

ANG KEK CHEN, COMPLAINANT, VS. JUDGE CRISTINA F. JAVALERA-SULIT AND STENOGRAPHER PRIMITIVA A. CALIAO-GLORIA, METROPOLITAN TRIAL COURT, BRANCH 27, MANILA, RESPONDENTS.

A.M. No. MTJ-06-1649 (Formerly OCA IPI No. 04-1605-MTJ). September 12, 2007

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/9b0a1a527fad/>

AUSTRIA-MARTINEZ, J.:

Before the Court is a Verified-Complaint dated July 12, 2004,[1] an Amended Verified Complaint dated August 5, 2004[2] and an Erratum dated August 9, 2004,[3] filed by Ang Kek Chen (complainant) against Judge Cristina F. Javalera-Sulit (Judge Sulit) and Stenographer Primitiva A. Caliao-Gloria (Gloria) for serious or gross misconduct in connection with the transcription of the stenographic notes (TSN) taken on the proceedings held on March 26, 2004 in Criminal Case No. 367476 for unjust vexation, where herein complainant is the accused.

Complainant's allegations are as follows:

There is no excuse for Judge Sulit and Gloria not to know that stenographers are required to submit the TSN taken by them not later than 20 days from the time the notes were taken. Right after the hearing on March 26, 2004, he (complainant) paid Gloria P200.00 as down payment for the TSN of the proceedings with the understanding that the same will be available in one week. Gloria failed to comply; thus, he filed an Urgent Ex-Parte Motion dated April 15, 2004 and an Amended Urgent Ex-Parte Motion dated April 21, 2004 calling the attention of Judge Sulit on the matter. Judge Sulit did not act on the motions and complainant received the TSN only on May 13, 2004, followed by a revised version on May 20, 2004.[4]

In a Motion dated May 25, 2004, complainant called the attention of Judge Sulit on four irregularities in the two versions of the TSN which did not reflect verbatim the actual proceedings of March 26, 2004. He asked for a copy of the tape recording of the proceedings which Judge Sulit granted in an Order dated June 1, 2004.[5] In the same order, Judge Sulit told complainant that should he find inaccuracies in the transcription, he is given time to file a motion for correction and set the same for hearing with notice to the other counsel. Such order, according to complainant, imposes an impossible condition, as it in effect requires him to teach Gloria how to transcribe. After obtaining a copy of the recording, complainant sought an audience with Judge Sulit to request her to write a letter to the Office of the Court Administrator (OCA) stating that she had no objections to his letter-request to the said office asking it to designate an expert stenographer to transcribe the March 26, 2004 proceedings. Judge Sulit however raised her voice and told him that she could not order the Supreme Court to do his request.[6]

Complainant further alleges that certain orders in the subject case appear to have been released earlier than their dates of issuances; and Judge Sulit did not initiate appropriate disciplinary actions against Prosecutor Ramos and Atty. Calasan (the complainant in the criminal case) for their unprofessional conduct in court.[7]

He prays that Judge Sulit be required to submit a report on the "mess" in Criminal Case No. 367476; to explain

why she did not want to initiate appropriate disciplinary actions against Prosecutor Ramos and Atty. Calasan; and to explain the reason why she did not want to order Gloria to submit a faithful transcript of the March 26, 2004 proceedings based on the stenographic paper tape notes taken during the said hearing and the copy of the audio tape recording taken during the same. Complainant further prays that, in order to "unlock the mysteries" why Judge Sulit did not want to order Gloria to submit a faithful transcript of said hearing, the two of them should be ordered to forward to the OCA the original stenographic notes of March 26, 2004 and the original tape recording of the same, and immediately designate an expert stenographer to determine whether Gloria had competently recorded the proceeding; whether she could really transcribe the proceeding; and whether the copy of the audio tape recording given by the court on June 3, 2004 to complainant is a faithful reproduction of the original sound tape recording taken on the said proceeding.[8]

In her Comment dated September 7, 2004, Judge Sulit asseverates that: the complaint against her is malicious and unfounded; on April 28, 2004, she issued an Order directing Gloria to transcribe the proceedings of March 26, 2004 within five days from receipt of the same; she issued another Order on June 1, 2004 directing Stenographer De Jesus to give a copy of the tape recording of the proceedings to complainant for recopying; in the same order, she informed complainant that should he find that the TSN is not accurate, he is given time to file a motion for the correction of the same; she did not raise her voice when complainant asked for an audience with her and such allegation, which was raised only in the amended complaint, is clearly just an afterthought; she refused complainant's request to issue an order directing the OCA to transcribe the notes of Gloria as she has no authority to do so; the allegation that she released Orders dated March 26, 2004 and April 28, 2004 before the dates of their issuances has no basis as the certification of the Branch Clerk of Court and the affidavit of Criminal Clerk in Charge Solita N. Esguerra show that the said Orders were mailed on May 20, 2004; she is not aware of any unsigned TSN, as she only knew of the original copy of the transcripts certified to by Gloria; and finally, her inaction on the disciplinary measure sought against Prosecutor Ramos and Atty. Calasan is justified, since complainant asked for time to file an appropriate pleading in answer to the prosecution's comment; hence it was not yet due for resolution.[9]

