# RE: REPORT ON THE ALLEGED THEFT OF ELECTRICAL WIRES.

*A.M. NO. 2007-09-SC. July 12, 2007*

Ponente: NACHURA, J.

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**NACHURA, J.:**

This refers to the Memorandum[1] of Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer, dated May 15, 2007, on the alleged theft of electrical wires used as a feeder line for the spotlights along the perimeter of the Court's Taft Avenue gate.

The first incident happened on September 27, 2006. At around 7:45 a.m., Leonardo Yecla, Jr. of the Maintenance Division reported the loss of the electrical wires to John Paul Salas, Watchman II, assigned at the employees' gate along Taft Avenue. Mr. Salas reported the matter to the Assistant Shift In-charge (ASIC), Fernando G. Lastica.[2]

That day, Michael Fajardo, Security Guard I, was the guard assigned at the Taft-Faura post for the first shift (6:00 a.m. to 2:00 p.m.). At around 6:00 a.m., he was re-assigned by Mr. Lastica to the basketball court area in lieu of another guard who was deployed as then Chief Justice Panganiban's security escort.[3] Mr. Fajardo re-assumed the Taft-Faura post at about 9:05 a.m. In his end-of-duty report, Mr. Fajardo reported that no untoward incident occurred during his watch. However, Mr. Lastica recorded the alleged loss of electrical wires in the security logbook.[4]

Atty. Candelaria was informed of the loss by Mr. Bernardito Bundoc, Chief of the Maintenance Division.[5] On the other hand, Mr. Danilo C. Pablo, Chief of the Security Division, informed Atty. Candelaria that he had directed an investigation on the matter.[6]

Upon investigation, the Assigned Investigator, Mr. Joselito Dominguiano, found that about 20 meters of wires were cut off from the line connecting the spotlights at the Taft Avenue gate. He also states that the night shift (10 p.m. to 6 a.m.) guard, Joel Gregorio, noticed nothing unusual during his tour of duty, while the guard on duty after him, Mr. Fajardo, was re-assigned to the basketball court area. He concluded that the loss could have occurred at the time when the Taft-Faura post was unmanned. He recommended that the Complaints and Investigation Division (CID), OAS, conduct an investigation on the matter.

In a Memorandum[7] dated April 19, 2007, Atty. Candelaria directed Mr. Fajardo to explain why no disciplinary measures should be taken against him for failing to report the alleged loss of the wire. Likewise, Mr. Lastica was asked to explain why he re-assigned Mr. Fajardo without taking precautionary measures to keep the premises secured.[8]

Mr. Fajardo explained that he only heard about the missing wire through communications over the radio monitor. He also said that since Mr. Lastica already recorded the loss in the logbook, he no longer included the same in his report as he was not in the area at the time of the incident.[9] On the other hand, Mr. Lastica said he re-assigned Mr. Fajardo to the basketball court because the area was vital, serving as it did as the reserve parking for VIPs. He said that the Taft-Faura post was where they usually pulled out guards to augment other areas because that gate is always locked and, at that time, there were already a lot of people near the area who could notice unusual

activities.[10]

The second incident allegedly took place on September 30, 2007. The report on the missing wires was made by Mr. Eligio Del Mundo, first shift guard at the Taft-Faura post that day. During the CID investigation, Mr. Del Mundo related the loss, thus:

> A:
>
> Yes, ang area ng Tango 3 ay mula Taft cor. P. Faura hanggang entrance gate ng Old Building. Diyan lang ako nag -inspection. So ang findings ko that day, First ay ang isang exhaust fan sa underground, Property. Second is the wires. Naisip ko lang na baka iyun ang sinasabi nilang naputol na wires. May isa akong nakita dun na putol na wire. ([D]raw[s] the scene) This is my post at may tree, may maliit na puno diyan ng mangga at may mga branches siya. Ang napansin ko diyan within that way (Faura papuntang entance gate, Old Building). Iyung sinasabi ng araw na September 27, iyan iyun yellow wire. Siguro 27 meters ata iyan. Iyan yun nawawala but when I assumed ng September 30 cut na yung yellow wire pero cut din ang blue wire then may mga naka roll sa branches ng tree. [11]

On the other hand, Mr. Harold Cumpio, Over-all ASIC at the New Building on September 30, 2006, narrated that, at around 4:15 p.m., he and several other security personnel were directed by Mr. Pablo to proceed to the Old Building. There they were instructed to remove electrical wires knocked down to the ground by typhoon Milenyo.[12] Mr. Cumpio's statement was corroborated by Mr. Bernardo P. Cajandig, the Shift In-Charge (SIC) for that day.[13]

