

SPO2 JONATHAN M. ALCOVER SR., COMPLAINANT, VS. EDGARDO Y. BACATAN, COURT STENOGRAPHER III, BRANCH 24, REGIONAL TRIAL COURT, CEBU CITY, RESPONDENT.

A.M. No. P-05-2043. December 07, 2005

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Yet again, the Court exhorts judicial officials and employees to render efficient and effective service and to avoid delay in the performance of their duties, in order to uphold public trust at all times. Court stenographers, in particular, must strictly comply with Administrative Circular No. 24-90, which requires them to transcribe stenographic notes within twenty (20) days from the date the notes were taken.

The Case and the Facts

After being convicted of murder in Criminal Case No. CBU-55699 before Branch 24 of the Regional Trial Court (RTC) of Cebu City, SPO2 Jonathan M. Alcover Sr. -- in a Letter-Complaint[1] dated June 27, 2004 -- charged Court Stenographer III Edgardo Y. Bacatan with failure to make the transcripts of stenographic notes (TSN) in the case available to complainant.

The Office of the Court Administrator (OCA) summarized the allegations in the present Complaint in this wise:

"Complainant narrates that he is one of the accused in the said criminal case. According to him, the respondent cleverly and maliciously delayed the release of the transcript of the stenographic notes particularly the transcript of the testimony of witness Christian Paras taken on 18 September 2001. The delay was purposely done to prevent complainant from strengthening his defense in court. It was only on 15 June 2004 or several months after the decision was rendered that complainant was furnished a copy of the first half of the transcript of the testimony of Paras.

"In a subsequent LETTER dated 1 August 2004, the complainant clarifies that the first part of the transcript of the testimony of witness Paras was only made available to him in the last week of June 2004; whereas the last part thereof was furnished the complainant only in the first week of July 2004.

"Despite due payment of the required fees for the preparation of the transcript after every scheduled trial, the transcripts were not readily made available to the accused for their immediate study and reference. The delay indicates that the transcripts were altered."[2]

In its 1[st] Indorsement[3] dated July 20, 2004, the OCA required respondent to submit a comment, which he subsequently did on August 12, 2004. In his Comment,[4] he strongly denied that he had tampered with the TSN and deliberately delayed its release.

The OCA summed up his points as follows:

"In his COMMENT dated 9 August 2004, the respondent vehemently denies that he delayed the release of the transcript of the stenographic notes. He states that during the trial, the complainant was furnished with some of

the transcripts of the proceedings. However, after some time, the complainant did not anymore bother to get copies of the other transcripts. Respondent even reminded the complainant through telephone to get the copies of the transcript of every hearing which the respondent prepared. However, until now, some transcripts of the stenographic notes remain unclaimed by the complainant.

"After the promulgation of the decision, complainant requested for copies of the transcripts of the stenographic notes for the purpose of appeal. Respondent was able to release to the complainant up to page 32 only of the testimony of witness Paras because the remaining parts are still in draft form. Eventually, the second part (pages 33 to 49) of the transcript of the testimony of Paras was given sometime last week of June or first week of July.

"Respondent denies that he tampered [with] the transcript of stenographic notes." [5]

Evaluation and Recommendation of the OCA

The OCA noted that respondent had admitted transcribing the testimony of Witness Christian Paras, only after the lapse of almost three years from the time the notes were taken. Accordingly, it recommended that respondent be held administratively liable for simple neglect of duty, and that he be "suspended from office for two (2) months without pay with a stern warning that a repetition of the same act will be dealt with more severely." [6]

As for the allegation that respondent had altered transcripts of the witness' testimony, the OCA found no supporting proof in the records. [7]

The Court's Ruling

We agree with the OCA and adopt its recommendation.

Administrative Liability of Respondent

The conduct of every person connected with the administration of justice, from the presiding judge to the lowliest clerk, is circumscribed with a heavy burden of responsibility. [8] A public office is a public trust. [9] Public officers, who are accountable at all times to the people [10] -- most especially to court litigants -- must perform their duties and responsibilities with utmost efficiency and competence.

Administrative Circular No. 24-90, which became effective on August 1, 1990, after its promulgation by this Court on July 12, 1990, provides:

"2. (a) All stenographers are required to transcribe all stenographic notes and to attach the transcripts to the record of the case not later than twenty (20) days from the time the notes are taken. The attaching may be done by putting all said transcripts in a separate folder or envelope, which will then be joined to the record of the case."

In the present case, the testimony of Witness Paras in Criminal Case No. CBU-55699 was given on September 18, 2001. Yet, respondent admittedly finished transcribing the notes, only sometime in July 2004. Hence, the latter incurred an intolerable delay of two (2) years and nine (9) months in transcribing the stenographic notes, in plain violation of Administrative Circular No. 24-90.

