

SAMUEL R. RUÑEZ, JR., COMPLAINANT, VS. MARYBETH V. JURADO, RESPONDENT.*A.M. No. 2005-08-SC. December 09, 2005*

Ponente: AZCUNA, J.

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It is unfortunate that this administrative case involves co-workers in this Court. Complainant, Samuel R. Ruñez, Jr. (Ruñez, Jr.), is Chief of the Clearance Section, Checks Disbursement Division of the FMO-OCA and is the son of the aggrieved party, Samuel V. Ruñez, Sr. (Ruñez, Sr.), Driver I for the Motorpool, Property Division of the OCA. Respondent is Dr. Marybeth V. Jurado (Dr. Jurado), Medical Officer IV of the Medical and Dental Services. All three were working for the Court at the time of the incident in issue.

The parties agree that on January 12, 2005, at around 4:20 p.m., Ruñez, Sr. arrived by himself at this Court's clinic complaining of dizziness. His blood pressure and pulse rate were taken by the reception nurse and were registered at 210/100 mmHg and 112 beats a minute, respectively. What transpired next is disputed. Ruñez, Jr. alleged that despite his father's medical condition, he was merely advised to go to a hospital and then allowed to walk out of the clinic on his own. Dr. Jurado, on the other hand, maintained that after being informed of Ruñez, Sr.'s blood pressure and heart rate, she instructed the nurse to administer one tablet of Capoten 25mg, an emergency drug that quickly lowers a patient's blood pressure. She then informed Ruñez, Sr. that he will be taken to the hospital, after which she immediately instructed the ambulance driver, Mr. Jacinto, to stand by for hospital conduction. Minutes later, after having taken Capoten and being given a chance to rest, Ruñez, Sr. stood up and walked out saying, "Doktora, hanap lang ho ako ng kasama." Dr. Jurado said she waited for him to return but he failed to show up. She asked Mr. Almarza, a nurse at the clinic, to look for Ruñez, Sr. but he was unable to locate him.

According to Ruñez, Jr., after being informed of his father's condition, he rushed him to the Manila Doctors Hospital. There, Ruñez, Sr. was treated in the emergency room for approximately four hours before he was discharged at around 8:30 p.m. and allowed to go home. However, prior to reaching their house in Balintawak, Caloocan City, Ruñez, Sr. began experiencing nausea, abnormal palpitation and uneasiness and had to be brought back to the hospital.

Ruñez, Sr. and Ruñez, Jr.[1] arrived at the emergency room of the Manila Doctors Hospital at around 10:00 p.m. after which Ruñez, Sr. underwent a C.T. Scan. The C.T. Scan revealed a blood clot necessitating him to be admitted for treatment and observation. The following morning he suffered a stroke and for a moment was on flat line. The doctors were able to revive him and thereafter he was transferred to the intensive care unit. Unfortunately, Ruñez Sr. never recovered from his ailment and, on September 12, 2005, he passed away due to medical complications.[2]

On February 15, 2005, Ruñez, Jr. filed a letter-complaint with the Office of the Chief Justice regarding the alleged lack of attention given to his father by Dr. Jurado. Specifically, he claims that Dr. Jurado merely advised his father to go to the hospital and then allowed him to travel to Manila Doctors Hospital despite the availability of an

ambulance at the disposal of the clinic. Ruñez, Jr. submits that his father would not have suffered a stroke if not for the neglect of Dr. Jurado.

The letter-complaint was referred to Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief of Administrative Services, for investigation. Atty. Candelaria required Dr. Jurado to submit her comment to the letter-complaint. The comment was submitted on March 18, 2005, together with supporting affidavits from respondent's witnesses. This was followed by Ruñez, Jr.'s reply to the comment on April 12, 2005 and Dr. Jurado's rejoinder on April 22, 2005.[3]

Atty. Candelaria submitted her report on June 17, 2005. The report gave credence to the account of Dr. Jurado that Ruñez, Sr. was given Capoten, informed that he should be hospitalized and that the ambulance was placed on standby to take him there. These factual findings of Atty. Candelaria appear to be supported by the affidavits of the clinic's personnel, including the ambulance driver, who witnessed the events that happened between Ruñez, Sr. and Dr. Jurado.