Judge Sulit further maintains that she has an unblemished record in the 18 years that she has served the government as staff assistant, legal researcher, branch clerk of court, prosecutor, and judge. The complainant meanwhile has the habit of filing motions for disqualification and inhibition against the judges who earlier handled the case, whenever he got unfavorable rulings from them; these, on top of the charges he filed against Prosecutor Ramos and Atty. Calasan before the Integrated Bar of the Philippines.[10]

Gloria for her part asserts that: she has an unblemished record in the 30 years of her service in the judiciary; the complaint is petty, misleading, baseless and malicious and the questions regarding the transcripts are best addressed to a judge for clarification in the presence of all parties concerned rather than before the OCA.[11]

Gloria further alleges that: when complainant approached her and asked for a copy of the transcripts on March 26, 2004, she requested at least three weeks, as she had other urgent matters which were ahead of complainant's case; moreover, the next setting of complainant's case was not until September 17, 2004; complainant insisted and left P200.00 as deposit; she requested her daughter-in-law to practice transcribing her notes and the latter prepared the transcription based on what she understood from Gloria's notes; complainant, in one of his visits, saw this transcript and asked to borrow the same, but Gloria refused saying that it was not an official copy; complainant insisted and said that he will just read the same; she (Gloria), acting in good faith and without malice, agreed to complainant's request to read the draft; after a few days, complainant was in the office, and she furnished him a copy of the transcript; thereafter, he filed a Manifestation anent his observations on the transcripts.[12]

On June 23, 2005, Investigating Justice Alfredo M. Marigomen issued an Order directing complainant to amend

his complaint and set down therein "distinctly, clearly and concisely" the acts and omissions he is complaining about. Justice Marigomen also advised complainant to avail himself of the assistance of counsel.[13] Instead of complying, however, complainant filed an untitled pleading dated July 14, 2005 questioning the said order and praying for the voluntary inhibition of Justice Marigomen. He also prayed that the report on this case be rendered with dispatch.[14]

Records do not show what actions were taken on complainant's prayer for voluntary inhibition. However, the OCA submitted its Report dated July 3, 2006 with the following evaluation:

Complainant's style is indeed difficult. Nonetheless, since he tenaciously refuses to seek the assistance of counsel, and in order not to farther (sic) stretch the long-deserved resolution of this controversy, we focus on the recurrent issues perceivable in complainant's original and amended complaints. These are: against respondent stenographer: (1) erroneous transcription of the proceedings on March 26, 2004; (2) delayed submission of the TSN thereof; (3) coming up with two different/divergent versions of the TSN; against respondent judge: (1) failure to act on complainant's motions; (2) refusal to initiate disciplinary action(s) against the concerned persons; (3) irregularities between the dates of release and of issuance of the Orders dated March 26, 2004 (two) and April 28, 2004.

The charges against respondent judge are not meritorious. The alleged failure to act on complainant's motions is belied by the records. Respondent judge merely inherited the case with several pending incidents. In spite of this, during her first hearing of the case on March 26, 2004, she issued two orders dated March 26, 2004, disposing of two pending motions. Complainant's other motions relate to the alleged irregularities and delay in the transcription of the March 26, 2004 proceeding by respondent stenographer. These matters, despite the usually rumbled, unassisted-by-counsel form in which they were raised, were duly addressed by respondent judge in her Orders dated April 28, and June 1, 2004, respectively.

Consequently, the alleged refusal to initiate disciplinary action relative to the transcription has no basis. In fact, the Order dated April 28, 2004 directed respondent stenographer to transcribe the notes of the proceedings held on March 26, 2004, within five days from receipt of the order. This was followed by the Order dated June 1, 2004 directing stenographer De Jesus to furnish a copy of the requested tape recording to the accused for recopying. Besides, it would have been premature for respondent judge to institute disciplinary measures since the actual errors in the transcription have yet to be established, hence the latter order stating "should the accused finds that the said transcript of stenographic notes is not accurate, he is given time to file a motion for the correction of the same, set it for hearing and with notice to the other counsel."

