

## RE: REPORT ON THE SERIES OF THEFT AND ROBBERY IN THE PREMISES OF THE SUPREME COURT

*A.M. No. 02-10-05-SC. February 03, 2003*

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### PER CURIAM:

On October 14, 2002, Mr. Danilo C. Pablo, SC Chief Judicial Staff Officer, Security Division, Office of Administrative Services (OAS), submitted to the Office of Deputy Clerk of Court Eden T. Candelaria a final report on the investigation on the series of theft and robbery committed in various offices of the Court from May 2000 to July 2002. Stolen from the different offices of the Court were cash amounting to P71,320, an undetermined amount of foreign currencies, sets of jewelry amounting to around P200,000, a walkman, a CD player, a discman, cellular phones and other personal properties.[1]

Of the reported cases, two (2) were referred to the National Bureau of Investigation (NBI) for appropriate action. NBI investigators were unable to conclusively determine the perpetrator but they theorized that the theft committed in the Internal Audit Division was an inside job based on the result of the fingerprints and polygraph examinations.[2]

Prompted by these unresolved cases, Mr. Pablo conducted a discreet gathering of information which led him to believe that security personnel were the perpetrators. To confirm this, he commissioned sometime in July 2002, three (3) supervisors, namely, Messrs. Andres Fajardo, Fernando Lastica and Carlos Follero, to conduct surveillance activities at night and gather information which may lead to the identification of the perpetrators. Initial results of the surveillance pointed to SGs Amante Alumno, Joel Gregorio, Donato Lacasa, all Watchmen II, as the persons most likely responsible for the series of theft and robbery.[3]

NBI assistance was once again sought to conduct polygraph examinations on some of the security personnel, including the three (3) suspects. The polygraph examinations turned out negative results except for Alumno whose polygraph showed an indication of deception. He confronted Alumno with the polygraph result and Alumno allegedly admitted his involvement and participation in most of the thefts and robberies committed but stated that Gregorio and Lacasa had no participation. Instead, Alumno pointed Mr. Bernardo M. Viado, another casual watchman, as the mastermind.[4]

Consequently, Viado also took the polygraph examination on October 3, 2002. The results indicated some deception.[5]

On October 11, 2002, Alumno voluntarily gave a statement relative to those incidents to Mr. Antonio Pedroso, Investigator Designate.

Quoted hereunder is the pertinent portion of Alumno's statement:

X X X

7. Q:

May kinalaman ka ba sa mga nakawang ito at ano ang iyong partisipasyon dito?

A:

Opo, may kinalaman po ako at may kasama sa mga nakawang ito.

8. Q:

Sino ang nagiging kasama mo sa mga panloloob na ito?

A:

Si Bernardo Viado po.

9. Q:

Ano ang katungkulan ni Mr. Viado dito sa Supreme Court?

A:

Watchmen.

10. Q:

Anong taon kayo nag-umpisang manloob dito sa mga opisina sa Supreme Court?

A:

Noong taong 2000 po.

11. Q:

Anong opisina ang una ninyong pinasok noong Marso 2000?

A:

Halls of Justice po.

12. Q:

Magkano ang pera at mga alahas na nakuha ninyo?

A:

Pera lang po na kulang-kulang P40,000.00.

13. Q:

Noong mga Mayo o Hunyo 2000, ano namang opisina ang pinasok ninyo?

A:

Halls of Justice pa rin po.

14. Q:

Anu-ano ang nakuha ninyo dito ni Mr. Viado?

A:

Pera rin po na nagkakahalaga ng P50,000.00.

15. Q:

May nangyaring nakawan sa Judicial Records Office noong unang lingo ng September 2001, anong masasabi mo dito?

A:

Kami rin pong dalawa ni Mr. Viado.

16. Q:

Anu-anong mga bagay ang nakuha ninyo dito?

A:

Mga CDs (compact disc) lang at cash na wala pang isang libo.

17. Q:

Noong ikalawang lingo ng September 2001 ay nilooban ang opisina ni Justice Angelina S. Gutierrez, may kinalaman ba kayong dalawa dito?

A:

Kami rin po ni Mr. Viado ang pumasok dito.

18. Q:

Magkano o anong bagay o gamit ang inyong natangay?

A:

Walang cash, mga CDs lang at puro alahas, pero peke lahat.

19. Q:

Paano ninyo nalaman na peke ang lahat na ito?

A:

Pinauri namin sa pawnshop.

20. Q:

Ano ang nangyari sa mga alahas na ito?

A:

Ang iba ay itinapon namin at ang iba ay ibinenta namin sa mababang halaga. May P300.00, at may P100.00 ang bawat isa.

21. Q:

Anong masasabi mo sa nakawan sa opisina ni ACA Antonio H. Dujua noong kalagitnaan ng Nobyembre 2001?

A:

Nakakuha kami ni Viado ng pera na siguro mga P3,000.00 dahil mahigit din isang libo ang naparte ko.

22. Q:

Napasok din ba ninyo ang Court Management Office?

A:

Opo, pero di ko maalala kung anong buwan o taon.

