

EUGENIO DELA CRUZ, COMPLAINANT, VS. ROBERTO MUDLONG, RESPONDENT.

A.M. No. P-985. July 31, 1978

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

Respondent Roberto Mudlong was appointed by Secretary of Justice Vicente Abad Santos on April 25, 1972, as Process Server in the circuit Criminal Court, Fourth Judicial District, at Cabanatuan City.

On June 11, 1975, a letter-complaint was filed against respondent Mudlong by Eugenio dela Cruz of Mayapyap, Cabanatuan City, charging him with "oppression, misconduct, and being notoriously undesirable."

After respondent had answered the complaint, We referred the same to Hon. Amante Q. Alconcel, Presiding Judge of the Circuit Criminal Court at Cabanatuan City, for investigation, report and recommendation.

Essentially, this administrative complaint centers on the failure of respondent to disclose in his information and personal data sheets certain matters called for in said documents which were material and relevant to his appointment in the government service more particularly in the judicial branch of the government.

The Investigating Judge made the following findings and conclusions:

"E. FINDINGS AND CONCLUSIONS

"From the evidence on record, it becomes clear that:

"1. When respondent Roberto Mudlong filed Civil Service Form No. 1 (Exhibit 'E') with the Department of Justice on September 4, 1968, he answered Question No. 10 thereof to the effect that he has never 'been accused or indicted for or tried for the violation of any law, ordinance, or regulation before any court or tribunal x x x or the subject of an administrative disciplinary action' when the truth is, he has been accused, or indicted for, or tried as follows: (a) In 1962, for Maltreatment, before the Justice of the Peace Court (now Municipal Court) of General Natividad, Nueva Ecija, as evidenced by Exhibit 'B'; (b) In 1962, for Light Threats, before the Justice of the Peace court (now Municipal Court) of General Natividad, Nueva Ecija, as evidenced by Exhibit 'C'; and (c) Also in 1962, for Misconduct as a police officer (administrative case) before the Municipal Council of General Natividad, Nueva Ecija, as evidenced by Exhibit 'D', wherein he was found guilty and penalized by suspension for 15 days without pay.

"2. When respondent Roberto Mudlong filed Civil Service Form No. 212 (Exhibit 'F') with the Department of Justice on October 9, 1968, he answered Question No. 15 thereof to the effect that he has never 'been accused

or indicted for, or tried for violation of any law, ordinance or regulation before any court or tribunal x x x or the subject of an administrative disciplinary action' when the truth is he has been accused, indicted for or tried under the three (3) cases enumerated under No. 1, above.

"3. When respondent Roberto Mudlong filed Civil Service Form No. 212 with the Supreme Court on August 8, 1975 (Exhibit 'A'), he answered Question No. 15 thereof by admitting that he has 'been accused of, indicted for or tried for violation of any law, ordinance or regulation in any court or tribunal', enumerating two (2) cases, namely: Light Threats indicated as already dismissed, and Physical Injuries, indicated as still pending. The latter case is presumably Criminal Case No. 24572 of the City Court of Cabanatuan City, for Serious Physical Injuries (See page 3 of the Records). In so answering, he omitted to state Cases (a) and (c) under 1, above. In addition, respondent also failed to mention that in 1970, he was charged on two (2) counts before the Provincial Fiscal's Office of Nueva Ecija for perjury, and/or falsification for omitting to state in Exhibits 'E' and 'F' the cases previously filed against him. These cases before the Provincial Fiscal's Office are CC-62-69 (Exhibit 'G') and CC-63-69 (Exhibit 'H').

"On the other hand, the respondent was able to show that the charges in Exhibits 'B' and 'C' were dismissed. Likewise, he was able to show that the charges in Exhibits 'G' and 'H' (CC-62-69 and CC-63-69, respectively, of the Provincial Fiscal's Office of Nueva Ecija) were also dismissed as shown in respondent's Exhibit 'I'. And to climax his defense, respondent presented as one of his witnesses, Eugenio dela Cruz, the complainant himself, who identified Exhibit '2', an affidavit of desistance which he duly subscribed and swore to and wherein he requested the withdrawal not only of the instant administrative case, but also Criminal Case No. 24572 of the City Court of Cabanatuan City, for Serious Physical Injuries." (rollo, pp. 173-174)

The above facts lead Us to conclude that respondent herein is guilty of dishonesty and falsification in the accomplishment of vital documents consisting of "information sheets" attached to an application for appointment.

