

**RENATO NUEZCA, COMPLAINANT, VS. MERLITA R. VERCELES,
STENOGRAPHER III, BRANCH 49, REGIONAL TRIAL COURT,
URDANETA CITY, PANGASINAN, RESPONDENT.**

A.M. No. P-19-3989 [Formerly OCA IPI No. 16-4524-P]. June 25, 2019

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PER CURIAM:

A stenographer's failure to submit transcribed stenographic notes within the period prescribed by the court constitutes gross neglect of duty, punishable by dismissal from service.

This Court resolves an Administrative Complaint filed by Renato Nuezca (Nuezca) against Merlita R. Verceles (Verceles), Stenographer III of Branch 49, Regional Trial Court, Urdaneta City, Pangasinan for gross neglect of duty after her repeated failure to submit the transcript of stenographic notes on time.[1]

Nuezca is the father of the private complainant in Criminal Case No. U-12300, entitled *People v. Romeo Viernes*, a case of reckless imprudence resulting in serious physical injuries, which is pending before Branch 49 of the Regional Trial Court, Urdaneta City, Pangasinan.[2]

In a September 16, 2015 Letter-Complaint,[3] Nuezca filed an administrative case against Verceles.

Nuezca alleged that on August 18, 2005, the prosecution formally offered before the Regional Trial Court its evidence in Criminal Case No. U-12300. The defense did not present evidence. Thus, the case was deemed submitted for decision on July 30, 2009. The Branch Clerk of Court was directed to ensure that the transcript of stenographic notes were complete.[4]

Nuezca further narrated that on December 15, 2009, the Regional Trial Court ordered the retaking of testimonies since there were no transcript of stenographic notes on record. He claimed that on March 28, 2011, Verceles undertook to submit the complete transcript for the next scheduled hearing on May 2, 2011. However, she did not report to work on the day of the hearing.[5]

The case was postponed to June 16, 2011, then to August 29, 2011, and finally, to May 17, 2012.[6] On June 27, 2013, the trial court issued an Order[7] setting the retaking of the testimonies of witnesses Dr. Ferdinand Florendo (Dr. Florendo) and Tracy Sinagub (Sinagub) on August 29, 2013. Verceles was instructed anew "to retake the proceedings taken on April 24, 2003 and May 6, 2003." [8]

However, Verceles still failed to submit the complete transcript of stenographic notes and presented only that of Sinagub's testimony.[9] Hence, the trial court issued an Order[10] postponing the retaking of Dr. Florendo's testimony to November 21, 2013.

In the April 27, 2015 hearing, the Prosecutor moved that Presiding Judge Tita R. Villarin (Presiding Judge Villarin) inhibit from the case. Presiding Judge Villarin allegedly denied the Motion and instead postponed the hearing to October 16, 2015.[11]

In her Letter-Complaint, Nuezca prayed that Verceles be penalized for her neglect of duty and disregard of court

orders.[12]

The documents Nuezca attached to his Letter-Complaint revealed that the Deputy City Prosecutor filed an Objection to the Order of Retaking of Testimony, a Motion to Cite for Contempt Court Stenographer Merlita R. Verceles, and a Motion to Inhibit Presiding Judge. The Deputy City Prosecutor alleged that Judge Villarin is Verceles' sister.[13]

In its April 4, 2016 Order, the Regional Trial Court forwarded the criminal case records to the Office of the Clerk of Court for reassignment.[14]

On October 19, 2015, the Office of the Chief Justice received the Letter-Complaint.[15] This was referred to the Office of the Court Administrator on December 7, 2015.[16]

On January 13, 2016, the Court Administrator directed Verceles to comment on the Complaint filed against her.[17] Verceles filed a Motion for Extension of Time to File Comment on May 23, 2016.[18]

In her Comment,[19] Verceles countered that she did not neglect her duty. She attributed her failure to submit the transcript of stenographic notes to her old age and deteriorating health. She claimed that her knees and back would ache, and that she had hearing difficulties, high blood pressure, and frequent migraine. She further claimed that Branch 49 had a small office space and no records room conducive for keeping the files needed, which was why she could not find her original notes despite repeated search. She added that she even searched her house to find them.[20]