In justifying the delay, respondent cites his heavy work load and the need to transcribe the notes in several other cases as well. His heavy work load is, however, not an adequate excuse for him to be remiss in performing his duties as a public servant. Otherwise, every government employee charged with negligence and dereliction of duty would resort to the same convenient excuse to evade punishment, to the great prejudice of public service. [11]

Further contributing to the delay, respondent contends, was the failure of complainant or of the latter's representative to get copies of the transcripts during the trial. Allegedly, it was only after the conviction of

complainant that he suddenly became interested in securing the transcripts; consequently, respondent was left with a shorter time to prepare them.[12]

The excuse offered by respondent in his attempt to be exonerated from administrative liability is not adequate. Notably, he has not offered any reason why he allowed more than two years to pass before performing his duty. Undeniably, he failed to transcribe the stenographic notes within twenty days from the time they had been taken. Administrative Circular No. 24-90 imposes this duty upon all court stenographers, regardless of the presence or the absence of a demand for those notes by the parties.

The delay and inefficiency shown by respondent prejudiced public service and sacrificed the speedy and orderly administration of justice. He thus violated the norm of public trust and diminished the faith of the people in the judiciary.

The allegation that he intentionally and maliciously delayed the transcription in order to tamper with it[13] is unsubstantiated by evidence. Instructive on this point is the Court's ruling in *Alfonso v. Ignacio*: [14]

"It is settled that in administrative proceedings, the complainant has the burden of substantiating the charges asseverated in the complaint. The complainant has the burden of proving the allegations in his complaint with substantial evidence. In the absence of evidence to the contrary, the presumption that the respondent has regularly performed his duties will prevail. Even in administrative cases, if a court employee is to be disciplined for a grave offense, the evidence against him should be competent and should be derived from direct knowledge. Reliance on mere allegations, conjectures and suppositions will leave an administrative complaint with no leg to stand on. Charges based on mere suspicion and speculation cannot be given credence."

In the present case, other than complainant's bare allegations, no independent evidence was presented to show that respondent had tampered with the TSN. Hence, we dismiss that charge for lack of merit.

All told, absent any attribution and substantial proof of fraud or bad faith on the part of respondent, his failure to transcribe the stenographic notes on time constitutes simple neglect of duty. Defined as a disregard of, or a failure to give proper attention to, a task expected of an employee, simple neglect of duty signifies carelessness or indifference.[15] It is a less grave offense under the Uniform Rules on Administrative Cases in the Civil Service[16] and carries with it the penalty of suspension from work for one (1) month and one (1) day to six (6) months for the first offense; and, for the second, dismissal.[17]

Taking into consideration that respondent was previously reprimanded for habitual tardiness,[18] we adopt the recommendation of the OCA that he should be suspended for two (2) months.

WHEREFORE, respondent is hereby found GUILTY of simple neglect of duty and is SUSPENDED from office for a period of two (2) months without pay, with a stern warning that a repetition of the same or similar acts in the future shall be dealt with more severely.

SO ORDERED.

Sandoval-Gutierrez, Corona, Carpio-Morales, and Garcia, JJ., concur.

[1] Rollo, pp. 3-7.

[2] Report of the OCA; id., p. 122.

[3] Id., p. 1.

[4] Id., pp. 111-114.

[5] Report of the OCA; id., pp. 122-123.

[6] Id., pp. 123-124.

[7] Ibid.

[8] Aquino v. Fernandez, 413 SCRA 597, 606, October 17, 2003 (citing Ibay v. Lim, 340 SCRA 107, 112, September 11, 2000); Manapat v. Tolentino, 383 SCRA 368, 374-375, June 19, 2002; Bongalos v. Monungolh, 416 Phil. 695, 701-702, September 4, 2001 (citing Lloveras v. Sanchez, 229 SCRA 302, 307, January 18, 1994); Orfila v. Quiroz, 277 SCRA 493, 497, August 18, 1997; Susa v. Peña, 411 SCRA 182, 185, September 17, 2003.

[9] $\frac{1}{2}$ 1, Article XI of the Constitution.

[10] Susa v. Peña; supra, p. 185.

[11] Ongkiko, Kalaw, Dizon, Panga & Velasco Law Offices v. Sangil-Makasiar, 256 SCRA 29, 34-35, April 2, 1996.

[12] Respondent's Letter-Reply; rollo, pp. 111-112.

[13] Id., p. 6.

[14] 445 SCRA 493, 497, December 8, 2004, per Callejo Sr., J.

[15] Cañete v. Manlosa, 412 SCRA 580, 585, October 3, 2003 (citing Philippine Retirement Authority v. Rupa, 363 SCRA 480, 487, August 21, 2001).

[16] CSC Memorandum Circular No. 19-99.

[17] §52 (B)(1), Rule IV, *ibid.*

[18] Rollo, p. 123. Habitual tardiness is a light offense punishable by reprimand for the first offense; for the second, suspension of 1-30 days; and for the third, dismissal.

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