VIRGINIA D. SEANGIO, COMPLAINANT, VS. COURT STENOGRAPHER III, REGIONAL TRIAL COURT, BRANCH 36, MANILA, RESPONDENT.

A.M. NO. P-06-2252 (FORMERLY OCA IPI NO. 06-2391-P). July 09, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.

Before the Court is a letter-complaint-affidavit[1] dated February 6, 2006 of Virginia D. Seangio (complainant) charging Julieta F. Parce (respondent), Court Stenographer III, Regional Trial Court, Branch 36, Manila, with Conduct Unbecoming a Court Personnel relative to SP Proc. No. 98-90870, captioned In the Matter of the Intestate Estate of Segundo C. Seangio, et al.

Complainant alleges: On May 20, 2002, she was appointed as the administratrix of the estate of the late Segundo C. Seangio. On August 25, 2005 and September 5, 2005, she took the witness stand to testify on the correctness of her inventory and account, with respondent as the assigned stenographer. Respondent made the transcript of stenographic notes (TSN) available only on November 7, 2005, despite several follow-ups. There were numerous variations and discrepancies in the said TSN vis-à-vis those material matters testified to, if not a total deviation from, the actual testimonies. The August 25, 2005 TSN does not have page 9; thus, there appear to be gaps in the flow of discussions indicating untranscribed discussions and exchanges of arguments. In the TSN, respondent attributed to her statements which she did not make and statements which were transcribed differently from what were actually testified to. Her counsel filed a Motion for Correction of the TSN. Acting on the said Motion, the court directed respondent to appear on a scheduled date and bring with her the tape recordings for the hearings held on April 29, 2005, August 25, 2005 and September 5, 2005, and to effect the necessary correction on the TSN. When the tape recordings were played, they discovered that it was not properly reflected in the TSN, such that, those written on page 77 were followed by the transcription supposed to be found on page 82, while those found on pages 78 to 81, were found in another portion of the tape; and after page 81, it went back to page 78. The tape recording for April 29, 2005 was no longer available because respondent had already re-used the tape for another hearing, although the other stenographers claimed that it is not their practice to recycle any tapes. Also, respondent declared that it was not her practice to submit to the court, or attach to the case folder, her untranscribed handwritten notes, which is in violation of the rules.

In her letter-comment[2] dated March 31, 2006, respondent avers: There were no variations in the TSNs taken during the August 25, 2005 and September 5, 2005 hearings. The lacking page in the TSN of August 25, 2005, particularly page 9, was a clear error in placing the page numbers. A review of the tape recordings of August 25, 2005 would show that there was no gap in the flow of the discussion as it appeared on pages 8 and 10. As to the allegation that the manifestations of the counsels were not in order, it has always been her practice to make a draft of the TSN especially when it is very lengthy and a controversial one. It so happened that her drafts were not numerically arranged or continuous. Thus, when she made the final form, she did not notice that the pages were not in order. However, a review of the tape does not indicate any missing statement. Considering the voluminous notes, it was not attached to the case records. The usual practice of court stenographers using the stenotype

machine is to transcribe them and submit the final form to the Clerk of Court with copies furnished to the parties. The delay in the submission of the August 25, 2005 and September 5, 2005 TSNs was not deliberately done but due to heavy workload, as she was not only working for Branch 36 at that time but also assisting the sala of Judge Marino dela Cruz, whose stenographer was on leave. Judge Amor Reyes of Branch 21, to whom the subject case was assigned, also asked for her assistance; and, in relation to the hearings for the inventory and accounting of the complainant, she had been the stenographer-on-duty for eight times already. For 32 years in the service, not a single case has been filed against her due to discrepancies in her TSNs. She will never alter her TSNs being aware that she will be criminally liable if she tampers with them. With respect to the April 29, 2005 tape, she relied on the manifestation of complainant's counsel that only one correction has to be made on the April 29, 2005 hearing. Thus, she informed complainant's counsel that the said tape was no longer available, having used the same in another hearing. The Supreme Court does not provide court stenographers with free blank tapes; and after reviewing the TSN, and for economic reasons, they re-use the tape for other cases.

