RE: FIGHTING INCIDENT BETWEEN TWO (2) SC SHUTTLE BUS DRIVERS, NAMELY, MESSRS. EDILBERTO L. IDULSA AND ROSS C. ROMERO.

A.M. No. 2008-24-SC. July 14, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

By 1[st] Indorsement dated November 19, 2008,[1] Eduardo V. Escala, Chief Judicial Staff Officer of the Security Division of this Court, forwarded to Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer, for her information and appropriate action, the November 19, 2008 Incident Report[2] of Security Officer Antonio Tuason (Tuason).

Based on the Incident Report, the facts which spawned the present administrative case are as follows:

At around 7:25 a.m. of November 19, 2008, while Tuason was conducting post and inventory inspection of the security force, Watchman II Anson Balana received a radio call from Macario Torres, Jr. (Torres), the close-in security of Justice Presbitero J. Velasco, Jr., regarding a fistfighting incident at the Paco Park area between two unidentified drivers of the Supreme Court shuttle buses. Tuason, together with Police Officer (PO)2 Rolando Gabat and PO1 Lester Lira, immediately proceeded to the area where they identified the drivers as Ross Romero (Romero) and Edilberto Idulsa (Idulsa).

The fistfight was witnessed by pedicab drivers who narrated that Romero approached Idulsa in front of Kho Kahrs Carinderia located at the corner of Gen. Luna and P. Faura Streets and for no apparent reason punched the face of Idulsa with the use of a brass knuckle.

Jun Sepulveda (Sepulveda),[3] the driver of Bus #10, tried to separate the two but was pushed away. The fighting stopped only when Torres pacified the protagonists. The two were later brought to the Ospital ng Maynila by PO2 Gabat for medical attention.

In her December 3, 2008 Memorandum[4] for the Chief Justice, Atty. Candelaria summarized the versions of Sepulveda, Idulsa and Romero as follows:

Idulsa's Version

> . . . [A]t around three forty-five (3:45) p.m. of November 18, 2008, while Romero was having his merienda in a carinderia at Paco Park, he requested Romero to move his bus saying, "Ross, pakisuyo, pa-abante yung bus mo dahil lalabas na ako. Bakit naman itinutok mo sa akin." Romero did not answer him but Idulsa knew that he heard his request because Romero looked at him. Idulsa then went back to his bus to wait for Romero. Minutes pass but Romero did not show up. Idulsa asked a certain Rodel, allegedly a driver of a DOJ bus, to help him move his bus out from the parking area. When Romero arrived in the area, Idulsa had already moved out his bus with the guidance of Rodel. Idulsa said to Romero "Pambihira ka naman, bakit tinutok mo dyan eh ang hirap ng atras abante." Thereafter, Idulsa left the area.

> In the morning of November 19, 2008, he allegedly approached Romero in the same carinderia to talk to him about the incident that happened the day before which he narrated, viz:
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> "Nung inapproach ko siya kaninang umaga ma'am, hindi away ang sadya ko doon. Nag-uusap silang dalawa ng bus #10. Paglapit ko sa kanya, sumandal ho ako dun sa may kahoy sa tapat ng karinderya. Sabi ko, `Pambihira ka naman Ross, si Larry ang maghapon nagparada, binigyan na ako ng puwang, x x x Ibig sabihin, away ba ang sadya ko, ma'am, nakasandal po ako dun sa may kahoy... Puro sagot niya sa akin ma'am mabibigat ang dating. Kasi may balak na talaga siya siguro ma'am na anuman ang kahinatnan, makikipagsuntukan siya. Nakasandal lang ako sa kahoy tapos ganun ang sagot niya."
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> When asked by the investigators as to who provoked the fistfight, he answered that he could no longer remember. x x x
>
> x x x x

He admits that they were pacified by Sepulveda, but still they had their second round of fistfight which was pacified by the driver of Justice Velasco.[5] (Italics in the original)