23. Q:

Magkano o anong mga bagay ang nakuha ninyo dito?

A:

Cash na mga P4,000.00, walkman at maliliit na battery. Noong una po iyon. Noong ikalawang pasok po namin na hindi ko rin maalala ang petsa o taon, nakakuha kami ng cash na nagkakahalaga ng P2,800.00, bukod doon e wala na.

24. Q:

Noong pangatlong pasok ninyo kasama mo pa rin si Mr. Viado?

A:

Opo, siguro nakakuha kami ng kulang-kulang limang libo P5,000.00.

25. Q:

Tungkol dito sa bagong electronic calculator na ninakaw ninyo sa Old Main Building, kailan ba nangyari ito?

A:

Hindi ko na po matandaan, pero sinubukan naming ibenta sa Quiapo, nang hindi nabili dinala ito ni Viado sa bahay nila at subukan daw niyang ibenta doon.

26. Q:

Noong may nangyaring nakawan sa Third Division, kayo rin ba ang me gawa niyon?

A:

Napasok namin ang Third Division siguro mga buwan ng 2002.

27. Q:

Ano ang mga nakuha ninyo?

A:

Mga barya lang na nakalagay sa lata at mga CDs.

28. Q:

May nangyaring nakawan noong pangalawang linggo ng Abril 2002, sa 7th Floor MISO, right wing, ninakawan niyo rin ba ang opisinaang ito?

A:

Opo, nakakuha kami ng video camera. Inilagay ito ni Viado sa likod ng kotse niya at dinala sa bahay nila. Nang kinumusta ko siya kung ano na ang nangyari sa video camera ay sinabi niya na sira ito at nasa bahay pa nila.

29. Q:

Noong manakawan ang opisina ni Justice Arturo B. Buena, kailan ninyo napasok ito?

A:

Siguro noong mga Marso o Abril 2002.

30. Q:

Saan kayo dumaan?

A:

Dumaan kami sa 5th floor ng Annex patungo sa bintana ng lawyer's room ni Justice Buena.

31. Q:

Anong mga bagay ang nakuha ninyo dito?

A:

P8,000.00 cash, CDs at VCDs, tapos lumabas na kami.

32. Q:

Ano ba ang kinalaman mo sa nangyaring nakawan sa Printing Office noong July 2002?

A:

Pinasok kong mag-isa ang Printing at nakakuha ako ng mga barya na nakalagay sa pakete ng sigarilyo. Siguro wala pang isang daan iyon. Tapos lumabas na ako.

33. Q:

Kinuha mo ba ang wooden donation box na nakalagay doon?

A:

Hindi ako ang kumuha noon. Hindi ko naman makikita iyon dahil madilim.

x x x[6]

Upon receipt of the aforesaid report, Deputy Clerk of Court Candelaria sent a memorandum to the Honorable Chief Justice recommending the preventive suspension of BERNARDO VIADO and AMANTE ALUMNO, both casual Watchmen II, during the investigation of this case. On October 15, 2002, the Court En Banc approved the recommendation and ordered the immediate suspension of Viado and Alumno.

In the morning of October 16, 2002, Alumno appeared before the Complaints and Investigation Division (CID), OAS, for a preliminary conference. There, he affirmed the contents of his earlier statements (Sinumpaang Salaysay). This was coupled by his turnover of a walkman which they took from one of the offices of the Court. Viado, on the other hand, admitted his participation in the thefts and robberies in a closed door meeting with Atty. Ma. Carina M. Cunanan, Mr. Danilo C. Pablo and Mr. Pedroso. He even made a promise to return the video camera which they took from the Management and Information Systems Office. However, he never made good his promise and remained unavailable until he was directed to comment on the statement of Alumno.[7]

On October 17, 2002, Alumno again affirmed his statement (Sinumpaang Salaysay), this time with the assistance of his lawyer, Atty. Eugene Cabardo of the Public Attorney's Office.[8]

On November 4, 2002, Deputy Clerk of Court Candelaria directed Viado to comment on the report of Mr. Danilo Pablo as well as on the Sworn Statement of Alumno.

In his comment, Viado denied participation in the various instances of theft and robbery. He contends that Alumno falsely implicated him since Alumno suspected him as the one who tipped the Chief Supervisor of the reported stealing incidents and pointing to him (Alumno) as the perpetrator. That on several occasions, he

challenged Alumno to bring out his big bag and show the contents thereof caused Alumno to hate him. It was also impossible for him to have committed the burglaries with Alumno since, on the dates these burglaries were committed, he did not have the same tour of duty with Alumno.[9]

Notices of a preliminary conference scheduled for November 18, 2002 by the CID were served on November 13, 2002 to both Alumno and Viado. Viado duly acknowledged receipt of the notice. On the other hand, nobody wanted to receive the notice to Alumno, not even his wife. In his Affidavit of Service dated November 13, 2002, Mr. Emmanuel M. Bumanglag stated that Alumno's wife refused to accept the notice and contended that Alumno no longer resides at their residence.

