

RE: LOSS OF COURT EXHIBITS AT RTC, BR. 136, MAKATI CITY.

A.M. No. 93-9-1237-RTC. August 21, 1997

Ponente: PADILLA, J.

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PADILLA, J.:

In a letter dated 20 August 1993, Judge Jose R. Bautista of the Regional Trial Court, Branch 136, Makati, forwarded to then Court Administrator Ernani Cruz-Paño the letter dated 16 August 1993 of Atty. Cynthia H. Marmita, Branch Clerk of Court, reporting the loss of court exhibits in several criminal cases filed with said court, consisting of eleven (11) different short firearms and ammunitions of various calibers.

In her letter-report, Atty. Marmita averred that she discovered the loss on 14 August 1993 when she, assisted by three (3) other court personnel, was conducting an inventory of the exhibits, fixtures, books and furniture of said court for the purpose of turning them over to Judge Bautista, the new presiding judge. The exhibits were missing from the steel cabinet where they were kept while the other things left inside the steel cabinet were disarray. Atty. Marmita noted that the steel cabinet showed no sign that it had been forcibly opened as the lock remained intact. In fact, Atty. Marmita even used the key when she opened the steel cabinet on 14 August 1993.

Upon receipt of Atty. Marmita's report on 17 August 1993, Judge Bautista forthwith directed her to report the matter to the Station Commander of the PNP Makati Police Force and to furnish him (Judge Bautista) with a report on the status of the criminal cases to which the missing exhibits pertained. Judge also ordered the transfer of the steel cabinet from the courtroom to the room adjacent to his chambers and the reinforcement of the padlocks and steel contraptions attached to the doors of the court to prevent possible break-ins.

On 3 September 1993, Atty. Marmita submitted to Judge Bautista a supplemental report informing the latter of additional missing exhibits consisting of one (1) firearm and several personal effects. A total of twelve (12) short firearms were reported missing. Judge Bautista forwarded the supplemental report of Atty. Marmita to the Office of the Court Administrator on 9 September 1993.

Acting on the letters of Judge Bautista, the OCA treated them as an Administrative Matter and submitted to the Court for its consideration the following recommendations:

“a) That the National Bureau of Investigation (NBI) be DIRECTED to conduct a formal investigation into the matter and to submit its report thereon with utmost dispatch; and b) that Br. Clerk of Court Cynthia Marmita be DIRECTED: 1) to notify the parties concerned of the loss of the aforestated exhibits; 2) to report the matter to the Explosives Division, Camp Crame, Quezon City and if a copy of the police report on the matter is already available to furnish the said office with a copy of the same; and 3) to submit a report thereon to this court within ten (10) days from compliance herewith.”

On 21 September 1993, the Court issued a Resolution adopting the foregoing recommendations of the OCA.

In her Compliance dated 5 January 1994, Atty. Marmita reported to the Court that she had already notified the parties concerned that the exhibits, particularly, the firearms and ammunitions, which were used as evidence in their respective cases were missing. Atty. Marmita likewise reported that the Chief of the Firearms and Explosives

Division, Camp Crame, Quezon City, had already been informed about the missing exhibits.

On 1 August 1995, Atty. Marmita filed with the Court a Motion for Early Resolution of the present Administrative Matter. Atty. Marmita informed the Court that she had applied for optional retirement from the government service some time in September 1994 but her certificate of clearance for said retirement was withheld from her pending the outcome of the investigation conducted by the NBI in this Administrative Matter.

Acting on Atty. Marmita's motion, the Court issued a Resolution dated 22 August 1995 requiring the NBI to comply with the Court's earlier Resolution of 21 September 1993 which directed said office to conduct a formal investigation into the loss of court exhibits and to submit a report upon compliance therewith.

On 20 August 1996, NBI Director Santiago Y. Toledo submitted to the Court the report of his office stating that:

"Regretfully, Investigation of instant case yielded negative results. No evidence or material information was gathered to establish or indicate the identity/ies of the person/s responsible for the loss of court exhibits (eleven [should be twelve] different firearms and ammunitions) at the RTC, Branch 136, Makati City."

Attached to the aforesaid report was the written report of the NBI agents who conducted the investigation. The NBI agents revealed that a certain Alfonso Nieva alias "Jun", husband of Vilma Gammad, a former casual employee of the court, had been heard by other court employees to have offered to sell firearms to the husband of Zenaida Agpaua, also a casual employee of the Court. Mila Acanto, a court employee, also claimed that in one instance, she saw a live bullet fall from the white canvas bag of Zenaida. Atty. Marmita, on the other hand, recalled having seen Jun carrying a white canvas bag which appeared to contain something heavy. Nino Juanico, process server of said court, also claimed that on several occasions, he noticed Jun alone inside the courtroom and he (Juanico) thought this to be odd since Jun had no business being there. Despite said findings, the NBI agents concluded in their report that:

"7. IRD Records show derogatory information against ALFONSO NIEVA while there is none ATTY. CYNTHIA MARMITA.