In 1968, when respondent applied for the position of court bailiff he answered NO to question number 10 of the information sheet (CS-Form No. 1 - 1960) which asked whether he was ever accused, indicted, or tried for the violation of any law, ordinance or regulation before any court or tribunal, or whether he was ever charged or tried for any breach or infraction of military, naval or constabulary discipline before any military, naval or constabulary tribunal or other authority or the subject of an administrative disciplinary action, and wrote the word NONE in the space provided for "nature of the offense, penalty imposed and date of the decision." Respondent certified under oath on September 4, 1968 that the answers given in the information sheet were true and correct to the best of his knowledge and belief. (Exhibit "E", pp. 19-20, rollo.)

In another information sheet (CS Form No. 212-1965) which he filed in 1968 respondent checked the word "NO" in answer to question No. 15 which asked whether he had ever been accused or indicted or tried for violation of any law, ordinance, or regulation before any court or tribunal x x x or the subject of an administrative disciplinary action, and he wrote the word NONE in the space provided for particulars. Respondent certified under oath on October 9, 1968 that the answers given were correct. (Exhibit "F", pp. 110-111, rollo.)

In 1972, when respondent applied for promotion to the position of Process Server he checked the word NO in answer to the first question in paragraph 15 of the Personal Data Sheet (CS Form No. 212) which asked whether he had ever been accused or indicted or tried for violation of any law, ordinance or regulation before any court or tribunal; he checked the word NO in answer to the second question in the same paragraph which asked whether he had ever been charged or tried for any breach or infraction of military, naval or constabulary discipline before any military, naval or constabulary tribunal or other authority or the subject of an administrative disciplinary action;

and he wrote the words NOT APPLICABLE in the space provided for particulars. Respondent likewise certified under oath that the answers he gave were true and correct to the best of his knowledge and belief. (See 201-File of Roberto S. Mudlong)

In 1975 when respondent submitted his Personal Data Sheet (CS Form No. 212) to the Supreme Court he checked the word YES in answer to the first question in paragraph 15 which asked whether he had ever been accused of or indicted for or tried for the violation of any law, ordinance or regulation before any court or tribunal; but he did not check the answer to the second question in the same paragraph which asked whether he had ever been charged or tried for any breach or infraction of military, naval or constabulary discipline before any military, naval or constabulary tribunal or authority or the subject of an administrative disciplinary action. In the space for particulars respondent wrote the following:

Nature of Case

Date Filed

Date Disposed

Decision

Light Threat

Jan. 3, 1974

Mar. 8, 1974

Dismissed

Phy. Injuries

Dec. 13, 1974

Still Pending

Respondent also certified under oath that the answers given therein were true and correct to the best of his knowledge and belief. (Exhibit "A", p. 105, rollo.)

Respondent intentionally failed to disclose in the information and personal data sheets which he filed in 1968, 1972 and 1975 that:

1) on July 11, 1962, he was indicted in Criminal Case No. 199 of the Justice of the Peace Court of General Natividad, Nueva Ecija, for Maltreatment of one Florencio dela Cruz for having kicked the latter on the hip and stomach without however causing any injury, which case was dismissed on motion of the Chief of Police based on the affidavit of desistance of said Florencio dela Cruz (Exhibit "B", p. 106, rollo.);

2) on July 11, 1962, he was charged in Criminal Case No. 200 of the Justice of the Peace Court of General Natividad, Nueva Ecija, of the crime of Light Threats, for having threatened to do harm upon one Florencio dela Cruz by cocking and pointing his caliber .45 revolver at the latter and firing a shot in the air, which case was likewise dismissed on the basis of the affidavit of desistance of the complainant Florencio dela Cruz (Exhibit "C", p. 107, rollo.);

3) on July 31, 1962, while still a policeman he was subject of an administrative disciplinary action when, in connection with Administrative Case No. 1 for Misconduct, the Municipal Council of General Natividad, by resolution found him guilty of misconduct and suspended him from the service for fifteen (15) days without remuneration (Exhibit "D", pp. 15-17, rollo);

4) on April 25, 1969, he was the subject of two (2) preliminary investigations for Perjury and/or Falsification (CC-62-69 and CC-63-69) in the Office of the Provincial Fiscal of Nueva Ecija, conducted on the basis of the complaint filed by Florencio dela Cruz, in connection with respondent's failure to disclose the criminal and administrative cases filed against him in two (2) information sheets he filed in September and October, 1968 (Exhibits "G" and "H", pp. 108-109, rollo.)