Finally, the supposed discrepancies in the dates of release and of issuance of certain orders were sufficiently explained. The certification of the Branch Clerk of Court, Gina D. Turiano, dated August 10, 2004, and the affidavit of the Clerk-In-Charge (criminal cases) Mrs. Solita N. Esguerra, explained the circumstances on the mailing of the questioned orders. Their explanation is well taken, considering that two of the concerned orders were in fact issued in open court during the hearing on March 26, 2004.

We go now to the charges against respondent stenographer. The complaint relative to the erroneous transcription is premature. As discussed above, the actual mistakes in the transcription have yet to be established. The Order dated June 1, 2004, giving complainant time "to file a motion for the correction of the same, set it for hearing and with notice to the other counsel" should he find that "the said transcript of stenographic notes is not accurate", stands. Complainant has not moved for such correction despite having with him a copy of the pertinent tape recording. His reliance on his own recollection of certain segments that were supposedly omitted from the TSN cannot be given merit unless the proper procedure for correction of the transcription certified to be correct by the stenographer who prepared it is taken. In the absence of any contrary evidence properly adduced, the certified TSN is presumed to be the true and complete transcription of the proceedings in question and such document is the competent proof of the contents thereof.

The assailed delay in transcribing must likewise fail. There is conflict as to when the TSN was really due. According to complainant, respondent stenographer promised him that it would be available after one week. The latter, however, claims that she requested for at least three weeks to finish the document. Nowhere in the records does it appear that they were able to agree on a definite period. At any rate, it appears that the request of respondent stenographer was justified in light of the long gap before the next hearing.

The emergence of second version of the TSN, however, reflects paucity of prudence of the part of respondent stenographer. She admitted that such a copy indeed came from her, albeit it was not an official one, being prepared only by a trainee. She even claims to have known that it was not an accurate transcription. This knowledge should have cautioned her to see to it that the limitations of such copy should not stir trouble in the mind of a meticulous complainant. That it reached complainant's hands and indeed stirred his misgiving can only be blamed on her. Her explanation that she merely gave it to complainant out of trust and in good faith is hardly convincing since the repercussions of her action were very obvious that to disregard them borders on negligence.[15]

The OCA then recommended that:

- The instant complaint be RE-DOCKETED as a regular administrative case;
- The charges against respondent Judge Christina F. Javalera-Sulit, MeTC, Branch 27, Manila, be DISMISSED for lack of merit;
- Respondent Stenographer Primitiva A. Caliao-Gloria, MeTC, Branch 27, Manila, be REPRIMANDED for lack of prudence in releasing an unofficial copy of the TSN despite knowledge that the same is inaccurate and prepared only by a mere trainee;
- The rest of the charges against respondent stenographer be DISMISSED for lack of merit.[16]

On August 9, 2006, the Court issued a Resolution re-docketing the case as a regular administrative matter. The Court also required the parties to manifest whether they are willing to submit the case for resolution based on the pleadings filed.[17] Judge Sulit and Stenographer Gloria filed their respective Manifestations dated August 15, 2006 stating that they received the Court order on the same date and that they are willing to have the case submitted for resolution.[18] Complainant on the other hand failed to file a manifestation within the period given, thus, he is deemed to have waived the same.[19]

Parenthetically, Judge Sulit filed another Manifestation on September 25, 2006 stating that she noticed that her earlier manifestation was dated August 15, 2006 instead of September 15, 2006; that she actually received the August 9, 2006 Order of the Court also on September 15, 2006 and not August 15, 2006 as earlier stated; that such errors on the dates were merely typographical with no intention to cause prejudice to anybody.[20]

In a Motion dated May 15, 2007 Judge Sulit prayed for the early resolution of the case stating that the pendency of the present case has prejudiced her chance to be included in the short list of nominees for Judicial Excellence for the Year 2006 and has curtailed her chance to be nominated to a higher position.[21]

Complainant filed a pleading dated June 4, 2007 in reply to Judge Sulit's May 15, 2007 motion, questioning how Judge Sulit could have obtained a copy of the Resolution dated August 9, 2006 on August 15, 2006 when the Assistant Clerk of Court of the First Division Edgar Aricheta said that the same could only be released on September 14, 2006. He also said that Judge Sulit is "super malakas" with Justice Marigomen as manifested by Justice Marigomen's June 23, 2005 Order which found the complaint difficult to understand and confusing. Complainant then reiterated his charges against Judge Sulit.

Judge Sulit filed her Comment on the said pleading, dated June 14, 2007, stating that: the imputation that she is

"super malakas" with Justice Marigomen is not true, as she does not personally know the latter. She also maintained that she received the Resolution of the Court dated August 9, 2006 on September 15, 2006, personally and later by registered mail. She then reiterated her prayer to have the case resolved in order to end the tirade of complainant against her.

