

JUDGE SIBANAH E. USMAN, PETITIONER, VS. JULIUS G. CABE, SHERIFF IV, RESPONDENT.

A.M. No. P-97-1255 (Formerly OCA IPI No. 96-111-P). October 02, 1997

Ponente: HERMOSISIMA, JR., J.

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HERMOSISIMA, JR., J.:

In a letter dated November 24, 1995, Judge Sibannah E. Usman, Presiding Judge of Branch 28 of the Regional Trial Court of Catbalogan, Samar, complained that one of the employees is his sala, namely, Julius Cabe, Sheriff IV, taken out the records of Civil Cases Nos. 6748 and 6781 and managed to have certain orders and other documents included in said records, photocopied at the xerox center at the Provincial Capitol. Judge Usman also disclosed that respondent Cabe had committed several other infractions and acts of misbehavior like incurring absences without securing the proper leave, coming to the office drunk, uttering insulting and unsavory words to his fellow court employees. And being involved in the loss of four (4) firearms (court exhibits) at the time he was court officer-in-charge.

In the 1[st] Indorsement Letter dated November 16, 1995 issued and signed by Executive Judge Sinfoniano A. Monsanto of the Regional Trial Court of Catbalogan, Samar, who conducted a Summary Investigation, Judge Monsanto, stated that he was unable to interrogate the respondent who did not report for work on the date of the hearing. Judge Monsanto, however, recommended the prosecution of the case against the respondent, because “there is more than sufficient evidence to show that Mr. Cabe was violated Section 14, Rule 136 of the Rules of Court” when he had taken out without prior permission or authority, certain records of several cases kept in the Office of the Branch Clerk of Court.

In his defense, respondent contends that he was on sick leave from November 15 to 17, 1995 when Judge Monsanto scheduled the hearing. Respondent also discounts the accusations of Martin G. Latorre, Virginia R. Nunez and Armie P. Liad who all executed affidavits alleging that respondent was drunk in the afternoon of November 14, 1995 during which time he furiously berated them about the delay in the performance of their duty as stenographers, which incident, respondent claims, is at most an isolated one. According to respondent, bases of feedback from lawyers as to the delay caused the judicial proceedings due to the slow process of transcribing stenographic notes, all that he had wanted to do was to prod the stenographers to be more efficient and prompt in performing their tasks.

As to the charge of taking out of court records and having them photocopied without the prior permission of the Branch Clerk of Court, respondent argues that on the two cited instances on October 28, 1995 and November 13, 1995, he faithfully complied with the procedures for photocopying court records.

The issues having been joined, we referred the case to Hon. Cesar R. Cinco, Executive Judge, Regional Trial Court, Branch 19, Catarman, Samar, for Investigation, Report and Recommendation. In this report, Judge Cinco made findings only with respect to the charges regarding the photocopying of court records and drunkenness, leaving out the charge regarding the loss of four (4) firearms consisting of exhibits in a criminal case the

investigation of which had been entrusted to the Presiding Judge of Branch 27 pursuant to the our Resolution promulgated in A.M. No. 94-10-317-RTC.

Judge Cinco found that respondent obtained prior permission from Ramil G. Bernales, the clerk-in-charge of Civil Cases, in order to photocopy certain court records, but pointed out the slight irregularity in the procedure adopted by respondent on November 13, 1995 when instead of waiting, as instructed by Bernales, for the court aide, Benjamin C. Garcia, to handcarry the court records and photocopy them outside of the court premises, respondent himself brought the case folio outside the court premises and had them photocopied at the xerox center near the capitol without waiting for Garcia to at least accompany him.

On the charge of drunkenness and misbehavior, Judge Cinco concluded that while respondent admitted to having consumed some amount of alcoholic drink in the afternoon of November 14, 1995m respondent was not necessarily drunk or intoxicated when he remonstrated the stenographers to finish with dispatch the transcripts of their notes in view of the lawyers regarding the delay in the trial proceedings caused by the slow process of transcription.

For his part Judge Cinco recommended that the charges against respondent be dismissed with a warning against the repetition of the same acts at some future time.

We disagree to a certain extent.

We cannot fathom how, on October 28, 1995 which was Saturday, respondent obtained Bernales' permission to photocopy certain court records, when the latter was not around on that day, the same being a non-working day. In fact, while Bernales alleged in his affidavit that his permission was sought by respondent on November 13, 1995, no similar allegation can be found as regards the incident on October 28, 1995. What respondent was able to do on that Saturday, as confirmed by Garcia's affidavit, was to hail Garcia from his residence in the morning of October 28, 1995 and to insist that Garcia and respondent go to the court premises, get the court records, and have them photocopied outside. Garcia, however, had no authority to consent to the taking out of those court records. Respondent, therefore, acted on his own without the requisite prior consent of the clerk-in-charge.

As Bernales acknowledge in his affidavit, respondent did obtain his permission to have the same court records photocopied the second time on November 13, 1995. However, he gave specific instructions that Garcia should be the one to handcarry the court records and to have them photocopied outside the court premises. With full knowledge of Bernales' instructions, respondent defiantly himself took the court records and had them photocopied.

While these acts seem minor infractions of procedural rules, this court cannot and will not countenance the same. There are reason for these rules and in this case, we cannot overemphasize the necessity for a regulated, orderly, and careful handling of court records the loss, tampering, or any other form of alteration or destruction of which does not only contribute to inordinate delay in judicial proceedings but more importantly erodes upon the credibility and reliability of our courts.

Finally, on the charge of drunkenness, we agree with Judge Cinco that the incident involving respondent was an isolated one and that respondent's acrimonious remarks directed against the stenographers were not insults against their person. Respondent, it appears, was simply overeager to emphasize the need for the stenographers to finish their transcripts of stenographic notes within a reasonable time, their recent failure in which has often been cited by the lawyers as the cause for the delay in the trial proceedings.

WHEREFORE, in view of the foregoing, respondent Julius Cabe, Sheriff IV assigned to RTC, Branch 28, Catbalogan, Samar, is (a) **SUSPENDED** for five (5) days for unauthorized taking out of court records on a

Saturday with WARNING that repetition thereof will merit a more severe punishment; and (b) with respect to his coming to court drunk, WARNED to avoid a repetition of the same.

SO ORDERED.

Davide, Jr., Vitug, and Kapunan, JJ., concur.

Bellosillo, J., no part, did not participate in the deliberation.

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