. 2-79 against court interpreter Bernando Alcala, with the report that he refused to attend the investigation despite due notice and sufficient time to appear, and hereby recommending that if that Honorable Court will not terminate him for the causes stated in the charge which are duly supported by the evidence, especially that of abandonment because of his prolonged failure to report for duty without legal authority thereby seriously disrupting the proceedings in this court and impeding the speedy administration of justice, he should be transferred to the vacant position of clerk in the office of the clerk of court or to any other available position, to pave the way for the early appointment of applicant, Mrs. Benedicta Hilario, for the good of the service and to promote public interest, it being a hard reality that after Mr. Alcala has committed rank insincerity and callous disregard of the processes of this court which amounts to an unmitigated act of insubordination, there could no longer be harmony and coordination between him and the undersigned, which

are indispensable factors for an efficient and effective performance of official duty.

"What Mr. Alcala has done is one of the principal causes of delay in the speedy disposition of cases, and the same should not be taken lightly in order to serve a warning to other court employees that they must devote full time in their assigned work, because a good administration of justice does not admit part-time employee and part-time businessman, and this is true not only to employees but to judges as well. We need full-time judges and full-time employees to man the courts so that there will be no business interruptions in the discharge of judicial functions. This will help solve the present problem of clogged court dockets. An interpreter-businessman, or even a judge-businessman, has a divided time and attention, and more if it will be in his business undertaking where his personal interest is at stake, to the great prejudice of his judicial work" (p. 34, rec.).

The letter of explanation of respondent is unsatisfactory. The following are the duties of a court interpreter.

"Under general supervision, acts as translator of the Court; attends all court hearings; administers oath to witnesses; marks and keeps under the direction of the Clerk of Court/Branch Clerk of Court all exhibits submitted in evidence; prepares all minutes of the court session; maintains and keeps in custody a record book of cases calendared for hearing; and performs such other duties as may be assigned by the Judge and/or Clerk of Court."

A careful review of the records disclosed that the charges of prolonged absence and negligence in the performance of official duty have been amply proven.

It has been shown that on several occasions complainant Executive Judge was surprised when cases were scheduled for hearing but however not included in the calendar; that the records of said cases were brought to his attention only when complainant was already holding session (p. 28, rec.).

Visibly, respondent displayed indifference to his sworn duties as Court Interpreter resulting in inefficiency and neglect in the discharge of his official duties. It is common knowledge among judges that such unconcerned behavior of court interpreters generates confusion during the trials and even embarrassment to the presiding judge. More often than not, judges become lenient to the granting of motions for postponement or continuance to cover up the shortcomings of the court personnel and thus defeat the very mandate of the constitution--to have a speedy trial of cases.

It is true that "frequent unauthorized absences" is classified only as a "light civil service offense" and punishable only by (1) reprimand or fine or suspension from one day to ten days in its minimum period; (2) fine or suspension for eleven days to twenty days in its medium period; and (3) fine or suspension for twenty-one days to thirty days in its maximum period (CSC Memorandum Circular, No. 8, series of 1970; see *Domingo vs. Elbinias*, 107 SCRA 28, 32). Nonetheless, the repeated absences incurred by respondent were shown to be without just cause and amounted to abandonment of office.

Respondent unsuccessfully attempted to justify his prolonged absence by explaining that he adopted a wait-and-see attitude after complainant judge told him to look for another job. The proffered justification of respondent that he failed to report for work after the expiration of his leave due to his belief that he was already separated from his job, could not exculpate him.

It may be pertinent to state that even respondent's repeated verbal statement to complainant judge that he was resigning did not automatically separate him from the service. It is not the form of resignation contemplated under our civil service system. The resignation must be in writing and accepted by the proper authority, i.e., the one who appointed him. As an employee of the Court of First Instance, respondent was appointed by the Chief Justice upon the recommendation of the Judge of the said court. Respondent has not tendered his written resignation to the

Chief Justice. He cannot, therefore, under such circumstance, be considered resigned from his position.

As above-stated, respondent's failure to return to work after the expiration of his leave cannot be excused by his erroneous belief that he was already separated from the service when told by complainant Judge to look for another job. His educational attainment and service record preclude his entertaining such belief. File 201 of the respondent shows that he finished 2nd year Law and had been a municipal policeman from August 5, 1966 to March 31, 1971, a Court Bailiff from April 1, 1971 to September 30, 1971, as well as Court Interpreter since October 1, 1971 up to the filing of the present charge.

Of particular interest in the present case is the justification advanced by respondent that he repeatedly absented himself in order to engage in a more profitable undertaking. Thus, in a letter to complainant judge dated May 16, 1980, respondent said:

"In view of the letter of the Supreme Court requiring me to explain why I should not be dropped from the service because of my prolonged absence from September 1, 1979 up to the present, I have the honor to inform you that I am now interested to report for duty, effective today.

