

**RE: LETTER-COMPLAINT OF MR. RECARREDO S. VALENZUELA,
CLERK IV, PERSONNEL DIVISION, OAS-OCA AGAINST MR. RICARDO
R. GIGANTO, UTILITY WORKER II, PERSONNEL DIVISION, OAS-OCA**

A.M. No. 2011-01-SC. August 23, 2011

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is an administrative complaint for Grave Misconduct Unbecoming a Court Employee and Physical Injuries filed by Recarredo S. Valenzuela (Clerk IV, Personnel Division, Office of Administrative Services-Office of the Court Administrator [OAS-OCA]) against Ricardo R. Giganto (Utility Worker II, Personnel Division, OAS-OCA).

The Facts

On 18 January 2011, complainant Recarredo S. Valenzuela (Valenzuela) filed a sworn Letter-Complaint[1] with the Deputy Clerk of Court and Chief Administrative Officer of the Supreme Court, charging respondent Ricardo R. Giganto (Giganto) with Grave Misconduct Unbecoming a Court Employee and Physical Injuries. In his Letter-Complaint, Valenzuela claims:

[W]hile on a half leaning standing position on top of my computer hardware on my table, said Ricardo R. Giganto suddenly and treacherously appeared and grasped and pulled my polo shirt's breast part and at the same time unlawfully and feloniously, without provocation punched me at the `nasolabial area of my face which made me thrown off my back.

Astounded and dizzy, I tried to get on my feet but he again delivered several fist blows on my left temple, head and left eye, which caused me bleeding profusely as a consequence.

In support of his claims, Valenzuela submitted a Medical Certificate[2] dated 18 January 2011, with the following physical examination findings of Dr. Prudencio P. Banzon, Jr., Chief, Supreme Court Medical and Dental Services: swelling, upper lip; superficial incised wound, inferior portion of alae nasi right; and BP elevated at 210/120.

On 24 January 2011, Giganto filed his Comment[3] to the Letter-Complaint, claiming that the allegations of Valenzuela are "incorrect and misleading." Giganto claims that on 14 January 2011, at around afternoon time, Valenzuela, who is his colleague in the MTC Personnel Division, told him that Crisanto Madeja, one of their co-workers, was looking for him and planned to stab him. Giganto asked Valenzuela why Madeja was going to stab him, to which Valenzuela replied, "Basta ikaw ay hinahanap/ hinahanting at sasaksakin."

Giganto saw and confronted Madeja, while they were lining up in the bundy clock. Madeja said, "hindi totoo iyon at lalong hindi totoo na ikaw ay sasaksakin ko, ano sira ulo ba ako bakit kita sasaksakin na tayo ay magkaibigan at

magkakasama sa isang Division."

Giganto went back to Valenzuela to tell him that he spoke to Madeja, who denied saying anything about stabbing Giganto. Valenzuela became angry and told Giganto not to disturb him. Valenzuela and Giganto then exchanged heated words. Valenzuela threatened to hit Giganto, so Giganto punched Valenzuela, resulting in a fistfight between the two.

Giganto denies that Valenzuela fell on the floor, and that he continuously punched Valenzuela while the latter was on the floor. In fact, Giganto also claims to have been hit by Valenzuela's punches in the body, face, head, and lip, because Valenzuela kept on punching him, even after Joanne Ruaburo grabbed Giganto's arm and led him away to stop the fight. Because of the fight, Giganto's shirt got torn.

In addition, Giganto requested that his Comment be considered as a counter-complaint, and cited several grievances against Valenzuela, in particular: a) Aleli Padre's formal complaint in 2007 against Valenzuela for Amorous Advances and Acts of Indecency; b) Rosalyn Marabut's claim that Valenzuela is "bastos at maniak"; and c) Myra Guillo's claim that she was called Myra Malibog by Valenzuela.

In support of his Comment, Giganto submitted a Medical Certificate issued on 21 January 2011 by Dr. Prudencio P. Banzon, Jr., Chief, Supreme Court Medical and Dental Services, with the following findings: skin avulsion wound, 1.5cm x 1.0cm, on healing stage, at the left upper portion of his back, scapular area, posterior axillary line, attributable to blunt trauma.

Valenzuela filed his sworn Reply[4] to Giganto's Comment on 1 February 2011, claiming that, "we did not exchange blows as I never retaliated when I was treacherously attacked with fistic blows by said Ricardo R. Giganto."