The issue now for the Court to resolve is whether, given the accepted facts, there is cause to hold Dr. Jurado administratively liable. Atty. Candelaria is satisfied that Dr. Jurado provided Ruñez, Sr. proper treatment inside the clinic. However, in her opinion, Dr. Jurado's actions after Ruñez, Sr. had left were less than the required diligence of a good father of a family. We quote below the analysis of Atty. Candelaria:

. . . Records will clearly show that minutes after Mr. Ruñez, Sr. left the clinic, Dr. Jurado also left the clinic to go home. This is shown by her time out registered in the Chronolog Machine on the said date which was 4:31 p.m. and her inclusion in the list of passengers of Shuttle Bus No. 6. As an efficient and intelligent doctor, Dr. Jurado should have at least personally exerted all her efforts to determine the whereabouts of Mr. Ruñez, Sr. because of his condition and again at the very least informed his relatives in the Court in order that they too take the necessary action at that very moment. Or in the alternative, if indeed, Dr. Jurado may have been in a hurry at that time to do some errands, she should have at least[,] again, turned Mr. Ruñez over to a [d]octor who was willing to be left behind after office hours. These however never happened. All that she relied on was the fact that there was an emergency treatment and an order for hospital conduction but [the same] didn't materialize and [she] put [the] blame on Mr. Ruñez, Sr. As admitted by complainant, Mr. Ruñez, Sr., is a mere "driver" and perhaps may have no knowledge at all of the consequences of his 210/100 blood pressure and since he sought refuge from the [c]linic, the clinic, particularly Dr. Jurado[,] should have made him feel safe and secure in the said place. . . .

Atty. Candelaria recommends that Dr. Jurado be held liable for simple neglect of duty and suspended for one (1) month and (1) day. She further recommends that, in light of what happened, Dr. Prudencio Banzon, SC Senior Staff Officer, Medical and Dental Services, be directed to prepare a flexi-time schedule (until 5:30 p.m.) for all doctors and nurses in the clinic to enable it to provide immediate and proper attention in case of any emergency medical situation.

The Court does not agree that the acts or omission of Dr. Jurado amount to simple neglect of duty. Simple neglect of duty is defined as failure to give proper attention to a task expected of an employee resulting from either carelessness or indifference[4] or signifies a disregard of duty resulting from carelessness or indifference.[5] In Philippine Retirement Authority,[6] it was stated, "The Court has decided the following, inter alia, as constituting the less grave offense of Simple Neglect of Duty: delay in the transmittal of court records, delay in responding to written queries, and delay of more than one (1) year and seven (7) months in furnishing a party with a copy of the court's decision." In all the instances cited by the Court, respondents had the duty or were expected to do certain acts which they failed to do. How do we determine what acts are expected of Dr. Jurado? Atty. Candelaria's report cites the applicable yardstick: a physician or surgeon is expected to apply in his practice of medicine that degree of care and skill which is ordinarily employed by the profession, generally, and under similar conditions.[7]

Therefore, to find Dr. Jurado liable for simple neglect of duty the Court has to be convinced that those in the medical profession were also expected to act in the manner illustrated by Atty. Candelaria, i.e., to exert all efforts to determine the whereabouts of Ruñez, Sr., inform his relatives or turn his case over to a doctor who was available after office hours.

Article II, Section 1 of the Code of Medical Ethics of the Medical Profession in the Philippines states:

"A physician should attend to his patients faithfully and conscientiously. He should secure for them all possible benefits that may depend upon his professional skill and care. As the sole tribunal to adjudge the physician's failure to fulfill his obligation to his patients is, in most cases, his own conscience, violation of this rule on his part is discreditable and inexcusable."

A doctor's duty to his patient is not required to be extraordinary.[8] The standard contemplated for doctors is simply the reasonable average merit among ordinarily good physicians, i.e. reasonable skill and competence.[9] We are persuaded that Dr. Jurado fulfilled such a standard when she treated Ruñez, Sr. inside the clinic. But what of Dr. Jurado's conduct after Ruñez, Sr. left the clinic and failed to return?