On the scheduled date of the preliminary conference, Viado and his counsel appeared before the CID.[10]

At the outset, his counsel, Atty. Patricia A. Galang moved that Viado be allowed to exercise his right to remain silent on the ground that his statements may incriminate him in an impending criminal complaint that may be filed. Instead, his counsel submitted the case for resolution based on the records already available.[11]

On November 19, 2002, Mr. Bumanglag served a 2nd notice to Alumno again directing him to appear on November 22, 2002 before the CID for investigation. Just like the first notice, his wife, Mrs. Irma Alumno refused to accept the notice. Thus, Mr. Bumanglag was constrained to leave a copy thereof at their doorstep.[12]

There is no more doubt as to the guilt of Alumno. His confession voluntarily admitting his responsibility for the series of thefts as one of the perpetrators constitutes a higher order since no person in his right mind would deliberately and knowingly confess to a crime unless prompted by truth and his conscience.[13] It is noteworthy that respondent Alumno did not anymore controvert the evidence against him. We hold that his non-attendance before the CID despite reasonable notice constitutes assent to submit his case based on the evidence on record.

With regard to respondent Viado, we find that sufficient evidence exists to hold him liable for grave misconduct. His defense of general denial is a self-serving negative defense which cannot be given greater weight than the confession of Alumno, who himself admitted participation in the series of burglaries even with the knowledge that his confession would mean his dismissal from service and probable criminal prosecution. Recall that Viado had all the opportunity to refute the allegations of Alumno in the scheduled investigation but he opted to remain silent and present no evidence to substantiate his claim that Alumno was motivated by ill-motives in falsely implicating him. The rule is established that the absence of evidence as to an improper motive tends to sustain the conclusion that no such improper motive existed.[14] Too, Mr. Pablo had already stated that Viado admitted his participation in the burglaries. It was therefore incumbent upon Viado to adduce evidence tending to refute or explain his admission; instead, he chose to remain silent.

His claim that during the dates the burglaries were committed he was not on duty at the same time as Alumno does not serve to exonerate him. Said circumstance would, in fact, be an advantage to them since one of them could act as a lookout while the other committed the burglaries. If both were on duty at the same time and assigned to different posts, it would have given rise to suspicions if they were both missing at their posts.

The court cannot overemphasize the need for honesty and integrity on the part of all those who are in the service of the judiciary.[15] This need is all the more important on the part of members of the security force whose duty, among others, is to protect not only the Court's property but also the property of the officials and employees as well. Instead, in breach of that duty, they took advantage of their position and stole valuable property, pieces of jewelry, and money from the employees.

Under Section 23, Rule XIV of the Omnibus Civil Service Rules and Regulations, grave misconduct is punishable with dismissal even in the first offense. This penalty is reiterated in Civil Service Memorandum Circular No. 30,

series of 1989, and again in Civil Service Memorandum Circular No. 19, series of 1999. The Omnibus Rules, in Rule XIV, Section 9, and the aforecited circulars likewise state that the penalty of dismissal from the service shall carry with it cancellation of civil service eligibility, forfeiture of leave credits and retirement benefits, and disqualification from reemployment in the government service.[16]

WHEREFORE, respondents AMANTE ALUMNO AND BERNARDO VIADO, both Watchmen II, Security Division, OAS-SC, are hereby found GUILTY of grave misconduct and are DISMISSED from the service with forfeiture of all benefits including leave credits, if any, and with prejudice to re-employment in any branch or agency of the government, including government-owned and controlled corporations.

Let this matter be referred to the Department of Justice, attention the Chief State Prosecutor, for appropriate action.

**SO ORDERED.**

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.

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[1] Report of Atty. Eden T. Candelaria, pp. 1-2.

[2] Report of Mr. Danilo C. Pablo, October 11, 2002, p. 16.

[3] Ibid.

[4] Report of Mr. Antonio C. Pedroso, October 9, 2002, p. 17.

[5] Report of Atty. Eden T. Candelaria, p. 3.

[6] Sworn Statement of Amante Alumno dated October 10, 2002, pp. 1-3.

[7] Report of Atty. Eden T. Candelaria, p. 8.

[8] Ibid.

[9] Affidavit of Bernardo M. Viado dated November 11, 2002.

[10] Report of Atty. Eden T. Candelaria, p. 9.

[11] Ibid.

[12] Affidavit of Service executed by Emmanuel M. Bumanglag on November 19, 2002.

[13] *People v. Sabiyon*, G.R. No. 129113, September 17, 2002, p. 15; *People v. Vallejo*, G. R. No. 144656, May 9, 2002, p. 25; *People v. Porio*, G.R. No. 117202, February 13, 2002, p. 1.

[14] See *People v. Amante*, G.R. No. 1494 14-15, November 18, 2002, p. 16.

[15] *Re: Jovelita Olivas and Antonio Cuyco*, A.M. CA-02-12-P, May 2, 2002, p. 12, citing *Office of the Court Administrator v. Sevillejo*, 270 SCRA 190 (1997).

[16] *Fojas v. Rollan*, A.M. NO. P-00-1384, February 27, 2002, p. 9.

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