In the Agenda Report[3] dated August 16, 2006, the Office of the Court Administrator (OCA) submitted its evaluation and recommendation, to wit:

> EVALUATION: Although we find merit in the present I.P.I., we don't find the acts and omissions complained of to be constitutive of "Conduct Unbecoming a Court Employee." Instead, we hold that respondent is guilty of Simple Neglect of Duty.
>
> The complaint against respondent is primarily anchored on the alleged "discrepancies and variations" in the TSN prepared by respondent and with the matters that had been actually testified to by the complainant during the hearings on August 25, 2005 and September 5, 2005 for the latter's testimony on her Inventory and Account as Administratrix of the Estate of the late Segundo Seangio. In particular, complainant pointed to the following statements as the ones which were erroneously transcribed and are compared to the respective versions of the parties:
>
> Submitted transcription Correct Statement
>
> 1. "That will be what I have intended, part with everything that I have. I will put it in the estate." (TSN, 8/25/05) 1. Complainant's version (CV): "That will be an insult to my intelligence for me to give everything I have to the Estate." Respondent's version (RV):
> "That will be insulting my intelligence to part with everything that I have and I put it in the estate and not" (correct version per TSN, 11/14/2005)
>
> 2. "I don't know what is in the mind of my father, why it was not negotiated to me. You ask him, he is already dead." (TSN, 9/5/05)
>
> 2. CV: "I don't know, you ask my father."
> RV: same/correct transcription per review of the tape
>
> 3. "I made it in the inventory. Here, that's not complete." (TSN, 8/25/05) 3. CV: "It is all in the inventory and marked from Exhibit "3" to "365".
> RV: same/correct transcription per review of the tape.
>
> 4. "I am not aware of any dividend. I already answered. I keep on repeating." (TSN, 8/25/05) 4. CV: "I am not aware of any dividend, I already answered. You keep repeating the question, I keep repeating the answer."
> RV: same / correct transcription per review of the tape
>
> Although attached to the record of the case is a copy of the TSN dated January 30, 2006 covering the proceedings that took place during the hearing for the correction of the August 25, 2005 and September 5, 2005 TSNs, the above mentioned portions are not covered or reflected therein. Except for the first statement, there is no way for us to determine from the records whose version is correct or what should properly appear in

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> the subject TSNs.
>
> With respect to the first statement, it is certain that respondent recorded and submitted a wrong transcription as she herself stated in her Comment the correct statement that should have appeared in the TSN based from the re-playing of the tape recording. Said correction is also reflected in the TSN dated November 14, 2005 attached to the record. This is not an isolated mistake however, as perusal of the TSN dated January 30, 2006 reveals more erroneous transcriptions xxx
>
> x x x x
>
> Respondent also failed to comply with par. 1, Section 17 of Rule 136 of the Rules of Court as embodied in paragraph (a) Chapter 6 Section D subsection 1.2.2.3 of the 2202 Revised Manual for Clerks of Court and reiterated in Administrative Circular No. 24-90 which all provide:
> Duties of stenographers — It shall be the duty of the stenographers who has attended a session of a court either in the morning or in the afternoon to deliver to the Clerk of Court immediately at the close of such morning or afternoon session, all the notes he has taken to be attached to the record of the case: and it shall likewise be the duty of the Clerk of Court to demand that the stenographer comply with said duty. The Clerk of Court shall stamp the date on which such notes are received by him. When such notes are transcribed, the transcript shall be delivered to the Clerk, duly initialed on each page thereof, to be attached to the record of the case.

Respondent is also guilty of delay in the transcription of her stenographic notes. As alleged by complainant and as admitted by respondent, the TSNs for the August 25, 2005 and September 5, 2005 hearings were made available only on November, 2005 which is way beyond the 20-day period provided in the Circular and said Manual for Clerks of Court, xxx

x x x x

In her attempt to shield herself from liability, respondent raises her heavy workload in defense. While in this particular case it may be taken as a mitigating circumstance, respondent cannot be totally exonerated therefrom. x x x

With respect to the non-production of the tape recording covering the April 29, 2005 hearing, we cannot directly fault respondent absent any rule or circular governing the use and utilization of these mode for recording court proceedings. The use of cassette tape and cassette player, though not directly provided for by the Rules are neither prohibited by the court and hence may be resorted to by the court stenographers for a more efficient and convenient performance of their duties at their instance and account. This explains the non- disbursement of court funds for these materials.