On 8 February 2011, Deputy Clerk of Court and Chief Administrative Officer Atty. Eden T. Candelaria directed the following to appear before her to testify on the complaint and counter-complaint: Valenzuela,[5] Giganto,[6] and witnesses Abner M. Cruz,[7] Crisanto M. Madeja,[8] and Joanne A. Ruaburo.[9]

In his Sworn Statement,[10] Valenzuela reiterated that: a) Giganto suddenly punched him with no prior confrontation; b) he fell on the ground when Giganto punched him; and c) he never punched back:

Q:

Can you tell us what happened on January 14, 2011?

A:

I was examining my Globe Telecom bills.

Q:

Where were you at that time?

A:

I was in front of my computer. Habang binabasa ko, syempre concentrated ako dun sa k'wan kasi mahal ang singil nila. Bigla na lang akong sinapak.

Q:

Sinunggaban ka?

A:

Opo.

Q:

Without any reason?

A:

Wala po.

x x x

Q:

Kinuwelyuhan ka ba?

A:

Oo, tumilapon ako.

Q:

Na-out balance ka?

A:

Oo, tumumba nga ako sa lakas.

x x x

Q:

According to your complaint, at around 4:25pm, doon na ulit kayo nagkaroon ng...?

A:

Sinugod niya ako.

Q:

Tinanong mo ba siya kung bakit ka niya sinugod?

A:

Wala hindi man siya... mali naman ang sinabi niya dito na kinausap niya ako.

Q:

Pinapabulaan mo ang sinabi niya dito sa kanyang Comment na tinanong ka muna niya?

A:

Wala, hindi po.

Q:

Wala ka bang binanggit sa kanya na `hina-hunting ka ni Mr. Chris?"

A:

Hindi po.

Q:

Gumanti ka ba noong sinuntok ka?

A:

Hindi po. Bumagsak lang ako dahil hindi ko makita.

Q:

Can you recall kung ilan beses ka tinamaan?

A:

Maraming beses.[11]

Valenzuela's allegations in his Sworn Statement that he fell down due to the strength of Giganto's punches, that there was no confrontation prior to Giganto's attack on him, and that he did not retaliate when he was punched, were clearly rebutted by the sworn statements of witnesses Abner Cruz and Joanne Ruaburo.

Witness Abner Cruz was the closest to Valenzuela and Giganto during the altercation. In his Sworn Statement,[12] Cruz affirmed that there was a heated exchange of words between Valenzuela and Giganto before the fistfight. He likewise affirmed that there was an exchange of punches between the two. Cruz narrated his eyewitness testimony on the turn of events:

`Ano ang tsini-tsismis mo na sasaksakin ako?' Sasaksakin daw siya ni Chris. Yun pala si Mr. Recaredo pala ang sinasabi niya. x x x Syempre makitid lang `yun parang nagkaroon na sila ng gantihan ng suntok. Ang nangyari, ang computer ni Regine, mahuhulog na. Nakaganun ako dito, nand'yan sila nagbubunuan. Hawak-hawak ko ang computer, isang kamay lang ang nakaganun kaya hindi ako puwedeng umawat.

x x x

Nagkainitan na sila nagkaroon na ng suntukan naggantihan na sila doon. Parang nauna yata si Mr. Giganto. Gumanti din... tumayo, kasi dati nakaupo siya tapos tumayo na siya tapos gantihan na sila.

x x x

Oo, pareho na silang duguan kasi nakasuntok din si Rick. Pareho na sila kasi nasira nga ang damit ni...[13]

Witness Joanne Ruaburo, on the other hand, was the one who pacified the two by taking Giganto's arm and leading him away from Valenzuela. In her Sworn Statement,[14] Ruaburo affirmed that both Valenzuela and Giganto exchanged punches, and Giganto suffered blows on his face:

Oo. Nagsusuntukan na sila. Hindi ko talaga alam kung ano yung nangyari before. Ang naabutan ko na lang, nagsusuntukan silang dalawa.

x x x

Yun ang hindi ko alam kung saan nakuha yung pagkapunit ng damit n'ya. Tapos, may dugo s'ya sa bibig kasi s'ya talaga ang naawat ko eh. (referring to respondent Giganto)[15]

Witness Crisanto Madeja, in his Sworn Statement,[16] likewise affirmed that Giganto confronted him about the stabbing allegation, to which he replied, "Wala akong nasabing ganyan. Kaya kong manggulpi ng tao pero ang pananaksak, hindi ko gawain yan."[17]

In Giganto's Sworn Statement,[18] he claims that Valenzuela was the first to take the fighting stance. Giganto followed and they engaged in a fist fight:

Q:

Ano naman ang ginawa n'ya pagkatapos ng sagutan n'yo?