On March 14, 2007, Atty. Candelaria directed Mr. Pablo to explain why he failed to report the loss of the wire, as well as the loss of the logbook page containing the report of this incident.[14]

In his Memorandum[15] dated March 26, 2007, Mr. Pablo avers that none of the guards on duty on September 30 noted any untoward incident in their reports for that day. He relates that on October 5, 2006, he and Mr. Gelinico Abac conducted a re-inventory of all court property within the perimeter fences along Padre Faura Street and Taft Avenue, and the Centennial Building. When Mr. Pablo got the logbooks from the various posts, it was discovered that the page containing the reports of September 29 and 30, 2006, by Mssrs. Juan Espuerta and Del Mundo, respectively, was missing from the Taft-Faura post logbook. Mr. Pablo immediately called for the two. He then asked the two to restore the lost page in the logbook by having them re-write their report on a new clean page, which he said will be attached to the logbook in place of the lost page.

According to Mr. Del Mundo, he was asked by Mr. Pablo to come in to the Security Division office on October 5, his day off, where the latter informed him that the page where his report was written was missing. At first, Mr. Del Mundo refused. He said that, being a criminologist, he thought that the document will be put in question because its texture was different from the rest of the logbook.[16] Eventually, Mr. Del Mundo acceded to his superior's instructions and re-wrote his report.

On May 15, 2007, Atty. Candelaria submitted to the Chief Justice the Report and Recommendation of the OAS, the pertinent portions of which read:

> In conclusion, while this Office does not find any irregularity in the restoration of the lost page, the same is not tantamount to saying that Mr. Pablo is at all free of the reprove that the Court ought to give him. As Chief of the Security Division, he has the duty to report all instances of losses and all information pertaining thereto.
>
> The loss of the page of the logbook aptly demonstrates a security lapse. It indicates ineptness in the general implementation of security measures within the Court, which matter, as stated, should be Mr. Pablo's utmost concern. In the first place, the fact that it could have been perpetrated by some disgruntled security personnel cannot be gainsaid since the logbook was under the Security Division's custody whose primary duty is about


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safety and security.

The claim that the restoration of the report is done in good faith and not tainted with bad faith is of no moment because he was made to explain on his failure to report the matter to this Office. Moreover, since the report of Mr. Del Mundo alleged another loss of electrical wire which draws out an issue and raises doubt on the motive of the loss of the said page of the report, the issue could have been easily resolved if the report of Mr. Del Mundo had been kept intact. Mr. Pablo, in his explanation, ordered the restoration without conducting first an investigation.

In fine, although negligence could not be ascribed to a specific guard or guards, this is not without stating the Security Division is completely blameless for what occurred.

For want of proof to support the irregularity on the restoration, this Office finds no prima facie case against Mr. Pablo. This Office believes that the changes did not cause substantial deviation from the content of Mr. Del Mundo's original report. However, for Mr. Pablo's failure to exert effort to conduct an investigation on the loss of the page containing Mr. Del Mundo's report and his failure to make a report on the matter, [he] has to be warned for such failure.

With respect to Mr. Fajardo, his explanation although well-taken, has to be advised to be more circumspect in the performance of his duty.

In connection with the order of Mr. Lastica in re-assigning Mr. Fajardo to another post that left the Taft-Faura post unguarded, regardless of whether or not the theft occurred at that time, this Office recommends that he should likewise be advised of the need to take precautionary measures in similar instances in order to prevent similar incident[s] in the future. In this connection, this Office believes that the matter is already being addressed by the on-going hiring or filling-up of security guards positions to augment their number and reinforce their visibility.

In view of the foregoing, this Office respectfully recommends for the following which will form part of their respective 201 Files in this Office:

- Mr. Danilo C. Pablo for his failure to conduct and make a report about the missing page of the logbook containing Mr. Juan Espuerta, Jr. and Mr. Eligio Del Mundo's reports, be WARNED for such failure;

- Mr. Fernando Lastica, for making a re-assignment without taking precautionary measures which exposed to security risk the Taft-Faura post, be WARNED to be more circumspect in the performance of his duty;

- Mr. Michael Fajardo, be REMINDED of his duty to make a report on all incidents that he may encounter in his tour of duty; and

- Engr. Bernardito Bundoc, be ADVISED of the need to remove the unnecessary wire, cable, or installation of whatever kind when the use of such installation is finished in order to prevent its theft or pilferage.[17]

The recommendations of the OAS for the Security Division to adopt stricter precautionary measures are well-taken. However, we find the recommended penalties too light in view of the circumstances. The security personnel in this case fell short of the strict and rigorous standards required of all security officers in the Judiciary.[18]

The loss of electrical wires reported on September 27, 2006 is undisputed. Yet, despite the investigations conducted by the Security Division and the CID, no substantial finding was made. The chances of finding the perpetrators at this point are very slim. As to the September 30 incident, since there was no action on the matter, it cannot now be established if there was, in fact, another incidence of theft. As the OAS report points out, no culpability for such losses can be attributed to any specific personnel of the Security Division in either case.