Complainant filed a Rejoinder to Judge Sulit's Comment dated June 25, 2007, asking why Judge Sulit was personally served a copy of the August 9, 2006 Order; he also pointed out that the manifestations of Judge Sulit and Gloria submitting the case for resolution based on the pleadings filed are identical, manifesting Judge Sulit's lack of impartiality and, thus, her failure to file an administrative case against Gloria; the manifestations of Judge Sulit and Gloria also stated that they received a copy of the August 9, 2006 Order of the Court on August 15, 2006, when the same was still under process and could only be released on September 14, 2006.

The Court's Ruling

The Court agrees with the findings and recommendations of OCA as to Judge Sulit; but with modifications as to the liability of Gloria.

Re: Judge Cristina F. Javalera-Sulit

As correctly found by the OCA, the charges against Judge Sulit are not meritorious and should therefore be dismissed.

Complainant's allegation that Judge Sulit did not act on his motions asking for the transcription of the proceedings on March 26, 2004 is belied by the Order dated April 28, 2004 issued by Judge Sulit explicitly directing Gloria to transcribe the said proceedings within five days from receipt of the Order.[22] And even though she merely inherited the criminal case where the herein complainant is the accused, she immediately dispensed with the pending incidents therein when she presided over the hearing of the case on March 26, 2004.[23] Judge Sulit also issued an Order on June 1, 2004 informing complainant that should he find the TSN prepared by Gloria to be inaccurate, he is given time to file a motion for the correction of the same, and set the same for hearing with notice to the other counsel.[24] Complainant however refuses to abide by the said Order and instead insists on pursuing the present administrative case where he is asking Judge Sulit to order Gloria to faithfully transcribe the March 26, 2004 hearing, and the OCA to designate an expert stenographer to check whether Gloria competently performed her job. Judge Sulit's actions on this matter cannot be considered as gross misconduct, which is defined as a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer.[25] Judge Sulit appropriately gave complainant an adequate venue to correct whatever inaccuracies he may have found in the transcription of Gloria, through a hearing with notice to the other party.

Complainant's claim that Judge Sulit failed to impose disciplinary action against Fiscal Ramos and Atty. Calasan is also without merit, as records show that complainant himself asked for time to file a responsive pleading; thus, it was not yet due for resolution.[26] In any event, the power to impose or initiate disciplinary action against parties rests upon the sound discretion of the judge, who in the discharge of her duties may exercise the same only upon sufficient grounds.

Complainant's assertion that there were orders that were released prior to the dates of their issuances were also addressed by the certification of the Branch Clerk of Court[27] and the Affidavit of Clerk Esguerra stating that the Orders dated March 26, 2004 and April 28, 2004 were released by mail only on May 20, 2004.[28]

Complainant's allegation that Judge Sulit raised her voice when he requested her to write a letter to the OCA is not only uncorroborated but is also suspect, as he alleged the same only in his amended complaint. Complainant's

imputation that Judge Sulit has an influence on Justice Marigomen has no basis and should therefore be struck down. Mere imputation of judicial misconduct without sufficient proof to sustain the same will never be countenanced. Indeed, if a judge should be disciplined for misconduct, the evidence against him should be competent.[29]

The Court notes that Judge Sulit has served the government in various capacities for 18 years and has never been previously charged administratively or criminally. She was even nominated to the Judicial Excellence Awards for 2006. Her chance of being chosen however was thwarted by the present administrative case.[30] Complainant on the other hand has been shown to have a propensity to file actions against judges and parties whenever the actions of the latter are not to his liking.

As the Court has repeatedly pronounced, any administrative complaint leveled against a judge must always be examined with a discriminating eye on its consequential effects are by their nature highly penal, such that the respondent judge stands to face the sanction of dismissal or disbarment. Mere imputation in the absence of sufficient proof will never be countenanced. Indeed, when an administrative charge against a judge is determined to have no basis whatsoever, the Court will not hesitate to protect her against any groundless accusation that trifles with judicial process. The Court will not hesitate to shield its employees from unfounded suits that only serve to disrupt rather than promote the orderly administration of justice.[31]

Re: Stenographer Primitiva A. Caliao-Gloria

The Court agrees that Gloria should be disciplined. She allowed her daughter-in-law, who was a mere trainee, to transcribe her notes. There is no showing that the presence of the trainee was with the knowledge or approval of the judge. She also allowed complainant to get a copy of an unofficial TSN with all its defects and inaccuracies. When Gloria later issued a revised version, this naturally produced in the mind of herein complainant the impression that certain irregularities attended the TSN and eventually resulted in the delay in the resolution of the criminal case. Regardless of the insistence of the complainant, it was highly improper for Gloria to have allowed him to prevail upon her and get a copy of the TSN that was prepared by a mere trainee.