A:

Yun, gumanoon s'ya (hands demonstrating), ex-marine kasi yan dati eh. Gumanoon s'ya, tapos gumanoon din ako. Nag-pitsa din ako. Tapos, nagsuntukan na kami."[19]

Evaluation and Recommendation of the Office of Administrative Services

The Office of Administrative Services (OAS) recommended, in its Memorandum[20] for the Chief Justice dated 27 May 2011, that both Valenzuela and Giganto be administratively disciplined. The OAS noted the presence of mitigating circumstances for Valenzuela and Giganto, who both had very satisfactory performance ratings for the past three consecutive semesters. In addition, Valenzuela had four years of service in the Court, while Giganto had twelve years of service.

The OAS found both Giganto and Valenzuela guilty of conduct unbecoming a court employee which amounts to simple misconduct under Section 52(B)(2) of the Revised Uniform Rules on Administrative Cases in the Civil Service because both parties engaged in a fistfight and exchanged punches.

The OAS recommended a suspension of thirty (30) days for Giganto because he was the aggressor in this case, as gleaned from his own Comment. A suspension of seven (7) days was recommended for Valenzuela because: a) he still engaged in the fistfight; and b) he fabricated the story about Chris Madeja planning to stab Giganto, which was the root cause of the fight.

The OAS dismissed Valenzuela's charge of physical injuries because such charge is the subject of a separate criminal case that must be filed and resolved at the proper forum.

The OAS likewise dismissed Giganto's counter-complaint impugning the character of Valenzuela because Giganto relied on second-hand information to prove the charge. The OAS noted, however, that a Complaint for Amorous Advances and Acts of Indecency was filed against Valenzuela, docketed as A.M. No. 2007-18-SC, but was dismissed. The Court, however, warned Valenzuela that a repetition of similar incidents in the future would be dealt with more severely.

The Court's Ruling

The Court approves the findings of the OAS but modifies the recommended penalty on Valenzuela. The penalty for Giganto is affirmed, while the penalty for Valenzuela is increased.

Section 52(B)(2) of the Revised Uniform Rules on Administrative Cases in the Civil Service (Rules) provides:

Section 52. Classification of Offenses - Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

x x x

B. The following are less grave offenses with the corresponding penalties:

x x x

2. Simple Misconduct

1[st] Offense - Suspension 1 mo. 1 day to 6 mos.

2[nd] Offense - Dismissal

x x x

Section 53[21] of the Rules also provides for extenuating, mitigating, aggravating and alternative circumstances in the determination of the penalties to be imposed.

In *Re: Fighting Incident Between the Two (2) SC Shuttle Bus Drivers*, namely, Messrs. Edilberto L. Idulsa and Ross C. Romero,[22] the Court characterized the fighting incident as a less grave offense under simple misconduct. As well, the length of service, satisfactory performance ratings, and number of times an employee has been administratively charged were considered as mitigating, aggravating and alternative circumstances, as the case may be.

Giganto's Liability

Time and again, the Court has stressed the need for the conduct and behavior of every person connected with the dispensation of justice to be characterized by propriety and decorum.[23] This standard is applied, not only with respect to a court employee's dealings with the public, but also with his or her co-workers in the service.[24] Conduct violative of this standard quickly and surely erodes respect for the courts.[25] Misbehavior within and around the court's vicinity diminishes the court's sanctity and dignity.[26] Any fighting or misunderstanding becomes a disgraceful sight reflecting adversely on the good image of the Judiciary.[27]

In this case, Giganto was the aggressor, based on his own statement in his Comment to the Letter-Complaint, which stated:

Katunayan, siya ang nagpakita ng motibo na suntukin ako kaya ako naman ay humanda baka may masamang gawin sa akin, at yon na nga binantaan na akong suntukin kaya ako rin ang gumanti ng suntok sa kanya at doon na kami nagpalitan ng suntok.[28] (Emphasis supplied)

Even if Valenzuela took the fighting stance, it was Giganto who threw the first punch. The fact that Giganto was the aggressor in this case was corroborated by the Sworn Statement of witness Abner Cruz:

Nagkainitan na sila nagkaroon na ng suntukan naggantihan na sila doon. Parang nauna yata si Mr. Giganto.[29] (Emphasis supplied)