8. Given the above circumstances, still there is no concrete evidence to link somebody to the loss of the court exhibits at Br. 136. Moreover, the antecedent facts do not vividly establish [sic] its [sic] connection to the incident but tend to draw conjecture. In view thereof, it is respectfully recommended that this case be considered CLOSED and TERMINATED insofar as this command is concerned."

Although the foregoing report of the NBI, in effect, absolves Atty. Marmita of responsibility for the loss of the court exhibits, this Court, however, is of the view that she is not entirely blameless. The Manual for Clerks of Court[1] provides that:

"3. Duties.-

a. Safekeeping of Property.- The Clerks of Court shall keep all records, papers, files, exhibits and public property committed to their charge, including the library of the court, and the seals and furniture belonging to their office."[2]

Moreover, the Manual also provides under Section B. Disposition of Exhibits in the Custody of Courts which are No Longer Needed as Evidence:[3]

"1. Firearms, Ammunitions and Explosives.- Courts are directed to turnover to the nearest Constabulary Command all firearms in their custody after the cases involving such shall have been terminated.

In Metro Manila, the firearms may be turned over to the Firearms and Explosives Unit at Camp Crame, Quezon City, while in the provinces, the firearms may be turned over to the respective PC Provincial Commands.[4]

In the supplemental report dated 18 August 1993 submitted to Judge Bautista, Atty. Marmita reported the status of the Criminal Cases to which the missing exhibits pertained, as follows:[5]

CASE #**TITLE****NATURE****STATUS**

93-034

Barcemina

Viol of PD 1866

Petition granted 07-12-93

31684

Soriano

Illegal Possession of Firearm

Decided 11-11-91

Appealed to CA

338

Duque

Illegal Possession of Firearm & Ammunition

Decided on 10-05-91

561

Manalastas

Illegal Possession of Firearm & Ammunition

Accused jumped bail

052

Alviado

Illegal Possession of Firearm & Ammunition

Dismissed on 10-04-89

870-871

Morales

Illegal Possession of Firearm & Ammunition; Illegal Possession of Explosive

Decided on 02-20-91

735

Tulin

Illegal Possession of Firearm

Decided on 02-08-90

1268-69

Acol; Pio Boses

Illegal Possession of Firearm & Ammunition

Decided on 08-16-91

1984

Marshall

Illegal Possession of Firearm & Ammunition

Decided on 08-26-92

1016

Valenzuela

Viol of PD 1866

Submitted for decision 04- 20-93

1107

Hernandez

Illegal Possession of Firearm & Ammunition

Decided 11-05-92 Appealed to CA

1608

Iligan

Illegal Possession of Firearm & Ammunition

Dismissed 10-26-90

The foregoing report shows that in Criminal Cases Nos. 338, 052, 870-871, 735, 1268-1269, 1984 and 1608, the exhibits, particularly, the firearms and ammunitions involved in said cases, should have been turned over to the Firearms and Explosives Unit in Camp Crame pursuant to the directive in the Manual for Clerks of Court, considering that the abovesaid cases had already been terminated. Had Atty. Marmita prudently complied with said directive, the loss of the firearms and ammunitions could have been avoided. Her failure to discharge this particular duty constitutes negligence on her part which warrants disciplinary action.

The Court deems it necessary, at this juncture, to remind branch clerks of court that their administrative functions are just as vital to the prompt and proper administration of justice.[6] They are charged with safekeeping of all

records, papers, files, exhibits and public property of their respective courts as well as with the efficient recording, filing and management of court records. They also exercise administrative supervision over court personnel. They play a key and vital role in the complement of the court and cannot be permitted to slacken on their jobs under one pretext or another.[7]

WHEREFORE, the court finds Atty. Cynthia N. Marmita administratively liable for her failure to turnover the exhibits consisting of firearms and ammunitions to the Firearms and Explosives Unit Camp Crame upon termination of the criminal cases involving the same, resulting in their loss. Accordingly, she meted a FINE of Twenty Thousand Pesos (P20,000.00), the same to be automatically deducted from the retirement benefits due her in view of her optional retirement from the government service, without prejudice to any civil liability to which she may be held accountable.

SO ORDERED

Narvasa, C.J., Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco, Hermosisima, Jr., and Panganiban, JJ., concur.

Regalado, and Torres, Jr., JJ., on leave.

[1] Manual for Clerks of Court, p. 21.

[2] Rules of Court, Rule 136, Sec. 4.

[3] Manual for Clerks of Court, p. 220.

[4] SC Adm. Circular No. 2 13 May 1983.

[5] Rollo, p. 56.

[6] Basco v. Gregorio, 245 SCRA 614 [1995].

[7] Callejo, Jr. v. Garcia, 206 SCRA 491 [1992].

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