Verceles further averred that she reported the matter to the Presiding Judge and their Legal Researcher, which led to the court's directive to retake the testimonies. She also attempted to seek assistance from the witness who testified before the court and the records office of the hospital involved. Unfortunately, she said, they did not keep a copy of the records either.[21]

Verceles alleged that she started getting sick upon reaching the age of 45 or 50. However, she could not quit work since she was a single mother of two (2) children who did not finish school.[22]

While the case was pending, Verceles, on April 15, 2016, filed before the Court Administrator a Request for Optional Retirement.[23] She requested that the office allow her "to retire under the Optional Retirement Benefit of the Supreme Court effective July 1, 2016, for health reasons." [24] She attributed her "severe forgetfulness, difficulty in hearing, hypertension, back pains, knee pains, and others" [25] to her old age. She conceded that her illnesses hampered her work and resulted in her failure to do her work on time.[26]

Verceles stated that she turned 60 years old on January 13, 2016 and has served the trial court for more than 25 years since October 19, 1991.[27]

In his April 30, 2018 Report and Recommendation,[28] the Court Administrator recommended that Verceles be found guilty of gross neglect of duty and be dismissed from service, with forfeiture of all retirement benefits, except the money value of accrued leave credits.[29]

The Court Administrator found that Verceles' "explanations that she is already getting old, sickly and forgetful, and that she misplaced her transcript of stenographic notes are unacceptable." [30] He underscored how she had been previously penalized by reprimand, a fine of P5,000.00, and a one (1)-year suspension in Administrative Matter Nos. P-06-2210, P-13-3104, and P-14-3228, respectively, for failing to transcribe the stenographic notes, among others.[31]

The sole issue for this Court's resolution is whether or not respondent Court Stenographer III Merlita R. Verceles should be dismissed from service for gross neglect of duty in failing to submit the transcript of stenographic notes

in Criminal Case No. U-12300.

This Court adopts the findings and recommendations of the Court Administrator.

A stenographer is an officer of this Court who is burdened with great responsibilities. His or her neglect of duties may result in a delay in dispensing justice, as what happened in this case, which has been unjustly pending since 2009. This Court has previously explained the significance of the stenographer's task:

A great number of "Inherited Cases" (those heard and tried by Judges but left undecided due to resignation, retirement, and transfer/promotion to new assignments) has accumulated and cannot be decided or resolved promptly by incumbent Judges appointed or designated to replace their predecessors because of lack of transcripts of stenographic notes caused by the death or the absence of the recording stenographers who have resigned or retired and whose whereabouts are unknown. This has delayed review of appealed cases as the records are transmitted without the required transcripts of stenographic notes.[32]

Respondent's duties greatly affect the courts' timely resolution of cases. Supreme Court Administrative Circular No. 24-90 directs court stenographers to attach the transcript to the case records not later than 20 days from the time the notes were taken:

Sec. 17. Stenographers — It shall be the duty of the stenographer who has attended a session of Court either in the morning or in the afternoon, to deliver to the Clerk of Court, immediately at the close of such morning or afternoon session, all the notes he has taken, to be attached to the record of the case, and it shall likewise be the duty of the Clerk to demand that the stenographer comply with said duty. The Clerk of Court shall stamp the date on which notes are received by him. When such notes are transcribed, the transcript shall be delivered to the Clerk, duly initialed on each page thereof, to be attached to the records of the case.

(a) All stenographers are required to transcribe all stenographic notes and to attach the transcripts to the record of the case not later than twenty (20) days from the time the notes are taken. The attaching may be done by putting all said transcripts in a separate folder or envelope, which will then be joined to the record of the case.[33] (Emphasis supplied)

It was incumbent upon respondent to ensure that the transcript of stenographic notes was properly taken and expeditiously submitted, even without request of the court.

Moreover, respondent is bound by the Code of Conduct for Court Personnel.[34] Canon IV, Section 1 provides:

SECTION 1. Court personnel shall at all times perform official duties properly and with diligence. They shall commit themselves exclusively to the business and responsibilities of their office during working hours.