Romero's Version

> . . . On November 18, 2008, at around four o'clock (4:00) p.m., he was having merienda in a carinderia at Paco Park together with his fellow drivers. Edilberto Idulsa approached him and allegedly demanded him to move his bus because Idulsa could not get the bus out from where it was parked. He jokingly answered "Makakalabas ka naman ah kahit hindi ko igalaw yung bus ko.", to which Idulsa replied, "Ayokong mahirapan, alisin mo yung bus mo." He answered that he would finish his merienda first. He went to the parking area after finishing his merienda but at that time, Idulsa had already moved his bus out even without moving the bus of Romero. He then boarded his bus, put on the engine and started to move out. When the windows of their buses were in parallel with each other, Idulsa allegedly said, "Tang-ina mo! Ang lawak-lawak sa unahan, hindi mo inabante", to which he answered, "Doy, mas malawak kanina. Kayo ang unang dumating dapat inabante nyo na para naman kami may maparadahan sa susunod...yung mga huling dadating." He subsequently left the area and decided to just let the incident pass.
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> In the morning of November 19, 2008, also in Paco Park, he was about to get down from his bus when he saw Idulsa approaching. He went back inside the bus to avoid Idulsa and when Idulsa was no longer in the vicinity, he went down from the bus and proceeded to the carinderia where they usually drink coffee. Mr. Proceso Sepulveda, also a SC Shuttle Bus driver, was there so he joined him. He was talking to Sepulveda when Idulsa approached him and confronted him about the incident which happened the day before . . .
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> x x x x
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> When he punched Idulsa, he was allegedly holding his cellphone and that its edge hit Idulsa's face. They were at the heat of the fight when Sepulveda approached and tried to pacify them. When they were pacified, he uttered, "Ikaw eh, ang init kasi agad ng ulo mo eh. Dinadaan mo sa sigaw.", to which Idulsa replied, "Tang-inamo may hawak ka lang eh. Tanggalin mo yang hawak mo." They again exchanged blows, and this time, he was knocked down.[6] (Italics in the original)

Sepulveda's Version

> . . . He recounts that in the morning of November 19, 2008, he was having coffee at a carinderia in Paco Park with Mr. Ross Romero. A few minutes later, Mr. Edilberto Idulsa arrived and talked to Romero. Idulsa and Romero were a few meters away from him. He did not mind the two as they were talking about the prior incident regarding the parking of the SC shuttle buses. He was surprised when he saw that Idulsa and Romero were already exchanging blows and he approached the two to pacify them. At that time, both had already received blows from each other and Idulsa already had a cut on his face. He separated them and even offered to

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> bring Idulsa to the clinic but he refused. Convinced that he had stopped the two, he went back to the carinderia to finish his coffee. A few minutes later, Idulsa and Romero again faced each other and had another round of fistfight. At that time, Justice Velasco, whose car was passing by the area, witnessed the incident. The driver of Justice Velasco went out of the car to pacify Idulsa and Romero. Sepulveda also helped separate the two and, thereafter, security personnel arrived at the area.
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> x x x x[7] (Italics in the original)

By Memorandum of December 3, 2008,[8] Atty. Candelaria found both drivers guilty of simple misconduct in this wise:

> After a thorough evaluation of the respective claims of the two (2) drivers, this Office finds more weight and gives credence to the claims of Romero. It was established that Idulsa was the one who provoked Romero. He was the one who went to the place where the incident happened and confronted him. Analyzing the series of events which transpired and led to the fist fight, the incident on November 19, 2008 was only the "smoke" of the fire which actually started and heated up a day before, when Idulsa requested Romero to move the latter's bus to enable him to move out his bus out of the parking area, as Idulsa's bus was parked between Romero's bus and bus # 1.
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> As pointed out by Romero, when he proceeded to the parking area, Idulsa had already moved out his bus. The furious Idulsa shouted at him, saying that he should give more space when parking his bus. The next day, Romero tried to avoid Idulsa.When he was having coffee with Sepulveda at the carinderia, Idulsa approached and confronted him. The conversation led to a heated argument and both lost their temper. Whoever gave the first punch was not established but it was clear that Idulsa suffered severe blows on his face while Romero, on his lower left chest. For failure to present the brass knuckle as evidence of the alleged weapon used, the testimony to this effect is set aside by this Office as even Idulsa himself was not sure of what object was used by Romero to his face. These facts were corroborated by Sepulveda's testimony when the latter testified that it was Idulsa who approached them at the carinderia.
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> Idulsa's claim that his purpose of confronting Romero was not to initiate a fistfight as his back was even leaning on a wood, cannot hold water. Assuming arguendo that his purpose was not to fight with Romero, the fact that he was the one who approached Romero and confronted him is enough proof that he had ill-feelings against Romero. Being furious about the incident between them, the ingredients were complete to start a fire. The provocation came from Idulsa to which Romero retaliated.
>
> The statements of the by-standers and kibitzers in the area of the incident that it was Romero who approached Idulsa, appeared in contrast with the established facts. It was admitted by Idulsa and Romero that it was the former who approached the latter when the latter was drinking coffee with Sepulveda. This was also confirmed by Sepulveda. The testimonies or statements of the witnesses that Romero had a brass knuckle in his hand when he punched Idulsa, deserves scant consideration. Idulsa expressed doubts on what was in Romero's hand that landed on his face. Moreover, the Security Officers who conducted an investigation right after the incident found no brass knuckle in the area.
>
> x x x x
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> Be that as it may, Ross C. Romero is not absolved from any administrative liability either. Engaging in a fistfight is an unacceptable behavior....It is interesting to note that despite being pacified already by Sepulveda, Idulsa and Romero still continued their fight for a second round and stopped only when Justice Velasco and his driver came into the picture.
>
> Taking all these things into consideration, this Office finds both Edilberto Idulsa and Ross Romero guilty of conduct unbecoming of a court employee which amounts to simple misconduct. (Emphasis and underscoring supplied)

