

**CLERK OF COURT ELEONOR T.F. MARBAS-VIZCARRA,
COMPLAINANT VS. GREGORIA R. FLORENDO, MA. VICTORIA D.
ROQUE, JOSEFINA A. CUNANAN, LINAFA R. QUIJANO, JUANITO F.
FLORENDO, RESPONDENTS.**

A.M. No. P-99-1336 (Formerly AM OCA-IPI No. 95-11-P). July 20, 1999

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PER CURIAM:

In a First Indorsement,[1] Supreme Court Chief Administrative Officer Adelaida Cabe-Baumann referred to Atty. Eleonor M. Vizcarra, Clerk of Court of the Regional Trial Court, Branch 30, Cabanatuan City for comment, the matter of tampered Daily Time Records (DTRs) for the month of November 1994 of the following employees of that court: Gregoria R. Florendo, Juanito F. Florendo, Linafa R. Quijano and Ma. Victoria Roque.

In a subsequent letter,[2] Atty. Baumann again referred to Atty. Vizcarra for comment the matter of tampered DTRs for the month of December 1994 of the following employees: Gregoria R. Florendo, Juanito F. Florendo, and Josefina A. Cunanan.

Atty. Vizcarra conducted an investigation and made the following findings in her comment:

The November, 1994 and December, 1994 DTRs with the attached applications for leave and transmittal letter were all entrusted to Ms. Gregoria Florendo for submission to the Supreme Court. Investigation made by the undersigned showed that the tampering was done by Ms. Florendo and Clerk Ma. Dina Bernardo while said DTRs were in Ms. Florendo's possession. The tampering was done in her own house the night before the DTRs were brought to the Supreme Court. Ms. Florendo and Ms. Bernardo tampered not only their own respective DTRs but also the DTR of the other employees of this Branch, without their knowledge and consent. Ms. Linafa Quijano, Ms. Victoria Roque and Ms. Josefina Cunanan submitted their statements denying prior knowledge of the tampering. A careful perusal of the tampered DTRs showed that the tampered entries were not written by the following employees: Ms. Quijano, Ms. Cunanan, Ms. Roque and even Mr. Florendo, who was a witness to the tampering of the November, 1994 DTRs.

x x x.

In a meeting called by the undersigned regarding the tampering of DTRs, Ms. Florendo and Ms. Bernanrdo admitted their participation in the tampering. Ms. Florendo further admitted to the undersigned that they also tampered the DTRs of their co-employees and their reason for this is that and I quote: "Kung yung amin lang ang tatamperin namin baka hindi ka mag-second thought na ireport kami, ngayon kung maraming DTR ang tampered baka sakaling hindi mo kami ireport at marami kami. What Ms. Florendo did not foresee is that it would be the people at the Supreme Court itself who would discover the falsification and not the undersigned. Also, contrary to Ms. Florendo's and Ms. Bernardo's expectations, their other officemates refused to join them in building up a lie and, instead, opted to tell the truth. Mr. Juanito Florendo, the branch Utility Worker and nephew of Ms. Florendo and who lives in the house of the latter, gave a statement under oath that when the November, 1994 DTRs of Ms. Florendo, Ms. Bernardo and the rest of the staff were being tampered by Ms. Florendo and Ms. Bernardo, he was there present but could not do anything about it for fear of his aunt.

x x x.[3]

Upon discovering more tampered DTRs, Atty. Vizcarra submitted to this Court a Second Comment. Atty. Vizcarra found that aside from the tampered DTRs already discovered by the Supreme Court Office of Administrative Services, the DTRs of the following employees were also tampered with:

OCTOBER 1994 GREGORIA R. FLORENDO only

NOVEMBER 1994 MA. DINA A. BERNARDO,

CELIA G. LUNA

JOSEFINA A. CUNANAN,

PEDRO C. BINUYA;

DECEMBER 1994 MA. DINA A. BERNARDO,

EMILIE P. LIWAG,

ALBERTO S. RAMOS,

VICTORIA D. ROQUE,

LINAFE R. QUIJANO[4]