We underscore that respondent took four (4) years to comply with the court's order to provide the transcribed stenographic notes. Even then, she completed the transcript of stenographic notes of only one (1) of the two (2) witnesses. She was constantly given the chance to comply, the case was reset several times, and the retaking of the witnesses' testimonies was repeatedly ordered. All these caused years' worth of delay in the promulgation of the judgment in the criminal case. Certainly, respondent's conduct falls short of her mandate to properly and diligently perform her official duties.

As an employee of the court, respondent's actions reflect upon the credibility of the institution she represents. Court employees are held to a higher standard, and everyone from the "highest magistrate to the lowliest clerk . . . are expected to abide scrupulously [by] the law." [35]

In *Rapsing v. Walse-Lutero*, [36] we discussed the administrative charge of neglect of duty:

Simple neglect of duty is defined as the failure of an employee to give one's attention to a task expected of him or her. Gross neglect of duty is such neglect which, "from the gravity of the case or the frequency of instances,

becomes so serious in its character as to endanger or threaten the public welfare." In *GSIS v. Manalo*:

Gross neglect of duty or gross negligence 'refers to negligence characterized by the want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but wil[l]fully and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to give to their own property.' It denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty. In cases involving public officials, gross negligence occurs when a breach of duty is flagrant and palpable.[37] (Emphasis in the original, citations omitted)

Respondent's duty is categorical. She cannot use misplacing her original notes as an excuse, considering that the court has repeatedly allowed the retaking of testimonies.

Besides, this was not the first time that this has happened. The Court Administrator found that respondent has previously been penalized in three (3) different administrative cases for the same act. This exhibits a total absence of concern over the consequences of her lapses. This demonstrates a habit "so serious in its character as to endanger or threaten the public welfare[,]"[38] as it has caused undue delay in several cases before the Regional Trial Court.

In *Judge Absin v. Montalla*:[39]

The Court has ruled, in a number of cases, that the failure to submit the TSNs within the period prescribed under Administrative Circular No. 24-90 constitutes gross neglect of duty. Gross neglect of duty is classified as a grave offense and punishable by dismissal even if for the first offense pursuant to Section 52 (A) (2) of Rule IV of the Uniform Rules on Administrative Cases in the Civil Service.

This is not the first time that Montalla was charged with neglect of duty for delay in the submission of the TSNs. He was previously warned of a repetition of the same or similar infraction. . . .

. . . His utter disregard of the court directives and the reminders from his superiors and his lapses in the performance of his duty as a court stenographer caused delay in the speedy disposition of the case. This is no longer simple neglect of duty. Montalla, in repeatedly failing to submit the required TSNs for several years now, no longer deserves the compassion and understanding of the Court.

As a stenographer, Montalla should realize that the performance of his duty is essential to the prompt and proper administration of justice, and his inaction hampers the administration of justice and erodes public faith in the judiciary. The Court has expressed its dismay over the negligence and indifference of persons involved in the administration of justice. No less than the Constitution mandates that public officers must serve the people with utmost respect and responsibility. Public office is a public trust, and Montalla has without a doubt violated this trust by his failure to fulfill his duty as a court stenographer.[40] (Emphasis supplied, citations omitted)

Under the 2017 Revised Rules on Administrative Cases in the Civil Service, gross neglect of duty is a grave offense punishable by dismissal from service on the first offense.[41] The penalty of dismissal includes other accessory penalties: (1) cancellation of eligibility; (2) perpetual disqualification from holding any other public office; (3) prohibition from taking civil service examinations; and (4) forfeiture of retirement benefits.[42] However, terminal leave benefits and personal contributions to retirement benefits system shall not be forfeited.[43] Physical illness is not a mitigating circumstance in offenses punishable by dismissal from the service.[44]

As to her Request for Optional Retirement, Administrative Circular No. 24-90 is relevant:

5. No stenographer shall be allowed to resign from the service or allowed to retire optionally without having

transcribed all transcript of stenographic notes taken by him [or her]. A stenographer due for compulsory retirement must submit to the Judge/Clerk all pending transcribed stenographic notes, three (3) months before retirement date.