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In recommending the penalty for both, Atty. Candelaria noted:

> . . . the presence of mitigating circumstances such as Idulsa's length of service of five (5) years in the Court; his Very Satisfactory performance ratings for the past three consecutive semesters; and this being the first administrative charge filed against him. On the part of Mr. Romero, his three (3) years of service in the Court; his Very Satisfactory performance ratings for the past three (3) consecutive semesters; and this being the first administrative charge filed against him, should also be considered.
>
> She further noted that since Idulsa was the aggressor in this case and who actually started the fight, this Office deems that a suspension of one (1) month and one (1) day would be enough for his offense, while for Romero a suspension of fifteen (15) days would be sufficient. (Emphasis and underscoring supplied)

Atty. Candelaria's evaluation and recommendation are well-taken.

Employees of the Judiciary, being engaged in government service which is people-oriented, are expected to accord respect to the person and rights of others, including a co-employee. Their every act and word must be marked by prudence, restraint, courtesy and dignity.[9]

Misbehavior by court employees within and around their vicinity necessarily diminishes their dignity. Any fighting or misunderstanding becomes a disgraceful sight reflecting adversely on the good image of the Judiciary.[10]

Indeed, the two are guilty of conduct unbecoming of court employee amounting to simple misconduct, classified as a less grave offense under the Uniform Rules on Administrative Cases in the Civil Service[11] which merits suspension for one month and one day to six months for the first offense, and dismissal for the second offense.[12]

Under Section 53[13] of the Uniform Rules on Administrative Cases in the Civil Service, in the determination of the penalties to be imposed, the extenuating, mitigating, aggravating or alternative circumstances, among other considerations, may be taken into account. As recommended then, the length of service, the performance ratings, and the number of times an employee has been administratively charged may be considered.

WHEREFORE, Edilberto Idulsa, Driver II, Property Division of the Office of the Administrative Services, is guilty of Simple Misconduct and is SUSPENDED for One (1) Month and One (1) Day without pay, while Ross Romero, Driver II of the same office, is guilty of the same offense and is SUSPENDED for Fifteen (15) Days without pay.

Both are WARNED that a repetition of the same or similar offense shall be dealt with more severely.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Corona, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, and Bersamin, JJ., concur.

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[1] Rollo, p. 32.

[2] Id. at 33.

[3] Also referred to as Proceso U. Sepulveda in the records.

[4] Rollo, pp. 1-7.

[5] Id. at 2-3.

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[6] Id. at 3-4.

[7] Id. at 4.

[8] Id. at 1-7.

[9] De la Cruz v. Zapico, A.M. No. 2007-25-SC, September 18, 2008, 565 SCRA 658; Court Personnel of the Office of the Clerk of Court of Regional Trial Court-San Carlos City v. Llamas, 488 Phil. 62, 70-71 (2004).

[10] Nacionales v. Madlangbayan, A.M. No. P-06-2171, June 15, 2006, 490 SCRA 538, 545.

[11] CSC Resolution No. 991936, August 31, 1999.

[12] Section 52 (B)(2), CSC Resolution No. 991936.

[13] Section 53. Extenuating, Mitigating, Aggravating, or Alternative Circumstances. - In the determination of the penalties to be imposed, mitigating, aggravating and alternative circumstances attendant to the commission of the offense shall be considered.

The following circumstances shall be appreciated:

- Physical illness

- Good faith

- Taking undue advantage of official position

- Taking undue advantage of subordinate

- Undue disclosure of confidential information

- Use of government property in the commission of the offense

- Habituality

- Offense is committed during office hours and within the premises of the office or building

- Employment of fraudulent means to commit or conceal the offense

- Length of service in the government

- Education, or

- Other analogous circumstances (Emphasis and italics in the original)

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