With all the foregoing, we believe that respondent had been remiss and negligent in her duty. However, from the records, we see no apparent ill or malicious motive on her part for her non- feasance and misfeasance. Absent any attribution and substantial proof of fraud or bad faith on the part of respondent, (her) failure to transcribe the stenographic notes on time, (her non- attachment of the stenographic notes to the record of the case and her not too accurate recording of the court proceedings) constitute simple neglect of duty. Defined as a disregard of, or a failure to give proper attention to a task expected of an employee, simple neglect of duty signifies carelessness or indifference. (SPO2 Jonathan M. Alcover, Sr. vs. Edgardo Y. Bacatan, A.M. No. P-05-2043, December 1, 2005).

Under Sec. 52 (B) (1) Uniform Rules on Administrative Cases in the Civil Service, simple neglect of duty is punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense and dismissal for the second offense. Considering, however, that this is respondent's first offense and the first administrative complaint filed against her in her 36 years of service as court stenographer, and her plea of heavy workload, we deem the imposition of fine in the amount of Two Thousand Pesos (P2,000.00) with a warning that commission of

the same infraction in the future would be dealt with severely, sufficient penalty.

Verily, court personnel must at all times perform official duties properly and with diligence. They shall commit themselves exclusively to the business and responsibilities of their office during working hours. (Section 1, Canon IV, Code of Conduct for Court Personnel, A.M. No. 03-06-13-SC, June 1, 2004).

RECOMMENDATION: Respectfully submitted for the consideration of this Honorable Court is our recommendation that [1] the instant complaint against respondent Court Stenographer III Julieta F. Parce be RE-DOCKETED as a regular administrative matter and [2] respondent be declared guilty of SIMPLE NEGLECT OF DUTY and be FINED the amount of Two Thousand Pesos (P2,000.00) with a WARNING that commission of the same or similar acts in the future shall be dealt with more severely.

In its Resolution[4] of October 2, 2006, the Court resolved to re-docket the instant complaint as a regular administrative matter and required the parties to manifest whether they were willing to submit the case for resolution based on the pleadings filed.

In her Manifestation[5] dated November 25, 2006, complainant manifested her desire to file additional arguments and/or controverting evidence. On the other hand, respondent prayed that she be given a period of ten days from receipt of the additional arguments and/or controverting evidence to file her answer and/or comment on complainant's additional pleading.[6]

In its Resolution of January 22, 2007, the Court noted the parties' manifestation and letter; and granted them a period of ten days within which to file their respective pleadings.

In her Reply[7] dated February 28, 2007, complainant asserts that respondent's averments are self-serving declarations. Complainant further argues that if, indeed, there was no alteration and/or variation in the TSN of August 25, 2005, how will respondent categorize the absence of a page? During the February 2, 2006 proceedings for the correction of the August 25, 2005 hearing, it was very clear that there were various alterations, variations in and erroneous TSNs. Stenographers earn double from selling TSNs; hence, they have the resources to buy blank tapes, as their only capital in making said TSN is their efforts. As admitted by the respondent, the case is controversial and the TSN is lengthy; she should have taken it upon herself to exert extra effort and been more cautious in transcribing the subject TSNs so as to avoid the controversy. The only conclusion is that respondent's disorganized transcriptions and alterations were deliberately done. Respondent should not have accepted additional workload, to the prejudice of her previous duties and responsibilities in transcribing the proceedings. If, indeed, respondent was requested by Judge Reyes to assist in her sala, respondent should have presented a written request or a memorandum to that effect.