Valenzuela charges Giganto with gross misconduct. Misconduct is defined as any unlawful conduct on the part of a person concerned in the administration of justice prejudicial to the rights of parties or to the proper determination of the cause.[30] It generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose.[31] The term "gross" connotes something "out of all measure; beyond allowance; not to be excused; flagrant; shameful." [32]

In Giganto's case, his actions as the aggressor in the fistfight, while condemnable, are not totally inexcusable as he was also provoked by the fabricated stories and antagonistic attitude of Valenzuela. Hence, this Court finds him guilty only of simple misconduct. The Court affirms the OAS' recommendation of suspension of thirty (30) days on Giganto, considering his twelve years of service, his very satisfactory performance ratings for the past three consecutive semesters, and the fact that this is his first administrative charge, as mitigating circumstances.

The Court dismisses Giganto's counter-complaint based on Aleli Padre's formal complaint in 2007 against Valenzuela for Amorous Advances and Acts of Indecency on the ground that this was the subject of a previous charge that had already been dismissed. We also dismiss Giganto's counter-complaint based on Rosalyn Marabut's alleged claim that Valenzuela is "bastos at maniak," and Myra Guillo's alleged claim that she was called Myra Malibog by Valenzuela, for lack of merit.

Valenzuela's Liability

Valenzuela, on the other hand, cannot be exonerated from liability. His claim that he never retaliated against Giganto's punches, which was reiterated in his sworn Reply and Sworn Statement, was clearly rebutted by the Sworn Statements of witnesses Abner Cruz and Joanne Ruaburo.

Witness Abner Cruz, who was closest to the parties during the intercalation, saw Valenzuela throwing punches:

Nagkainitan na sila nagkaroon na ng suntukan naggantihan na sila doon. Parang nauna yata si Mr. Giganto. Gumanti din... tumayo, kasi dati nakaupo siya tapos tumayo na siya tapos gantihan na sila.

x x x

Oo, pareho na silang duguan kasi nakasuntok din si Rick. Pareho na sila kasi nasira nga ang damit ni...[33]
(Emphasis supplied)

In addition, witness Joanne Ruaburo, who pacified the fight and led Giganto away, clearly noticed that Giganto's face was also bloody from Valenzuela's punches:

Oo. Nagsusuntukan na sila. Hindi ko talaga alam kung ano yung nangyari before. Ang naabutan ko na lang, nagsusuntukan silang dalawa.

x x x

[N]agsusuntukan sila, magkaharap dun sa may kuwan nung computer. Kaya yung computer na isa, uga uga yun eh. Basta noong inawat ko si Kuya Gani, nakita ko na rin lang s'ya na may dugo s'ya sa dito (hands demonstrating). Hindi ko alam kung upper lip ba s'ya. Basta may dugo yung bibig n'ya. x x x Tapos yung damit n'ya, punit dito.[34] (Emphasis supplied)

Moreover, Valenzuela's claims that Giganto suddenly punched him out of nowhere, and that there was no confrontation prior to the fistfight, were disproved by the Sworn Statement of witness Abner Cruz:

Oo, kasi nung time na sinabi ni Mr. Gani na 'Ano yung sinasabi mo na sasaksakin ako ni Chris?' Ano 'yung tsinitsismis mo na ganun?' Parang sabi ni... parang 'Ano ang sinasabi mo?' parang ganun. Nagkainitan na sila nagkaroon na ng suntukan naggantihan na sila doon.[35]

Lastly, Valenzuela's claim in his Letter-Complaint and Sworn Statement that he fell down due to the strength of Giganto's punches is refuted by the Sworn Statements of witnesses Abner Cruz and Joanne Ruaburo:

ABNER CRUZ

Q:

Pero hindi mo na-witnessed kung natumba si Mr. Valenzuela sa pagkakasuntok?

A:

Hindi ko siya nakita.[36]

JOANNE RUABURO

Q:

Napatumba nga ba si Mr. Valenzuela nung time na yun?

A:

Hindi naman.[37]

Clearly, Valenzuela, through his statements, would like us to believe that he was totally innocent in this case. He denied saying that Giganto was being hunted down by Chris Medaja, which was the root cause of the fight. He denied throwing any punches against Giganto. He denied having any confrontation prior to the fistfight, and claimed he was just punched suddenly out of nowhere without provocation. He also claimed that he fell down due to the strength of Giganto's punches.

