

**ONOFRE M. MARANAN, ASSISTANT PROVINCIAL PROSECUTOR,
CAVITE CITY, COMPLAINANT, VS. NECITAS A. ESPINELI, COURT
STENOGRAPHER III, REGIONAL TRIAL COURT, BRANCH 23, TRECE
MARTIRES CI...**

A.M. No. P-03-1733 (Formerly AM OCA IPI No. 00-906-P). November 18, 2003

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is the verified complaint for an act unbecoming an employee dated January 20, 2000 filed by Assistant Provincial Prosecutor Onofre M. Maranan, charging Necitas A. Espineli, Court Stenographer III and OIC- Clerk of Court,[1] Regional Trial Court, Branch 23, Trece Martires City.

Complainant alleged in his complaint that he is the prosecutor in Criminal Case No. TM-1709, entitled "People of the Philippines vs. Eliseo Alarca y Nuestro," for violation of Section 16, Article III, Republic Act No. 6425,[2] as amended, pending before the sala of then Executive Judge Jose J. Parentela, Jr. (now deceased), Regional Trial Court, Branch 23, Trece Martires City.

On January 7, 2000, Executive Judge Parentela, acting on the "Motion For Bail" and "Supplemental Petition For Admission To Bail" filed by accused's counsel, Atty. Gerardo Wilfredo I. Alberto, as well as complainant's opposition thereto, issued an Order setting the incidents for hearing on January 14, 2000 at 9:00 o'clock in the morning, and directing the parties to appear "for the actual weighing of the shabu in question and to bring with them the weighing scale x x x, with the understanding that no further postponement will be entertained by this court." [3]

However, on January 14, 2000, no hearing was conducted because both the public prosecutor and the defense counsel failed to appear for unknown reason.[4] Nonetheless, according to the complainant, he was surprised that respondent, without any authority, re-scheduled the weighing on January 25, 2000.

Respondent, in her comment, denied that it was she who re-scheduled the weighing of the shabu on January 25, 2000 but the trial court, as shown by its Order dated January 14, 2000.[5]

Subsequently, both parties manifested that they are submitting this administrative case for decision on the basis of the pleadings/records already filed.

Deputy Court Administrator (DCA) Jose P. Perez, in his Report, sustained complainant's claim that respondent "acted beyond the scope of her authority." Thus, he recommended that this case be re-docketed as a regular administrative matter and that respondent be suspended for five (5) days without pay.

The complaint is bereft of merit. The record shows that on January 14, 2000, Executive Judge Jose J. Parentela, Jr. issued the following Order in Criminal Case No. TM-1709, thus:

"ORDER

"WHEN this case was called for hearing, the public prosecutor and counsel for the accused failed to appear for unknown reason, although the Order of the Court dated January 7, 2000 states that the hearing for today is intransferrable in character.

"In the interest of compassionate justice, reset the hearing to January 25, 2000 at 9:00 o'clock in the morning, that definitely, no further postponement will be granted by the Court.

"SO ORDERED.

"Trece Martires City, January 14, 2000."

It must be recalled that on January 7, 2000, Executive Judge Parentela issued an Order setting the hearing of the motion for bail on January 14, 2000 and directing the "actual weighing of the shabu in question." However, both parties, for unknown reason, failed to appear. The above quoted Order reset the hearing on January 25, 2000. Obviously, in the light of the previous order dated January 14, 2000, the weighing of the shabu was to be done during the hearing as reset on January 25, 2000.

Clearly, it was the trial court, not the respondent, which re-scheduled the weighing of the subject shabu on January 25, 2000.

WHEREFORE, the instant complaint against respondent Necitas A. Espineli is hereby DISMISSED for lack of merit.

SO ORDERED.

Vitug, (Chairman), Corona, and Carpio Morales, JJ., concur.

[1] Respondent was designated as OIC-Clerk of Court from November 2, 1998 until March 31, 2000, Rollo at 19.

[2] The Dangerous Drugs Act of 1972.

[3] Rollo at 11.

[4] Order dated January 14, 2000, Id. at 10.

[5] Comment, 4th paragraph, Rollo at 20.

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