Atty. Vizcarra concluded thus:

- The DTRs for the months of October 1994, November 1994 and December 1994 of certain personnel of this branch were tampered with;
- The tamperings were committed by MS. GREGORIA R. FLORENDO, & Ms. DINA A. BERNARDO, in the presence of Mr. JUANITO F. FLORENDO, the branch Utility Worker, nephew and household member of Ms. Gregoria Florendo;
- The tampering were committed in the house of Ms. Gregoria Florendo to whom undersigned entrusted the DTRs for submission to the Supreme Court, insofar as the November & December 1994 DTRs are concerned;
- insofar as the October 1994 DTRs are concerned, only the DTR of Ms. Gregoria Florendo is tampered with. Ms. Florendo was also the one who submitted the October 1994 DTRs of this branch to the Supreme Court;
- The DTRs were tampered with by Ms. Florendo and Ms. Bernardo without the knowledge and consent of their officemates;
- The tampering came to the knowledge of the undersigned only when she received the letter from Atty. Adelaida Cabe-Baumann calling her attention regarding the tampered DTRs. The original DTRs which were tampered with were attached to said letter;
- The DTR of Mr. Juanito Florendo for the month of November 1994 was likewise tampered with but he alleged that although he was present when said DTR was being tampered with, he was not able to do anything to stop it for fear of his aunt, Ms. Gregoria Florendo. Regarding his December 1994 DTR which was also tampered with, he alleged that he has nothing to do with its tampering;

- Ms. Ma. Dina A. Bernardo, who admitted her participation in the tampering to the undersigned and her officemates did otherwise in her written statement. She alleged that mechanical tampering of her DTR is a remote possibility. She did not categorically deny or make mention of her participation in the tampering of her officemates' DTRs which was the subject of a memo sent to her by the undersigned. The November and December 1994 DTRs of Ms. Bernardo were both tampered with.

- Ms. Gregoria Florendo did not submit any written explanation to the undersigned despite receipt of the letters sent her by the undersigned asking her to explain why there are tampered entries in her DTRs.

- The following are the employees with tampered DTRs and the particular entries tampered with:

- GREGORIA R. FLORENDO-

OCTOBER 5, 6, 10, 18,19, 1994; NOVEMBER
2,3,7,15,16,17,22,29, 1994;
DECEMBER 1,6,9,15,19,20,21,27, 1994.

- MA. DINA A. BERNARDO-

NOVEMBER 8,16,18,29, 1994;
DECEMBER 1,5,8,15, 1994;

- JUANITO F. FLORENDO-

NOVEMBER 2,15,28, 1994;
DECEMBER 6,12,13,19, 1994.

- CELIA G. LUNA-

NOVEMBER 2, 18, 1994;

- JOSEFINA A. CUNANAN-

NOVEMBER 11, 16, 18, 28, 1994;
DECEMBER 6,12,13,26,27,29, 1994;

- LINAFA R. QUIJANO-

NOVEMBER 2, 17, 18, 29, 1994;
DECEMBER 19,20,21,22, 1994.

- VICTORIA D. ROQUE-

NOVEMBER 2, 18, 1994;
DECEMBER 6, 7, 1994.

- ALBERTO S. RAMOS-

DECEMBER 1, 6, 1994.

- PEDRO C. BINUYA-

NOVEMBER 28, 1994.

- EMILIE P. LIWAG-

DECEMBER 21, 1994.

Looking at the above data, it could be readily seen that Ms. Florendo has the most number of tampered entries.