In her Comment[8] dated March 30, 2007, respondent asseverates: If there were errors or discrepancies in the TSN of August 25, 2005, the same would not constitute alteration or variation in the testimony of complainant, as she merely failed to review the said TSN when the same was furnished to the parties concerned. Considering the very lengthy proceedings of August 25, 2005 and September 5, 2005, her only concern at that time was to finish the transcription as several requests had already been made by the parties. Because of pressure, she had to rush the TSNs. Thus, various errors were committed which were not intentionally done. The matter of assisting other branches of the court is an internal arrangement between the judge and the clerk of court and sometimes, the stenographer-on-duty. As long as there is a request for assistance in court hearings, she never turns it down. She was already assisting Judge Reyes even before she became the judge of Branch 21, and such assistance was with the approval of the judge and as requested by the latter's stenographers. She admitted that stenographers are required to attach their stenotype notes to the case records, but they prefer to keep the notes with them, as these would only make the records bulky. It was only after transcribing the notes that copies of the TSN were attached

to the case records. Considering that she was not a regular stenographer in Branch 21, she deemed it appropriate, for security reasons, to keep the stenotype notes in her files. When she mentioned her 32 years in the government service, it was not her intention to brag, but to emphasize that all those years, she had rendered honest and dedicated service to the government, which can be vouched for by the different judges she had assisted.

We are in full accord with the findings and recommendations of the OCA.

Administrative Circular No. 24-90 requires all stenographers to transcribe all stenographic notes and to attach the transcripts to the records of the case not later than 20 days from the time the notes are taken. The attachment may be done by putting all the transcripts in a separate folder or envelope, which will then be joined to the records of the case.

The hearings were conducted on August 25 and September 5, 2005, while the TSNs were made available only on November 7, 2005. According to respondent, the delay was due to heavy workload and the lengthy proceedings. Although respondent was burdened with a heavy workload, she should be held liable. The delay of more than two months in the transcription of the stenographic notes violated the above-mentioned circular.

Albeit this Court is solicitous of the plight of court stenographers, in the absence of compelling reasons to justify respondent's failure to strictly comply with her duty within the prescribed period, she cannot be exonerated. Otherwise, every government employee charged with negligence and dereliction of duty will always proffer a similar excuse to escape punishment, to the great prejudice of public service.[9]

A court stenographer performs a function essential to the prompt and fair administration of justice, is tasked with making an accurate and faithful record of the court proceedings as well as honest and authentic reproductions of transcripts.[10]

It cannot be overstressed that a transcript of stenographic notes should be a faithful and exact recording of all matters that transpire during a court proceeding.[11] In this case, there were glaring discrepancies between the TSNs and the statements made by the complainant during the hearing. However, the complainant failed to substantiate her allegation that there was a deliberate intent on the part of the respondent to cause the variations and discrepancies in the questioned TSNs. As aptly observed by the OCA, respondent has no apparent malicious or ill motive to alter the TSNs.

It is settled that in administrative proceedings, the complainant has the burden of substantiating the charges asseverated in the complaint. In the absence of evidence to the contrary, the presumption that the respondent has regularly performed her duties will prevail.[12]

With regard to the tape recording of April 29, 2005, we find that respondent cannot be blamed for having used the same tape in another hearing. As pointed out by the OCA, there was no rule or circular governing the use or utilization of such mode of recording court proceedings. At best, the use of tape recordings is to aid court stenographers in the speedy and efficient administration of justice and for their own convenience.

At this juncture, we want to stress that the fees for the TSN are sanctioned by the Rules of Court.[13] Thus, court stenographers cannot demand higher fees for their TSNs, without transgressing the Rules.

Anent the missing page 9 in the TSN of August 25, 2005, we find the same to be a mere inadvertence on the part of the respondent. A perusal of the record shows that there were no gaps in the flow of the discussion as appearing on pages 8 and 10, contrary to the allegation of the complainant. It was an honest mistake in typing the page number, thus, the respondent cannot be held liable.

As to the untranscribed handwritten notes, we cannot totally fault the respondent for having deviated from the

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Rules.[14] Though she kept the stenotype notes in her files, she is not without valid reasons — not being a regular stenographer in Branch 21 and for security purposes.