"In this connection, I would like to state that during my absence I have tried my very best to pursue my plan to engage in business, as I have informed you before, but unfortunately, I did not succeed" (Respondent's File 201, italics supplied).

The facts of the case clearly show that even before the conversation of the complainant judge and the respondent took place about the end of June, 1979, respondent already repeatedly absented himself, admittedly in order to engage in a more profitable undertaking. Certainly, the fact that he engaged or was going to engage in a more lucrative business does not justify his absence from his work as a Court Interpreter.

Suffice it to state that the pursuit of private business by a government officer/employee is not per se objectionable as long as it does not interfere, directly or indirectly, with his duties as a public servant. The same is regulated by law, which requires permission therefor to avoid disciplinary action. Thus, paragraph (b), Section 36, Article IX of Presidential Decree No. 807 amending the old Civil Service Law explicitly provides:

".....

"(b). The following shall be grounds for disciplinary action:

".....;

"(24). Pursuit of private business, vocation or profession without the permission required by Civil Service rules and regulations;

"....."

Respondent has been unmindful of the exigencies of the public service, and neglectful of his duties to the prejudice of the general public. His absence as Court Interpreter unnecessarily hampered or impaired public service.

One of the reasons of the prohibition of government employees to engage in private business or other vocation is clearly delineated by Associate Justice Teehankee in the case of Rañosa vs. Garcia, Adm. Matter No. P-113, February 25, 1975, 62 SCRA 406, 408, that the rule is designed to assure that full-time officers of the courts render the full-time service required by their office so that there may be no undue delay in the administration of justice and in the disposition of cases as required by the Rules of Court. (Respondent therein, a branch clerk of court of the Court of First Instance of Albay, Branch II, at Legaspi City, was charged with illegal practice of law for having appeared as attorney for plaintiffs in an illegal detainer case, notwithstanding the civil service

prohibition against doing so as a full-time officer of the court).

Similarly, in an earlier case, *Jakosalem vs. Cordovez*, Adm. Matter No. 13-MJ, July 18, 1974, 58 SCRA 11, 15, involving a municipal judge, this Court, underscoring the importance of observance of office hours among government employees, said:

"It is also just as well, and this occasion is as good as any, for this Court to essay the reminder that pursuance by judges of other vocations is clearly circumscribed by well-known provisions of law and regulations prescribing definite office hours for judges and other public servants. These provisions of law and regulations must be strictly and faithfully observed so that all parties who have official business to transact with judges (especially municipal judges who are magistrates of direct citizens exposure) would always know where and when to locate them" (*italics supplied*).

It is thus appropriate to quote also Our earlier rulings in the case of *Municipal Council of Casiguran, Quezon vs. Mun. Judge Morales*, Adm. Matter No. 81-MJ, Nov. 13, 1974 and companion cases, 61 SCRA 13, 21, where this Court declared:

"The respondent totally ignored the demands of official duty which require sacrifice of one's personal interest and convenience for the public good. By the outcome of this case we deem it fit to set an example to those who want to remain in the public service, lest in the pursuit of their own personal ends they forget that total dedication to duty is exacted of a worthy public servant."

Likewise, the actuation of the respondent in introducing to the complainant judge an alleged friend whom he (respondent) recommended as his replacement and who subsequently failed to return and his repeated declaration to the complainant judge about his final decision to resign in order to engage in a more profitable undertaking, compelled the latter to endorse the application of Mrs. Benedicta O. Hilario for appointment as respondent's successor only to be subsequently thwarted as respondent interpreter withdrew his application for terminal leave. This certainly embarrassed the complainant judge, who had to favorably endorse the application of Mrs. Benedicta O. Hilario as it was demanded by the exigencies of the service. To postpone the appointment of a new court interpreter on the ground that the original occupant of the said position is still trying his luck in his business venture, is to make the administration of justice subject to the financial or economic success of court employees.

Finally, the willful disregard of the notices of hearing by the respondent, betrays an arrogant defiance, which is unbecoming of a court employee.

However, since the record shows that the respondent was allowed by complainant Judge to return to the service as court interpreter, a fine equivalent to three (3) months' salary should be imposed on him.

WHEREFORE, THE RESPONDENT BERNANDO ALCALA, COURT INTERPRETER OF BRANCH I, COURT OF FIRST INSTANCE OF DAVAO DEL NORTE, TAGUM, DAVAO DEL NORTE, FOR SERIOUS MISCONDUCT, IS HEREBY ORDERED TO PAY A FINE EQUIVALENT TO HIS THREE (3) MONTHS' SALARY.

SO ORDERED.

Concepcion Jr., Guerrero, Abad Santos, De Castro and Escolin, JJ., concur.
Aquino, J., took no part.

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