Nonetheless, we consider these incidents indicative of serious lapses in the Court's over-all security. The Court cannot condone or close its eyes to transgressions of duty on the part of judicial personnel which, even if unintended, could have been avoided with the exercise of requisite care.[19]

Every employee of the Judiciary should be an example of integrity, uprightness, and honesty. Their conduct must not only be characterized by propriety and decorum but above all else must be above suspicion at all times.[20]

As officers of the Court, security personnel are duty-bound to perform their duties with skill, diligence, and to the best of their ability, particularly where the safety or interests of court personnel may be jeopardized by their neglect or cavalier attitude towards their responsibilities.[21] Indeed, this is not the first time that the Court is confronted with loss of property within its premises.[22]

In the case at bar, while no negligence can be ascribed to Mr. Fajardo, this Court cannot countenance his cavalier attitude towards official duty, especially coming from a security officer whose function specifically requires a high level of vigilance. Even when his superior assigned him to another area, the Taft-Faura post and all incidents therein were his primary and continuing responsibility. Thus, it remained his responsibility to state in his end-of-duty report that there was a reported loss of property within his assigned area.

On the other hand, while we cannot ascribe bad faith to Mr. Lastica, we find that his decision to pull out the guard from the Taft-Faura gate to augment another area without taking any precautionary measures for the unmanned post constitutes negligence warranting disciplinary action.

Simple neglect signifies a disregard of a duty resulting from carelessness or indifference.[23] Mr. Lastica explains that he was merely following the usual practice in the Security Division, but he should have realized that this act exposed a part of the Court premises to unnecessary risks. Thus, he should have taken adequate measures to minimize such risks. As one of the supervisors, he should have been familiar with the protocols to be followed in re-assigning or moving security personnel on duty. Even if short of personnel, no part of his area should be left vulnerable or unguarded.

We come now to the loss of the page in the security logbook.

We cannot now accurately determine liability for the loss of the logbook page, or prove with reasonable certainty the veracity of the incident reported therein. However, it is clear that there was a lapse in the Security Division's procedure. The laxity of the security personnel – particularly those who went on duty at the Taft-Faura post from the time of the report (September 30) to the discovery of the lost page – contributed in no small way to the loss of the page and the resultant delay in its discovery. The Court cannot understand how a page of the logbook could be lost unless it was deliberately torn off. But whether the same is a result of mere oversight, complacency, or intent to conceal, is of no moment. Due diligence requires that all security personnel not only accomplish their duty reports but also ensure that the security logbooks are kept accurate and their integrity preserved.

The resulting inaction, though, is attributable to Mr. Pablo himself. His explanation for not reporting and acting on the loss of the security logbook page does not persuade this Court. It escapes us how Mr. Pablo, Chief of the Security Division, did not find the loss of a page of the security logbook – which only the security staff has access to – suspicious enough to warrant an investigation. Instead of inquiring as to how such a thing could have happened, however, he ordered the restoration of the lost reports.

He proffers that this order was made in good faith and without any ill motive. The moment he became aware of the loss of the page, though, he should have at once reported the same to the OAS Chief and conducted an investigation, like he did for the September 27 incident. He did not do so. It was only several months later, in March 2007, when Atty. Candelaria asked him to explain, that he spoke up about the incident. And even then it

was only to say that he knew nothing of the same. This, to our mind, militates against his good faith.

Mr. Pablo must have realized the importance of the information in the missing page as he ordered the immediate restoration thereof. After its reconstitution, he became aware that the lost page contained vital and sensitive information. This should have given rise to the suspicion that such information was what was sought to be concealed. He still failed to respond thereto.

He is certainly aware of Section 3, Canon IV, of the Code of Conduct for Court Personnel,[24] which states:

> SEC. 3 Court personnel shall not alter, falsify, destroy or mutilate any record within their control.

