

**LILIA C. RAGA, COMPLAINANT, VS. JUDGE SIBANAH E. USMAN,
REGIONAL TRIAL COURT, BRANCH 28, CATBALOGAN, SAMAR,
RESPONDENT.**

A.M. No. RTJ-07-2053 (Formerly OCA IPI No. 05-2171-RTJ). November 27, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Lilia C. Raga, (complainant) a Court Process Server of the Regional Trial Court (RTC), Branch 28, Catbalogan, Samar, is charging Judge Sibannah E. Usman, of the same court, with dishonesty, violation of Republic Act (R.A.) No. 3019, gross misconduct, violation of the Code of Judicial Conduct, unjustified absences without leave, untruthful statements in the certificate of service, and violation of Rule 139-B of the Rules of Court.

In her letter-complaint dated December 28, 2004, complainant avers: Respondent was absent on September 7 and 21, 2001 but he indicated in his certificate of service for September 2001 that he rendered complete attendance for the said month. The 1st Indorsement dated September 7, 2001 signed by the Branch Clerk of Court of RTC Branch 28, Atty. Ireneo A. Escobar, Jr. (Atty. Escobar) states that the records in Crim. Case Nos. 5199 and 5200 were being forwarded to Judge Cesar R. Cinco of Branch 29 for the disposition of the accused's application for bailbond, in view of the absence of respondent. Constancias dated September 21, 2001 which rescheduled cases for other dates were signed by Atty. Escobar, with one constancia specifically stating that Crim. Case No. 3618 had to be reset due to the absence of respondent.[1]

The Office of the Court Administrator (OCA) referred the complaint to respondent for his Comment, through a 1st Indorsement dated February 17, 2005.[2]

Respondent filed an Answer dated March 11, 2007 denying that he was absent on September 7, 2001. He said that he was just inside his office on said date and complainant deliberately bypassed him and personally assisted the accused in Crim Case. No. 5199 and 5200 in posting his bail before Judge Monsanto, through the help of complainant's husband, Eustacio C. Raga, Officer-In-Charge (OIC) of Branch 27. He further claims that: it was complainant's duty to prepare his certificates of service and submit the same to him for his signature on time; to hold him administratively liable for acts or omissions primarily caused by the obvious negligence of complainant would be giving license to other like-minded subordinates to charge him for their faults; his signature on the certificate of service which complainant presented as evidence was forged; and complainant just wants to get back at him, as she has in fact filed several administrative cases against him, after he indorsed the complaint of Maribel Velarde against complainant before the OCA.[3]

In its report dated April 20, 2007, the OCA found the complaint to be meritorious. It held that: complainant was able to prove by substantial evidence the absence of respondent on September 7, 2001; the 1st Indorsement of Atty. Escobar dated September 7, 2001 clearly stated that respondent was absent that day; the constancias submitted also show that respondent was absent on September 21, 2001 because if he were really present on said date, it should have been him and not Atty. Escobar who signed the constancias; the constancia in Crim. Case No.

5035 also expressly stated that respondent was absent on said date; respondent did not disclaim the authenticity of the constancia; and while respondent claimed that his signature was forged in the certificate of service which complainant submitted to the Court, respondent did not present a copy of his certificate of service with his authentic signature.[4]

The OCA recommended that respondent be fined P11,000.00 for making untruthful statements in his certificate of service with a warning against its repetition.[5]

The OCA also noted that complainant was dismissed from the service for grave misconduct in *Mabini v. Raga*,[6] dated June 21, 2006.

In a Resolution dated June 20, 2007, the Court required the parties to manifest whether they were willing to submit the case for decision based on the pleadings/records already filed.[7]

In her Manifestation dated August 2, 2007, complainant expressed her desire for a reception of evidence.

Accordingly, per Resolution dated March 3, 2008, the Court referred the instant case to Court of Appeals Justice Celia C. Leagogo for investigation, report and recommendation.[8]

A hearing was conducted on May 15, 2008 and complainant presented the 1[st] Indorsement dated September 7, 2001 signed by Atty. Escobar; respondent's certificate of service for September 1 to 30, 2001; and constancias dated September 21, 2007 issued by Atty. Escobar in Crim. Case Nos. 5035, 3618, 4619, 4859, 4653, 5012 and 4909.[9] Complainant also filed her Memorandum and respondent filed his own Memorandum and Addendum, reiterating their respective arguments.[10]