No terminal leave or retirement pay shall be paid to a stenographer without a verified statement that all his [or her] transcript of stenographic notes have been transcribed and delivered to the proper court, confirmed by the Executive Judge of the Court concerned.[45]

We deny respondent's application for optional retirement. She is directed to clear her pending transcript of stenographic notes. She will not receive any form of payment from the court until there is a verified statement that all transcribed stenographic notes have been delivered to the court, to be confirmed by the Presiding Judge of Branch 49, Regional Trial Court, Urdaneta City, Pangasinan.

WHEREFORE, respondent Court Stenographer III Merlita R. Verceles is found GUILTY of gross neglect of duty and is DISMISSED from service for her repeated failure to submit the transcript of stenographic notes within reasonable time. She is PERPETUALLY DISQUALIFIED from holding any other public office.

Respondent's Request for Optional Retirement is DENIED. Her retirement benefits are FORFEITED. Moreover, she is directed to comply with pending responsibilities before Branch 49 of the Regional Trial Court, Urdaneta City, Pangasinan before she may receive any form of payment pertaining to benefits that are not forfeited.

Let copies of this Resolution be served on the Office of the Court Administrator for its information and guidance, and attached to respondent's personal record as Court Stenographer.

SO ORDERED.

Bersamin, C. J., Carpio, Peralta, Del Castillo, Perlas-Bernabe, Leonen, Caguioa, A. Reyes, Jr., Gesmundo, J. Reyes, Jr., Hernando, Carandang, Lazaro Javier, and Inting, JJ., concur.
Jardeleza, J., on wellness leave.

[1] Rollo, pp. 2-3.

[2] Id. at 2.

[3] Id. at 2-3.

[4] Id. at 2.

[5] Id.

[6] Id.

[7] Id. at 13.

[8] Id.

[9] Id. at 14 and 45.

[10] Id. at 14.

[11] Id. at 3.

[12] Id.

[13] Id. at 15.

[14] Id.

[15] Id. at 2.

[16] Id. at 1.

[17] Id. at 5.

[18] Id. at 30.

[19] Id. at 6-10.

[20] Id. at 7-8.

[21] Id. at 8.

[22] Id. at 9.

[23] Id. at 16-17.

[24] Id. at 16.

[25] Id. at 16-17.

[26] Id. at 17.

[27] Id. at 16.

[28] Id. at 44-46.

[29] Id. at 46.

[30] Id. at 45.

[31] Id. at 45-46.

[32] Supreme Court Administrative Circular No. 24-90 (1990).

[33] Supreme Court Administrative Circular No. 24-90 (1990), amending Rule 136, Section 17 of the Rules of Court.

[34] Administrative Matter No. 03-06-13-SC (2004), sec. 1 states:

SECTION 1. This Code of Conduct for Court Personnel shall apply to all personnel in the judiciary who are not justices or judges. Court personnel who are no longer employed in the Judiciary but who acquired, while still so employed, confidential information as defined in the second paragraph of Section 1 of Canon II on Confidentiality are subject to Section 4 thereof.

[35] Judge Perfecto v. Esidera, 764 Phil. 384, 406 (2015) [Per J. Leonen, Second Division] citing J. Carpio, Dissenting Opinion in Estrada v. Escritor, 455 Phil. 411, 651 (2003) [Per J. Puno, En Banc].

[36] 808 Phil. 389 (2017) [Per J. Leonen, En Banc].

[37] Id. at 403.

[38] Id.

[39] 667 Phil. 560 (2011) [Per Curiam, En Banc].

[40] Id. at 564-565.

[41] RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE (2017), Rule 10, sec. 50(A)(2).

[42] RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE (2017), Rule 10, sec. 57(A).

[43] RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE (2017), Rule 10, sec. 57(A).

[44] RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE (2017), Rule 10, sec. 53.

[45] Supreme Court Administrative Circular No. 24-90 (1990).

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