Surely, he knew that his order contravened this provision, and that in doing so, he was directing his subordinates into violating the same. Even if the restored logbook entry did not substantially deviate from the original, the deliberate effort to obscure the incident defeats his claim of good faith.

Mr. Pablo has violated the confidence reposed upon him by the Court[25] as chief of its Security Division. His utter lack of diligence to conduct further inquiry constituted dereliction of duty tantamount to negligence.[26] Moreover, his failure to properly supervise the conduct of his personnel effectively exacerbates his neglect of duty.

The Security Division is tasked to strictly implement all the preventive, corrective, and other safety measures against the commission of any and all wrongdoings against the Court, its property, and its personnel.[27] As such, there is a need to constantly keep them fully cognizant of and responsive to their grave task of securing the Court and its personnel from risk or danger.[28] We understand that the Security Division is undermanned. This, however, should not be an excuse for security personnel to exercise anything less than due care in performing their duties.

WHEREFORE, premises considered, Mr. Danilo C. Pablo, for his failure to make a report about the missing page of the logbook containing the incident report of the alleged theft on September 30, 2006 and for failure to undertake the necessary corrective actions thereon, is found GUILTY of simple neglect of duty and SUSPENDED without pay for a period of one (1) month effective immediately. He is also WARNED that a repetition of this or similar acts will be dealt with more severely.

Mr. Fernando Lastica, for making a re-assignment of personnel without taking precautionary measures which exposed the Court to security risks, is likewise GUILTY of simple neglect of duty, SUSPENDED without pay for one (1) month effective immediately, and WARNED that a repetition of this or similar acts will be dealt with more severely.

Mr. Michael Fajardo is WARNED for his failure to make a report on all incidents within his area of responsibility during his tour of duty.

The Security Division is WARNED for failure to exercise due diligence in the performance of its duty and REMINDED of its fundamental responsibility to maintain order within the Court's premises and to secure the Court and its personnel from any and all kinds of risk or danger.

Lastly, Engr. Bernardito Bundoc is DIRECTED to conduct an inspection of Court premises and remove or secure unnecessary wires, cables, or installations susceptible of being lost or stolen. He is further directed to SUBMIT a report thereon within ten (10) days.


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**SO ORDERED.**

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

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[1] Rollo, pp. 1-10.

[2] Id. at 1.

[3] Id. at 13.

[4] Id. at 2.

[5] Letter of Engr. Bundoc to Atty. Candelaria, id. at 126.

[6] Id. at 20.

[7] Id. at 16.

[8] Id. at 14.

[9] Id. at 12.

[10] Id. at 13.

[11] Id. at 50.

[12] Id. at 87-92.

[13] Id. at 105-108.

[14] Id. at 47.

[15] Id. at 17-19.

[16] Id. at 55.

[17] Id. at 9-10.

[18] Re: Administrative Liabilities of the Security Personnel Involved in the Entry of an Unidentified Person at the Philippine Judicial Academy, A.M. No. 2003-18-SC, June 3, 2004, 430 SCRA 406, 410.

[19] Re: Report Of Judge Enrique T. Jocson Regarding Defective Property Bonds: Ramiro J. Mendoza, Legal Researcher, Regional Trial Court, Branch 47, Bacolod City, A.M. No. P-92-1-029-RTC, November 16, 1993, 227 SCRA 756, 763.

[20] Lloveras v. Sanchez, A.M. No. P-93-817, January 18, 1994, 229 SCRA 302, 307.

[21] Supra note 18, at 410.

[22] See Re: Report on the Series of Theft in the Premises of the Supreme Court, A.M. No. 2006-09-SC, June 20, 2006 and July 18, 2006; Re: Report on the Series of Theft and Robbery in the Premises of the Supreme Court, 444 Phil. 674, 684 (2003).

[23] Blanquisco v. Austero-Bolilan, A.M. No. P-03-1704, March 15, 2004, 425 SCRA 470, 477.

[24] A.M. No. 03-06-13-SC, June 1, 2004.


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[25] See Re: Report of Mr. Dominador P. Itliong, Officer-In-Charge, Baguio City, A.M. No. 03-11-29-SC, June 8, 2005, 459 SCRA 289, 298.

[26] Supra note 18, at 410.

[27] Re: Report on the Series of Theft in the Premises of the Supreme Court, supra note 22.

[28] Re: Report of Mr. Dominador P. Itliong, supra note 25, at 299, citing Re: Initial Reports on the Grenade Incident That Occurred on December 6, 1999 submitted by DCAs Zenaida Elepaño and Reynaldo Suarez, 367 SCRA 1 (2001).


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