

EMELINA M. SALGADO, COMPLAINANT, VS. BELEN M. CORTEZ, RESPONDENT.

A.M. No. P-2067. October 10, 1980

Ponente: AQUINO, J.

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AQUINO, J.:

The Court Administrator submitted the following memorandum regarding this case:

"Belen M. Cortez, Court Clerk-Stenographer I of the Municipal Circuit Court of Indang-Mendez-Nuñez, Cavite is charged for neglect of duty by complainant Emelina M. Salgado.

"The complainant alleged that she and her son Rodolfo Salgado, the offended party in Criminal Cases Nos. 78-733 and 78-723, both for Slight Physical Injuries, received a subpoena commanding them to appear in court for the arraignment of the accused on November 9, 1978, at 9:00 in the morning. On the scheduled date and time, she, her son, their lawyer and the Police Station Commander came to court only to find no one else present for the case.

"Sometime after, at about 10:30, a court employee arrived to inform them that they should have appeared the day before, or on November 8, 1978, because the subpoena previously sent to them had been verbally amended and they were supposed to have been informed about it by a special messenger. Complainant asserts that it is not true that they were notified of the resetting of the arraignment, for otherwise, the Station Commander himself would not have appeared with them.

"Required to explain, respondent admitted that the arraignment was scheduled on November 9, 1978, at 9:00 in the morning and a subpoena was issued accordingly. She claimed however, that Juanito F. Pereña of the Mendez Police Station, who was acting as prosecutor in said cases, went to see her on October 22, 1978 and requested the resetting of arraignment a day earlier, to November 8, 1978, because the accused had already engaged the services of counsel, Atty. Arcanglelita R. Lontoc, who was not available on the day originally scheduled.

"Besides, the respondent further explained, that herein complainant told her that their lawyer, Atty. Conrado Aquino of the CLAO, was also not available on November 9, 1978. Respondent therefore granted the request of Pat. Pereña after the latter assured that he would inform the complainant of the resetting. Not only that. Respondent claims that she was able to personally inform complainant Salgado about the transfer one week before the scheduled date. Moreover, respondent puts up the contention that since the setting for November 8, 1978 was only for the arraignment of the accused, the presence of Rodolfo Salgado was not necessary.

"Respondent annexed to her comment the affidavit of Pereña to corroborate her explanation.

"From an assessment of the complaint of Emelina Salgado and the comment/explanation of the respondent, the undersigned finds the positive allegations of complainant entitled to more credence. In the first place, it may be asked why respondent did not send a written notice of the reset arraignment or require Patrolman Pereña to secure the conformity of the other party to the resetting.

"Secondly, the claim that respondent personally informed complainant of the change of date is hard to believe

for she could have made it reflected on record by simply getting complainant to sign 'as notified' in the very record of the case. Lastly, if the presence of Rodolfo Salgado and witnesses were not necessary on November 8, 1978 because it was only for the arraignment of the accused, why did respondent have to insist that she notified them?

"Premises considered, it is respectfully recommended that respondent Belen Cortez be reprimanded for dereliction of duty and warned that a repetition of such negligence in the performance of duty will be dealt with more severely."

The foregoing recommendation is approved.

WHEREFORE, Belen Cortez is censured for having improperly performed her duties as clerk of the circuit municipal court of Indang-Mendez-Nuñez, Cavite. More drastic disciplinary action will be taken against her in the event that she commits another irregularity. A copy of this decision should be attached to her personal record.

SO ORDERED.

Barredo, (Chairman), Guerrero,[*] Abad Santos, and De Castro, JJ., concur.
Concepcion, Jr., J., is abroad.

[*] Guerrero J., was designated to sit in the Second Division.

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