It must be noted here that Ms. Florendo has just been reemployed August 1994, which means that she has no leave credits yet or is not entitled to a leave with pay. With the number of absences she incurred, definitely there would be a cut in her salary and this is what Ms. Florendo was trying to avoid. This was the reason why she tampered her DTR, first in October. When her October 1994 DTR did not return despite the erasures she made, she was emboldened to tamper again her November 1994 DTR, this time in cahoot with Ma. Dina A. Bernardo, who tampered also her own DTR. Not content with tampering their own DTRs, they tampered also with the DTRs of their officemates. They did the same on the December DTRs. When asked by the undersigned why they had to involve the other personnel of this branch who was not aware of and who did not authorize the tampering committed, Ms. Florendo replied that "Kung yung amin lang ang tatamperin namin baka hindi ka mag-second thought na ireport kami, kung maraming DTR ang tampered baka sakaling hindi mo kami ireport at marami kami". Ms. Florendo and Ms. Bernardo believed that they could use their officemates as a shield. Unfortunately, they read everything wrong.[5]

We required Gregoria R. Florendo, Josefina A. Cunanan, Linafe R. Quijano, Ma. Victoria D. Roque and Juanito F. Florendo to file their respective answers with the Court.[6]

Meanwhile, the personnel of the Regional Trial Court, Branch 30, Cabanatuan City, petitioned the Court to investigate the alleged misconduct of Gregoria R. Florendo and Ma. Dina A. Bernardo.[7]

Respondents Josefina A. Cunanan, Ma. Victoria D. Roque, and Linafe R. Quijano filed their respective answers,[8] all disclaiming authorship of the tampering and claiming knowledge of the tampered DTRs only upon being informed by this Court.

Respondent Juanito F. Florendo filed an answer where he alleged that he witnessed the actual tampering done by his aunt Gregoria R. Florendo and Ma. Dina A. Bernardo in his presence.

Respondent Gregoria R. Florendo did not file an answer.

The Court referred the case to Executive Judge Johnson L. Ballutay of the Regional trial Court, Cabanatuan City for investigation, report and recommendation.[9]

Notices of hearing were sent by the investigating trial court to Atty. Vizcarra and the respondents.[10] In an Order dated April 29, 1996, Ma. Dina A. Bernardo was likewise directed to appear in court.[11]

In an order dated June 18, 1996, Judge Ballutay stated that he was considering Ma. Dina A. Bernardo and respondent Gregoria R. Florendo to have waived their right to adduce evidence in view of the oral manifestation of Juanito F. Florendo that these two persons were no longer interested in appearing in court and considering further that they failed to attend the scheduled hearings despite due notice.[12] Judge Ballutay had earlier noted that Ma. Dina A. Bernardo refused to receive the notices of hearing served upon her by the process server.[13]

Judge Ballutay submitted his Report dated July 5, 1996. The investigating judge's report validated the findings and conclusions made by Atty. Vizcarra.[14]

We must state at the outset that Ma. Dina A. Bernardo was not made a respondent in the instant case, and not made to file an answer or to comment on the charge. Her culpability was discovered upon investigation conducted by Atty. Vizcarra. The complaint, however, was not amended to include Ma. Dina A. Bernardo in the charge. Thus, while her culpability here was proven with substantial evidence, in the interest of due process, we cannot mete a penalty against her, absent a formal charge.

It appears that during the pendency of the case, Ma. Dina A. Bernardo and respondent Gregoria R. Florendo tendered their letters of resignations effective June 6, 1995[15] and June 2, 1995[16] respectively. The Office of Administrative Services, through Atty. Adelaida Cabe-Baumann, informed the Court that said office has already

caused the withholding of the salaries and the exclusion from the payroll of the names of these two employees.[17] The Court did not grant clearance to accept the resignations tendered.

We emphasize that resignation should not be used as an escape or as an easy way out to evade administrative liability by a court personnel facing administrative sanction.[18] In the face of the report of the investigating judge validating the findings and conclusions of Atty. Vizcarra on the tampering of the DTRs, we cannot simply accept the resignation proffered by Ma. Dina A. Bernardo and respondent Gregoria R. Florendo. Such non-acceptance renders the resignations ineffective and inoperative.[19]

We find that the charge against Ma. Dina A. Bernardo and respondent Gregoria R. Florendo has been sufficiently established. Moreover, respondent Gregoria R. Florendo's defiant noncompliance with this Court's resolution requiring her to answer the charges filed against her, her's and Ma. Dina A. Bernardo's obstinate and contumacious refusal to appear before the investigating judge, as well as their precipitate resignation from the service are indubitable and unequivocal indicia of guilt.[20]

The facts establish the culpability of Ma. Dina A. Bernardo and respondent Gregoria R. Florendo for falsification of Civil Service Form No. 48, the Daily Time Record. The penalty for falsification of an official document, under Memorandum Circular No. 30 Series of 1989, or the guidelines in the Application of Penalties in Administrative Cases[21] is DISMISSAL from the service, such offense being grave in nature.

