

RE: REPORT DATED MARCH 30, 1994 OF EXECUTIVE JUDGE NESTOR C. FLAUTA, RTC, MIDSAYAP, COTABATO, ON THE LOSS OF ONE (1) GARAND RIFLE RELATIVE TO CRIM. CASES NOS. 1178 AND 1181

A.M. No. 94-7-225-RTC. March 15, 1995

Ponente: BIDIN, J.

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BIDIN, J.:

In a letter dated March 30, 1994, Executive Judge Nestor Flauta of the Regional Trial Court, Branch 18, of Midsayap, Cotabato, informed this Court of the loss of one (1) US Garand Rifle, Cal. 30, M.I. with Serial No. 1894307, deposited with said court as an exhibit in Criminal Case No. 1178 for Illegal Possession of Firearms and Criminal Case No. 1181 for Murder pending before the said court.

The letter was referred to Mr. Victor Cueno, Legal Researcher and Officer-in-Charge of said court when the subject exhibit was deposited with the court, for comment. Ms. Lucena Galido, court stenographer and who also acted as Officer-in-Charge after Mr. Cueno went on sick leave, was also required to comment. After receipt of said comments, the matter was then referred to Judge Flauta for investigation, report and recommendation.

In his investigation report, Judge Flauta alleges that there are several cases awaiting trial in Branch 18 of the RTC of Midsayap, Cotabato when he assumed his post as presiding judge thereof on December 17, 1993. Among these cases were the two criminal cases involving illegal possession of firearms and murder (Criminal Case Nos. 1178 and 1181). The said two cases were then calendared for continuation of trial. It was only then that the loss of the subject firearm was discovered.

Atty. Rebecca de Leon-Buyco was the former Clerk of Court of the said RTC. After her (Atty. Buyco's) appointment as MTC Judge, Mr. Cueno was designated as OIC Clerk of Court and there was a turn-over of accountabilities from Atty. Buyco to Mr. Cueno. Subsequently, Mr. Cueno requested for relief from his duties and responsibilities due to his failing health with the corresponding application for leave of absence.

Ms. Galido was then designated as OIC Clerk of Court in addition to her duties as court stenographer by then presiding Judge Zain B. Angas. Ms. Galido made an inventory of court exhibits on February 14, 1993; but the subject firearm was not one of the exhibits inventoried when Ms. Galido turned over her accountabilities to incumbent Clerk of Court, Atty. Bonifacio Estremos.

Judge Flauta's investigation reveals that sometime in the summer of 1993, Mr. Romulo Palmes, Jr., a utility worker of RTC Branch 18, Midsayap, Cotabato, brought one (1) US Garand Rifle, Cal. 30, M.I., Serial No. 1894307 to a certain Apolonio Foresto, a refrigeration technician for repair. From his testimonies, Mr. Foresto alleges that he was not paid any amount by Mr. Palmes for the repair of the firearm considering that they were close friends. He further alleges that he immediately returned the firearm to Mr. Palmes after he repaired it.

The investigation shows that Mr. Palmes, as utility worker, has complete access to the main outside door and main door of the court room. He has in his possession the keys of the doors of the court room. Furthermore, the

court's stockroom where the exhibits are placed and deposited has defective door knob.

It is the well-considered opinion of the investigating judge that the subject firearm has been surreptitiously and clandestinely withdrawn from the court stockroom by Mr. Palmes without the prior knowledge or consent of the presiding judge or the OIC Clerk of Court.

The Report of the investigating judge further disclosed that Mr. Palmes has not reported for work since December 14, 1993, and did not file his application for leave of absence nor send prior notice as to his whereabouts; which is in gross violation of Civil Service Rules and Regulations. Further, the Report shows that Mr. Palmes used to sleep in the courtroom at night with his mistress without having been authorized to do so. It also appears from the testimonies of police officers and the report of Ms. Galido that the court stockroom was forcibly opened by destroying the door locks on the evening of December 20, 1993.

Judge Flauta also reported that two cases were filed against Mr. Palmes for: (1) qualified theft in connection with the missing garand rifle; and, (2) abandonment of office and position. A warrant of arrest was issued against Mr. Palmes in the qualified theft case. However, the said warrant remained unserved since the whereabouts of Mr. Palmes could not be determined.

Although it was Mr. Cueno who received the subject firearm as a court exhibit, there appears to be no evidence to link him with Mr. Palmes in connection with the loss and/or disappearance of the aforesaid firearm. Mr. Cueno's service in the judiciary appears to be untainted. There is also no factual or legal basis to hold Ms. Galido criminally or administratively liable for the loss of the missing firearm.

A careful perusal of the records of the case inevitably leads to the conclusion that Mr. Palmes was the one responsible for the loss of the subject firearm and should therefore be meted the most severe penalty. In addition to this, Mr. Palmes took an unauthorized leave of absence since January 1, 1994, tantamount to abandonment of office.

It is worthy to note that in A.M. No. 94-10-332 RTC, Mr. Palmes was recommended to be dropped from the service effective November 3, 1993 without prejudice to the outcome of the criminal case filed against him.

It bears stressing that a court personnel, being a public servant, must exhibit the highest sense of honesty and integrity not only in the performance of his official duties but also in his personal and private dealings with other people, to preserve the court's good name and standing (*Paredes v. Padua*, 222 SCRA 81 [1993]).

The act of Mr. Palmes in absconding with and/or taking away evidence from its proper place of deposit without notifying the officer-in-charge of the subject exhibit cannot be countenanced by this Court. We have always emphasized that an employee of the judiciary should be an example of integrity, uprightness and honesty (*Ferrer v. Gapasin, Sr.*, 227 SCRA 764 [1993]).

WHEREFORE, the Court, acting on the investigation report of Executive Judge Nestor Flauta, hereby Resolves to make the following disposition thereon, to wit:

- a) Court Stenographer Lucena Galido is hereby EXONERATED for lack of sufficient evidence to hold her administratively liable;
- b) Legal Researcher Victor Cueno is hereby ADMONISHED WITH WARNING that he be more diligent and prudent in the performance of his assigned duties and in the supervision of the court personnel under him;
- c) Utility Worker Romulo Palmes, Jr. is hereby DISMISSED from the service with forfeiture of all benefits, with prejudice to re-employment in any government office, and without prejudice to the prosecution of the criminal case for qualified theft filed against him; and

d) The Executive Judge is hereby ORDERED to take appropriate measures for the immediate repair of the court stockroom where court exhibits are being maintained and kept.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, Vitug, Kapunan, Mendoza, and Francisco, JJ., concur.

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