Valenzuela's claims and denials, which were made under oath and executed in affidavits, were clearly rebutted by the candid sworn statements of witnesses Abner Cruz, Joanne Ruaburo and Crisanto Medaja. This Court would like to remind Valenzuela that the willful and deliberate assertion of a falsehood on a material matter under oath or executed in an affidavit for a legal purpose made before a competent officer authorized to administer oaths constitutes the crime of perjury under Article 183 of the Revised Penal Code of the Philippines.

The Court considers the mitigating circumstances of Valenzuela's four years of service, and very satisfactory ratings for the past three consecutive semesters. However, there is also the Court's previous warning to Valenzuela in *Aleli Padre v. Recarredo S. Valenzuela*.^[38] Moreover, Valenzuela's claims and denials in his Sworn Statement, sworn Letter-Complaint and sworn Reply to prove his innocence were clearly rebutted by the Sworn Statements of credible witnesses and appear to be intentional assertions of falsehoods. Finally, Valenzuela caused intrigue between Giganto and Madeja by telling Giganto that Madeja was out to stab him - and this was the root cause of the fistfight. Thus, the Court increases the penalty on Valenzuela from a suspension of seven (7) days to a suspension of twenty (20) days.

WHEREFORE, we AFFIRM the recommended penalty on respondent Ricardo R. Giganto of suspension for thirty (30) days for simple misconduct. We DISMISS complainant Recarredo S. Valenzuela's charge of Physical Injuries on the ground of lack of jurisdiction. We MODIFY the recommended penalty on complainant Recarredo S. Valenzuela and increase it from a suspension of seven (7) days to a suspension of twenty (20) days for simple misconduct. We DISMISS Ricardo R. Giganto's counter-complaint for lack of merit.

SO ORDERED.

Corona, C.J., Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo Abad, Villarama, Jr., Perez, Mendoza, and Reyes, JJ., concur.
Sereno, J., on leave.

[1] Rollo, p. 107.

[2] Id. at 108.

[3] Id. at 99-101.

[4] Id. at 97.

[5] Id. at 91.

[6] Id. at 89.

[7] Id. at 92.

[8] Id. at 90.

[9] Id. at 88.

[10] Id. at 58-86.

[11] Id. at 60-66.

[12] Id. at 18-26.

[13] Id. at 19-21.

[14] Id. at 10-17.

[15] Id. at 11-12.

[16] Id. at 27-37.

[17] Id. at 28.

[18] Id. at 38-57.

[19] Id. at 41.

[20] Id. at 1-7.

[21] 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:

- a. Physical illness
- b. Good faith
- c. Taking undue advantage of official position
- d. Taking undue advantage of subordinate
- e. Undue disclosure of confidential information
- f. Use of government property in the commission of the offense
- g. Habituality
- h. Offense is committed during office hours and within the premises of the office or building
- i. Employment of fraudulent means to commit or conceal the offense
- j. Length of service in the government
- k. Education, or
- l. Other analogous circumstances.

Nevertheless, in the appreciation thereof, the same must be invoked or pleaded by the proper party, otherwise, said circumstances shall not be considered in the imposition of the proper penalty. The Commission, however, in the interest of substantial justice, may take and consider these circumstances.

[22] A.M. No. 2008-24-SC, 14 July 2009, 592 SCRA 582.

[23] Re: Report on Habitual Absenteeism of Teresita Sabido, 312 Phil. 513, 517 (1995).

[24] Judge Cervantes v. Cardeno, 501 Phil. 13 (2005).

[25] Id.

[26] Merilo-Bedural v. Edroso, 396 Phil. 756 (2000), citing Policarpio v. Fortus, A.M. No. P-95-1114, 18 September 1995, 248 SCRA 272.

[27] Re: Fighting Incident Between the Two (2) SC Shuttle Bus Drivers, namely, Messrs. Edilberto L. Idulsa and Ross C. Romero, supra note 22.

[28] Rollo, p. 99.

[29] Id. at 21.

[30] Canson v. Garchitorena, 370 Phil. 287 (1999), citing Black's Law Dictionary, Fourth ed., p. 1150.

[31] Dadizon v. Judge Asis, 464 Phil. 571 (2004).

[32] Yap v. Judge Inopiquez, Jr., 451 Phil. 182 (2003), citing Black's Law Dictionary, Fourth Ed., p. 832.

[33] Rollo, p. 21.

[34] Id. at 11-12.

[35] Id. at 21.

[36] Id. at 23.

[37] Id. at 13.

[38] A.M. No. 2007-18-SC, Resolution dated 22 January 2008.

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