The Court also notes that Gloria failed to comply with paragraph 2(a) of Administrative Circular No. 24-90, which requires all stenographers to transcribe all stenographic notes and to attach the transcripts to the record of the case not later than 20 days from the time the notes were taken.

In this case, the hearing took place on March 26, 2004, thus, she had until April 15, 2004 to finish the TSN. She was able to finish the same, however, only on May 20, 2004 which was more than a month overdue. Her defense that the next setting of the complainant's case was not for another few months does not exculpate her from liability, as the directive of the Administrative Circular is clear that TSNs should be finished within 20 days from the time they were taken, without distinction as to when the next setting for the case shall be held. The extension she asked from complainant also has no bearing, since any extension of the period to finish the TSN should be upon the recommendation of the judge and subject to the approval of the OCA.

Gloria's issuance of an unofficial TSN and her failure to comply with the period provided in Administrative Circular No. 24-90 constitute simple neglect of duty which carries a penalty of suspension from work for one month and one day to six months for the first offense.[32] Considering, however, the length of service of Gloria in the judiciary and that this is her first administrative offense, which serve to mitigate her liability,[33] the Court finds that a fine of P5,000.00 is sufficient in this case.[34]

A court stenographer performs a function that is vital to the prompt and fair administration of justice. Stenographers, like all other public officers, are accountable to the people at all times; thus, they must strictly

perform their duties and responsibilities. A public office is a public trust, and a court stenographer violates this trust whenever she fails to fulfill her duties.[35]

WHEREFORE, the charges against Judge Cristina F. Javalera-Sulit are DISMISSED for lack of merit. Stenographer Primitiva A. Caliao-Gloria is FINED Five Thousand Pesos (P5,000.00) for SIMPLE NEGLECT OF DUTY and WARNED to be more circumspect in the performance of her duties, as a commission of the same or similar act in the future shall be dealt with more severely.

SO ORDERED.

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

[1] Rollo, pp. 9-16.

[2] Id. at 292-311.

[3] Id. at 1-2.

[4] Id. at 9-10.

[5] Id. at 10-15.

[6] Id. at 301-304.

[7] Id. at 292-294.

[8] Id. at 15-16; 309-310.

[9] Id. at 395-397.

[10] Id. at 397.

[11] Id. at 465-466.

[12] Id. at 468-469.

[13] Id. at 695.

[14] Id. at 719, 729-731.

[15] Id. at 744-745.

[16] Id. at 746.

[17] Id. at 747.

[18] Id. at 749, 752.

[19] See Resolution dated April 23, 2007.

[20] Id. at 756.

[21] See Humble Motion for Early Resolution filed by Judge Sulit, dated May 15, 2007.

[22] Annex "4", rollo, p. 401.

[23] See Orders dated March 26, 2004, Annexes "1", "2" & "3", id. at 398-400.

[24] Annex "5", id. at 402.

[25] Almojuela, Jr. v. Ringor, A.M. No. MTJ-04-1521, July 27, 2004, 435 SCRA 261, 267.

[26] Rollo, p. 397; see also Order dated April 28, 2004, Annex "4"; id. at 401 and Annex "9", id. at 412-415.

[27] Annex "7", id. at 404.

[28] Annex "8-B", id. at 407.

[29] Mataga v. Rosete, A.M. No. MTJ-03-1488, October 13, 2004, 440 SCRA 217, 221.

[30] See Humble Motion for Early Resolution dated May 15, 2007 filed by Judge Sulit; letter of Christopher O. Lock as Chairman of the OCA Nominations Committee dated May 30, 2006 addressed to Associate Justice Angelina Sandoval-Gutierrez and the letter of Ma. Luisa Laurea, Executive Director of the Society for Judicial Excellence dated May 31, 2006 addressed to Judge Sulit.

[31] Mataga v. Rosete, supra note 29, at 221-222.

[32] Office of the Court Administrator v. Montalla, A.M. No. P-06-2269, December 20, 2006; Alcover, Sr. v. Bacatan, A.M. No. P-05-2043, December 7, 2005, 476 SCRA 607, 614.

[33] Office of the Court Administrator v. Montalla, id.

[34] See generally, Office of the Court Administrator v. Montalla, id.; Racasa v. Collado-Calizo, 430 Phil. 775, 783 (2002).

[35] Office of the Court Administrator v. Montalla, supra note 32.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.