If respondent's intention was not to suppress certain information about himself, then respondent should have disclosed and stated the true facts when he filled up his first information sheet in 1968. Indeed respondent's allegations that his act of omitting to answer Question No. 15 of the information sheet he submitted to the Supreme Court was not intentional; that he had stated in another sheet of paper the other charges filed against him because the space provided in the information sheet was not enough which he however forgot to include when he submitted the form - are all undeserving of belief.

What is vital here is that had respondent disclosed the above facts in his information sheets, those facts would have been considered in the evaluation of his fitness for employment in the judicial branch of the government.

In *Burgos vs. Baduel*,^[1] the Court found respondent court stenographer guilty of falsification in the accomplishment of her information sheet by withholding material facts which would have affected the approval of her appointment as a stenographic reporter of the Court of Industrial Relations. It appeared that respondent Baduel made the unqualified answer "no" to questions 15 and 17 of the information sheet requiring her to state whether she had been accused of or convicted for violation of any law or ordinance and whether she had been previously dismissed from any employment. In resolving the administrative case against said respondent, We said that her previous conviction for slight oral defamation with a fine of P1.00 or subsidiary imprisonment of 1 day; the filing of the charge of grave oral defamation against her, although dismissed for non-appearance of the complainant and her witnesses; and the fact that she was dismissed by the Clavecilla Radio System, Inc., her previous employer - all these incidents could have been properly considered for purposes of determining her moral fitness and, naturally, would have affected her qualification for the position she was aspiring for.

The theory of herein respondent Mudlong that whatever criminal charges may have been filed against him were after all dismissed, does not lighten the difficult situation in which he now finds himself.

The dismissal of the criminal cases was mainly based on the "desistance" of the respective complaining witnesses, which fact does not carry with it an imprimatur of innocence.

As We said in *Quinio vs. Borbolla*^[2] the Court looks with disfavor upon the dropping of criminal complaints upon mere affidavits of desistance of the complainant, particularly where the commission of the offense is duly supported by documentary evidence.

And in the cases of *Taga-an vs. Roa*, and *Apolinario vs. Roa*,^[3] the Court found respondent Clerk of Court to be "notoriously undesirable" for having been "repeatedly charged" in court with various offenses, such as, illegal possession of firearm, light threats, grave coercion, less serious physical injuries, while in one case he was convicted by final judgment of slight physical injuries, and the Court stated that respondent's defense that those cases were dismissed either for lack of evidence to support the charge or for failure of the complaining witness to appear and/or to prosecute the case, would not necessarily result in his exculpation from any disciplinary action.

Finally, the belated act of the complainant herein in withdrawing his complaint against respondent Mudlong will in no way affect the outcome of the case. The offense committed is evidenced by the records of this Court, and on Our own initiative, punitive action may be taken against the herein respondent.

WHEREFORE, We find Roberto S. Mudlong guilty of making false statements and of suppressing vital information in his personal data forms filed for purposes of appointment and/or promotion in the government, and accordingly, We DISMISS and remove him from office effective upon receipt hereof, with forfeiture of retirement benefits if any, and with prejudice to re-employment in the government service, whether pertaining to the national government, local political subdivisions, or other governmental instrumentalities and agencies, including government-owned or controlled corporations or entities.

SO ORDERED.

Castro, C.J., Fernando, Teehankee, Barredo, Makasiar, Antonio, Aquino, Concepcion, Jr., Santos, Fernandez, and Guerrero, JJ., concur.

[1] Adm. Matter No. P-11, April 30, 1976, First Division, 70 SCRA 416

[2] Adm. Matter No. P-238, September 30, 1977, First Division, 79 SCRA 155

[3] Adm. Matter No. P-214 & Adm. Matter No. P-246, August 31, 1976, 72 SCRA 466.

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