RE: LETTER OF MR. JONATHAN S. PECHERA, ACTING CLERK OF COURT II, 2ND MUNICIPAL CIRCUIT TRIAL COURT OF BANGA/TANTANGAN, BANGA, SOUTH COTABATO, REGARDING THE ANOMALOUS AND IRREGUL...

A.M. NO. 05-5-125-MCTC. June 08, 2005

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PER CURIAM:

This administrative matter was initiated by a letter[1] written by Mr. Jonathan Pechera[2] addressed to Executive Judge Roberto L. Ayco,[3] informing the latter of the irregular and improper acts of Mrs. Salvacion Mission.

According to Pechera, Mission, who has a standing relief order and pending administrative and criminal charges before the Supreme Court and the sala of Executive Judge Ayco, was directed to report for duty at the Municipal Circuit Trial Court (MCTC) in Tantangan, South Cotabato by Judge Gaydifredo T. Ocampo.[4] On July 2, 2004, Pechera allegedly discovered that Mission has been issuing invitations for conferences to private individuals without any pending case in court using the caption of the court and referring to herself as the incumbent Clerk of Court. Pechera attached to his letter a copy of the invitation sent by Mission to a certain Carlito Serio. It reads:

> REPUBLIC OF THE PHILIPPINES
> 2[ND] MUNICIPAL CIRCUIT TRIAL COURT OF BANGA/TANTANGAN
> PROVINCE OF SOUTH COTABATO
> MUNICIPALITY OF TANTANGAN
>
> INVITATION
>
> TO: CARLITO SERIO
> (illegible)
>
> Greetings:
>
> You are cordially invited for a CONFERENCE on July 2, 2004 at 8:30 o'clock in the morning at the Session Hall of the above-mentioned office in connection with the proposed Criminal/Civil case to be filed against you by the SACAPMAP Tantangang, South Cotabato...by its Coordinator Mrs. Amelita Jagoren, also of this Municipality.
>
> Please give this matter your utmost attention and favorable consideration to avoid inconvenience.

Very truly yours,
(signed)
SALVACION B. MISION
(Incumbent)
Clerk of Court II[5]

In a Letter[6] dated August 6, 2004, the Office of the Court Administrator (OCA) directed Executive Judge Ayco

to conduct an investigation on the matter and to submit a report and recommendation within 60 days from notice.

Accordingly, Executive Judge Ayco submitted his Investigation, Report and Recommendation[7] dated March 14, 2005, the pertinent portion of which states:

> As shown by the declaration of the complainant and his witness, Carlito Serio, the respondent using the facilities of the Municipal Circuit Trial Court of Banga-Tantangan, South Cotabato and her office as Clerk of Court, issued a subpoena to Carlito Serio requiring the latter to appear before her office in connection with the proposed criminal/civil case to be filed against him by SACAPMAP, Tantangan, South Cotabato (Social Action Center Agricultural Program Monitor Problem Assistance Program). Carlito Serio has no pending case before the MCTC of Banga-Tantangan, South Cotabato.
>
> Said issuance of invitation to Carlito Serio was admitted by the respondent. Aside from Carlito Serio, the respondent likewise admitted to have issued similar invitations to other persons through the request of Amelita Jagoren, the representative of SAMAPCAP. Said other persons did not have pending cases before the MCTC of Banga-Tantangan, South Cotabato. The only reason why she issued said invitations according to respondent is she would like to help Amelita Jagoren and that she believes that there is nothing wrong doing it.
>
> Thus, it is clear that the respondent made use of the facilities of the court and that of her position as Clerk of Court of MCTC of Banga-Tantangan, South Cotabato; that her issuing the abovementioned invitation letters threatening the addressees of the filing of criminal/civil cases against them if they will not comply is not among or within the powers of her office for said addressees did not have any case against them in her court; and that what she did was a clear harassment, and the only logical intention or purpose of doing it is to demand for some amount from said addressees or some percentage from whatever amount that may be collected as a result thereof. Her (respondent's) declaration that she did it only in order to help Amelita Jagoren is never credible nor entitled to belief.[8]

The investigating judge then recommended that Mission be suspended for a period of one (1) month without pay and sternly warned that a repetition of the same act will be dealt with more severely.

In its Memorandum[9] dated April 25, 2005, however, the OCA, recommends that Mission be dismissed from the service for grave misconduct. According to the OCA, Mission's conduct exhibits her unfitness to remain in the judicial service. The OCA also points out that in another administrative matter, A.M. No. P-03-1755, Mission was charged with Malversation of Public Funds for embezzling, misappropriating and converting to her personal use the amount of P171,450.00. In that case, the OCA also recommended Mission's dismissal from the service.

We adopt the recommendation of the OCA.

Every public servant must exhibit the highest sense of honesty and integrity in the performance of official duties and in his or her personal affairs in order to preserve the Court's good name and standing. This is because the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat. Any impression of impropriety, misdeed or negligence in the performance of official functions must be avoided. As the administration of justice is a sacred task, this Court can not countenance any act or omission on the part of court personnel that would violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the Judiciary.[10]

Time and again, the Court has stressed that all those involved in the dispensation of justice, from the presiding judge to the lowliest clerk, must always be beyond reproach. Their conduct or behavior must at all times be circumscribed with the heavy burden of responsibility as to let them free from any suspicion that may taint the Judiciary.[11]

In this case, Mission used the name of the court and her official position to invite certain persons who have no

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business with the court at all, in effect threatening them with the filing of a civil or criminal action. This is intolerable especially in light of Mission's admission coupled with her audacious excuse that she did not think that what she was doing was wrong.

Even assuming her motives to be noble, Mission's proferred excuse that she just wanted to help a certain Amelita Jagoren who wanted to file a complaint against Carlito Serio still runs counter to the Code of Conduct which prohibits court personnel from dispensing special favors to anyone.[12]

Mission's acts amount to gross misconduct and violate the time-honored constitutional principle that public office is a public trust. In accordance with the Omnibus Rules,[13] she should be dismissed.

WHEREFORE, the Court finds Salvacion Mission GUILTY of Gross Misconduct and hereby orders her DISMISSAL from the service, with forfeiture of all benefits, except accrued leave credits if any, and with prejudice to her re-employment in the government, including government-owned and controlled corporations.

SO ORDERED.

Davide, Jr., C.J., Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.
Puno, J., on official leave.

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[1] Rollo, pp. 25-26.

[2] Acting Clerk of Court II, 2[nd] Municipal Circuit Trial Court of Banga/Tantangan, Banga, South Cotabato.

[3] Regional Trial Court, Branch 26, Surrallah, South Cotabato.

[4] Acting Presiding Judge of MCTC, Banga/Tantangan, South Cotabato.

[5] Supra, note 1 at 27.

[6] Id. at 24.

[7] Id. at 7-9.

[8] Id. at 8-9.

[9] Id. at 2-4.

[10] Velasquez vs. Inacay, A.M. No. CA-02-11-P, May 29, 2002, 382 SCRA 389 citing Marquez vs. Clore-Ramos, 336 SCRA 122 (2000), Office of the Court Administrator vs. Cabe, 334 SCRA 348 (2000).

[11] Supra, note 10 citing Almario vs. Resus, 318 SCRA 742 (1999).

[12] Sec. 3. Court personnel shall not discriminate by dispensing special favors to anyone. They shall not allow kinship, rank, position or favors from any party to influence their official acts or duties. Canon 1 Fidelity, Code of Conduct for Court Personnel.

[13] Sec. 22 (c), Rule XIV provides that the offense of grave misconduct shall be punishable by dismissal.

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