The conduct of every person connected with the administration of justice, from the presiding judge to the lowliest clerk, is circumscribed with a heavy burden of responsibility.[15] A public office is a public trust. Public officers, who are accountable at all times to the people — most especially to court litigants — must perform their duties and responsibilities with utmost efficiency and competence.[16]

As correctly observed by the OCA, respondent committed simple neglect of duty in failing to timely and accurately transcribe her stenographic notes. We have stated that simple neglect of duty signifies a disregard of a duty resulting from carelessness or indifference. It is considered a less grave offense[17] for which a penalty of suspension for one month and one day to six months shall be imposed for the first offense and dismissal for the second offense.

While this Court is duty-bound to sternly wield a corrective hand to discipline its errant employees and to weed out those who are undesirable, this Court also has the discretion to temper the harshness of its judgment with mercy.[18] Considering that the respondent is a first-time offender with 32 years of service in the judiciary, adding the fact of her heavy workload, and taking into account that this is the first administrative complaint filed against her, a lighter penalty than suspension for one month and one day would suffice in this case.

Pursuant to Section 19, Rule XIV of the Omnibus Civil Service Rules and Regulations, a fine of P2,000.00 instead of suspension for one month is just and reasonable.

Court stenographers may perform functions that seem menial but are actually indispensable in the judicial scheme of things. No trial court could function without stenographers.[19] They deserve respect from litigants and lawyers. Perhaps by reason of their relative position in the hierarchy of judicial officers, stenographers may seem as convenient scapegoats when things go wrong in trial.

WHEREFORE, the Court finds Julieta F. Parce, Court Stenographer III, GUILTY of SIMPLE NEGLECT OF DUTY and is FINED Two Thousand Pesos (P2,000.00) with a warning that a repetition of the same or similar offenses in the future shall be dealt with more severely.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, and Nachura, JJ., concur.

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[1] Rollo, pp. 1-3.

[2] Id. at 10-13.

[3] Id. at 278-284.

[4] Id. at 285.

[5] Id. at 286.

[6] Id. at 287.

[7] Id. at 290-297.

[8] Id. at 331-334.

[9] Antimaro v. Amores,, A.M. No. P-05-2074, September 16, 2005, 470 SCRA 1, 5-6.

[10] Occida v. Malnegro, A.M. No. P-05-1961, February 17, 2005, 451 SCRA 613, 621.

[11] Alfonso v. Ignacio, A.M. No. P-02-1557, December 8, 2004, 445 SCRA 493, 496.

[12] Alfonso v. Ignacio, supra note 11, at 497.

[13] Rule 141, Sec. 11. Stenographers. - Stenographers shall give certified transcript of notes taken by them to every person requesting the same upon payment to the Clerk of Court of (a) TEN (P10.00) PESOS for each page of not less than two hundred and fifty words before the appeal is taken and (b) FIVE (P5.00) PESOS for the same page, after the filing of the appeal, provided, however, that one- third (1/3) of the total charges shall accrue to the Judiciary Development Fund (JDF) and the remaining two-thirds (2/3) to the stenographer concerned.

[14] Rule 136, Sec. 17. Stenographer. - It shall be the duty of the stenographer who has attended a session of a court either in the morning or in the afternoon, to deliver to the clerk of court, immediately at the close of such morning or afternoon session, all the notes he has taken, to be attached to the record of the case; and it shall likewise be the duty of the clerk to demand that the stenographer comply with said duty. The clerk of court shall stamp the date on which such notes are received by him. When such notes are transcribed the transcript shall be delivered to the clerk, duly initialed on each page thereof, to be attached to the record of the case.

[15] Alcover, Sr. v. Bacatan, A.M. No. P-05-2043, December 7, 2005, 476 SCRA 607, 611.

[16] Id. at 611-612.

[17] Sec. 23, Omnibus Civil Service Rules and Regulations Implementing Book V of Executive Order No. 292.

[18] Aquino v. Fernandez, 460 Phil. 1, 13 (2003).

[19] Occida v. Malnegro, supra note 10, at 624.

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