Justice Leagogo, agreeing with the OCA, found that complainant was able to prove by substantial evidence that respondent made untruthful statements in his certificate of service for September 2001;[11] the certificate states that respondent did not incur any absence for September 2001; the 1[st] Indorsement dated September 7, 2001 signed by Atty. Escobar clearly states however that the application for bailbond in Crim. Case Nos. 5199 and 5200 were being forwarded to Judge Cinco of Branch 29 in view of the absence of herein respondent that day; the constancia dated September 21, 2001 in Crim. Case No. 5035, signed by Atty. Escobar also explicitly stated that respondent was absent on said date; Atty. Escobar would not have issued the seven constancias on September 21, 2001 if respondent were actually present, because he would then have been the one to sign the order; respondent admitted the existence of complainant's exhibits and failed to adduce countervailing proof of the validity and authenticity of the same; while respondent claims that the certificate of service was a forgery, all that he could present to support such claim was a photocopy of a letter from then Deputy Court Administrator Jose P. Perez dated May 7, 2008 stating that certificates of service from 1990 to 2003 of all lower court officials were already disposed of; the certificate of service of respondent for September 2001 is a certified true copy of the original with the dry seal of the Office of the Clerk of Court, RTC Catbalogan, Samar and signed by its Clerk of Court Atty. Ma. Luz Lampasa-Pabilona; Supreme Court Chief Judicial Staff Officer, Leave Division of the OCA, Hermogena F. Bayani, also issued a Certification dated May 18, 2005 stating that the records of their office show that respondent did not incur any leave of absence in September 2001; even if the credibility of complainant is questionable, still the documents presented are more than ample proof of the failure of respondent to reflect in his certificate of service for September 2001 his absences on September 7 and 21, 2001; respondent cannot use the alleged inefficiency and antagonistic attitude of complainant towards him as a defense; the Code of Judicial Conduct requires a judge to organize and supervise the court personnel to ensure the prompt and efficient dispatch of business as well as to observe high standards of public service and fidelity at all times.[12]

Justice Leagogo then recommended that:

x x x Judge Sibanah E. Usman be held guilty of the less serious charge of making untruthful statements in his certificate of service for the month of September 2001 and that a FINE of Eleven Thousand Pesos (P11,000.00) be imposed on him, with a WARNING that a repetition of the same or similar act in the future shall be dealt with severely.[13]

The Court finds the evaluation and recommendation of the Investigating Justice to be well-taken except for the recommended penalty.

Judges, as the presiding magistrates of the courts, are duty-bound to scrupulously adhere to, and hold sacred, the tenets of the profession of law. They should keep in mind that a certificate of service is not merely a means to receive one's salary. It is part of the sacred task of dispensing justice.[14] It is an instrument essential to the fulfillment by the judges of their duty to dispose of their cases speedily as mandated by the Constitution.[15]

In this case, complainant was able to show that respondent was absent on September 7 and 21, 2001 yet respondent stated in his certificate of service that he did not incur any absences for the said month. Respondent's denial is weak in the face of the documentary proofs presented by complainant, specifically the indorsement and constancias signed by Atty. Escobar, the authenticity of which respondent did not assail. Respondent also tried to claim that his signature in the certificate of service for September 2001 was forged. As found by the Investigating Justice however, respondent failed to substantiate and prove such allegation.

Respondent also tried to pass the blame on complainant, who is his subordinate. Unfortunately, he cannot use the alleged inefficiency and antagonistic attitude of his staff towards him as a defense.[16] Whatever blame he tries to impute to complainant for his present predicament ultimately goes back to him, for it shows his inability to control and discipline his staff and demonstrates his weakness in administrative supervision.

Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC, classifies the act of making untruthful statements in the certificate of service as a less serious charge which carries any of the following sanctions: suspension from office without salary and other benefits for not less than one nor more than three months, or a fine of more than P10,000.00 but not exceeding P20,000.00.

In *Jabon v. Usman*[17], respondent was found guilty of vulgar and unbecoming conduct, teaching law without permit, and trying to influence the outcome of the administrative case for which he was suspended for two months and fined P10,000.00. In another case filed by herein complainant against respondent, *Raga v. Usman*[18] the Court adopted the findings of the OCA and imposed on respondent a fine of P2,000.00 for delay in the submission of his certificate of service for January 1997. Although the present misfeasance is the first offense of respondent of this particular nature, the Court finds that his certification that he did not incur absences for the month of September 2001 when, in fact, he was absent on September 7 and 21, 2001 constitutes a repeated disregard of the rule in the performance of his duties regarding the submission of his certificate of service which militates the imposition of a penalty higher than that recommended by the OCA and the Investigating Judge.

WHEREFORE, Judge Sibanah E. Usman, of the Regional Trial Court, Branch 28, Catbalogan, Samar, is found GUILTY of making untruthful statements in his certificate of service for the month of September 2001 for which he is SUSPENDED from office without salary and other benefits for a period of one (1) month from receipt of herein Resolution.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr.,[*] and Reyes, JJ., concur.

* Per Raffle dated October 20, 2008.

[1] Rollo, pp. 1-12.

[2] Id. at 27.

[3] Id. at 28-29.

[4] Rollo, pp. 49-52.

[5] Id. at 52.

[6] A.M. No. P-06-2150, June 21, 2006, 491 SCRA 525.

[7] Rollo, p. 53.

[8] Rollo, p. 60.

[9] Id. at 186, 72-79.

[10] Id. at 120-131, 89-101, 133-136.

[11] Id. at 189.

[12] Rollo, pp. 187-196.

[13] Id. at 197.

[14] Office of the Court Administrator v. Andaya, A.M. No. RTJ-02-1676, August 28, 2003, 410 SCRA 47, 50-51.

[15] Office of the Court Administrator v. Trocino, A.M. No. RTJ-05-1936, May 29, 2007, 523 SCRA 262, 271.

[16] Office of the Court Administrator v. Sayo, Jr., A.M. Nos. RTJ-00-1587, May 7, 2002, 381 SCRA 659, 676.

[17] A.M. No. RTJ-02-1713, October 25, 2005, 474 SCRA 36.

[18] A.M. No. RTJ-08-2098, January 16, 2008.

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