It has been held that a patient cannot attribute to a physician damages resulting from his own failure to follow his advice, even though he was ignorant of the consequences which would result from his failure.[10] If a patient leaves the hospital contrary to instructions, the physician is not liable for subsequent events.[11] There is no expectation from doctors that they track down each patient who apparently missed their appointments or force them to comply with their directives. After all, a person is still the master of his own body.[12]

Dr. Jurado may have allowed Ruñez, Sr. to walk out of the clinic despite her earlier diagnosis of his condition. By that time Ruñez, Sr.'s condition had temporarily stabilized and she did not have the authority to stop him just as other doctors have no power, save in certain instances (such as when the law makes treatment compulsory due to some communicable disease[13] or when consent is withheld by a minor but non-treatment would be detrimental or when the court of competent jurisdiction orders the treatment), to force patients into staying under their care. Dr. Jurado relied on Ruñez, Sr.'s representation that he would return in order to be brought to the hospital but made no undertaking to wait for him beyond the clinic hours or to look for him if he did not return. Thus, when Ruñez, Sr. failed to show up as of closing time, and could not be found by the male nurse who looked for him at her instructions, Dr. Jurado had reason to think that he had decided to disregard her medical advice, which he in fact did when he and Ruñez, Jr. decided to go to the hospital on their own. Ruñez, Sr., still of sound mind, had the right to accept or ignore his doctor's recommendation. Dr. Jurado was obligated to care for Ruñez, Sr. when the latter asked for medical treatment, which she did, but when he left on his own accord Dr. Jurado was not expected, much less duty-bound, to seek out her patient and continue being his doctor.

Some people may interpret Dr. Jurado's inaction as indifference, while others may view the same as just proper. Some would applaud Dr. Jurado's dedication had she done all the things mentioned by Atty. Candelaria and yet others would see them as still insufficient. There will always be a divergence of opinions as to how Dr. Jurado should have conducted herself but the Court must distinguish between acts that deserve to be emulated or disdained and those that deserve sanctions. The former is largely a matter of opinion while the latter can only be imposed if there was a failure to perform a clear duty, expectation or obligation. People may frown upon certain behaviors and chastise others for having less compassion, but it does not necessarily follow that those acts translate to neglect of duty, misconduct or negligence.

Dr. Jurado could have exerted greater efforts by searching all over the compound for Ruñez, Sr. but the fact remains that these were not part of her duties nor were they expected from her. Simple neglect of duty presupposes a task expected of an employee. Thus, it cannot be present if there was no expected task on her part.

That said, the Court wishes to exhort Dr. Jurado, and all personnel in its clinic, not to be satisfied with merely fulfilling the minimum, but to go for the magis, the best service they can render by way of being exemplars for their fellow workers in the Court.

WHEREFORE, the Court finds no reason to hold Dr. Jurado liable for simple neglect of duty, and, therefore, DISMISSES the complaint for lack of merit. As recommended by Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief of Administrative Services, Dr. Prudencio Banzon, Senior Staff Officer, Medical and Dental Services, is DIRECTED to prepare a flexi-time schedule for all doctors and nurses in the clinic to further develop its capability to provide immediate and proper attention in emergency medical situations, and to submit the same to Atty. Candelaria in 30 days from receipt of a copy of this decision which should be served upon him forthwith.

SO ORDERED.

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

[1] They were accompanied by complainant's brother and sister.

[2] Per Manifestation of complainant in his Motion for Early Resolution dated October 10, 2005.

[3] Much of what was included by both parties in their papers concerned events that transpired after the January 12, 2005 incident. It appears unnecessary to include and discuss these matters as these would only unnecessarily exacerbate the relations of the parties who in the end are still employees of the Court.

[4] *Añonuevo v. Rubio*, A.M. No. P-04-1782, July 30, 2004, 435 SCRA 430.

[5] *Philippine Retirement Authority v. Thelma Rupa*, G.R. No. 140519, August 21, 2001, 363 SCRA 480, 487.

[6] *Id.*

[7] Citing *Reyes v. Sisters of Mercy Hospital*, G.R. No. 130547, October 3, 2000, 341 SCRA 760.

[8] *Cooper v. McMurry*, 149 Pac. (2d) 330.

[9] *Reyes v. Sisters of Mercy Hospital*, *Supra*, Note 7.

[10] *Carey v. Mercer*, 132 N.E. 353.

[11] *Feltman v. Dunn*, 217 N.W. 198.

[12] *Natanson v. Klien*, 350 Pac. (2d) 1093.

[13] R.A. 3573.

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