We find no culpability on the part of the other respondents, namely Ma. Victoria D. Roque, Josefina A. Cunanan, and Linafe R. Quijano and, consequently, adopt the recommendation of the investigating judge that the case be dismissed as to them.

Respondent Juanito F. Florendo's silence despite the fact that the incidents of tampering of the DTRs were done in his presence is reproachable. We can, however, empathize with Mr. Florendo's sentiments that he was cowed into silence because his aunt exercised moral ascendancy over him, thus,

Nang binabago po and mga DTRs ay wala po akong magawa, nais ko mang kumontra sapagkat x x x ang laki ng takot ko sa aking tiyahin at ako ay hind puwedeng kumibo at kumontra sa kanyang mga balakin, una dahil siya ay aking tiyahin at ikalawa dahil sa kanya ako naninirahan.[22]

We note that unlike Ma. Dina A. Bernardo and respondent Gregoria R. Florendo, Juanito F. Florendo freely cooperated in the investigation of the case, first by Atty. Vizcarra and later by the investigating judge, and he also filed his answer with this Court when directed to. Taking these particulars into consideration, we find the penalty recommended by the investigating judge-- six months suspension without pay--as too harsh. We feel that suspension of one month without pay to be more in accord with the circumstances.

WHEREFORE, in view of the foregoing, respondent GREGORIA R. FLORENDO is DISMISSED from the service for falsification of an official document, with forfeiture of all benefits and accrued leave credits, with prejudice to reemployment in the government including government owned and controlled corporations.

The Report and Recommendations of investigating judge Johnson L. Ballutay dated July 5, 1996 shall be treated as an administrative complaint for falsification of official document against MA. DINA A. BERNARDO, for which she is required to submit her comment thereon within ten (10) days from receipt of this decision. The withholding of her salaries and exclusion of her name from the payroll caused by the Supreme Court Office of Administrative Services shall stand, and furthermore, her clearance is withheld pending the resolution of the aforesaid administrative complaint.

Respondent Juanito F. Florendo is SUSPENDED WITHOUT PAY for a period of ONE (1) MONTH to commence immediately upon service hereof.

The administrative complaint is DISMISSED as to respondents Ma. Victoria D. Roque, Josefina A. Cunanan, and Linafe R. Quijano.

SO ORDERED.

Davide, Jr., C.J., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago JJ., concur.

[1] Dated January 16, 1995; Rollo, p. 2.

[2] Dated March 15, 1995; Id., at 3.

[3] Id., at 24-25.

[4] Id., at 74.

[5] Id., at 80-82.

[6] Resolution dated July 12, 1995, Id., at 16.

[7] Id., at 17-18.

[8] Id., at 199, 212, 234.

[9] Id., at 254; Resolution dated March 5, 1996.

[10] Id., at 255.

[11] Id., at 262. Also see Order dated May 29, 1996, p. 280.

[12] Id. at 289.

[13] Id. at 287.

[14] Report and Recommendation, p. 3.

[15] Id. at 244.

[16] Id. at 243.

[17] Id. at 242.

[18] Judge Salvador G. Cajot v. Ma. Theldma Josephine V. Cledera, A.M. No. P-98-1262, February 12, 1998.

[19] Judge Isaias P. Dicdican v. Russo Fernan, Jr. and Ramiela Boholst-Egos, A.M. No. P-96-1231, February 12, 1997, citing Tadeo v. Daquiz, 224 SCRA 656 (1993) and Pardo v. Cunanan, 248 SCRA 1 (1995).

[20] See judge Isaias P. Dicdican, note 19.

[21] Also Revised Schedule of Penalties For Administrative Offenses Committed by Government Employees.

[22] Rollo, p. 240.

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