

SECOND DIVISION

[A.M. No. P-16-3617, June 06, 2018]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, V.
GILBERT T. INMENZO, CLERK OF COURT III, METROPOLITAN
TRIAL COURT, BRANCH 52, CALOOCAN CITY, RESPONDENT.**

DECISION

CARPIO, J.:

The Case

This administrative case arose from a letter^[1] dated 11 December 2012 of then Acting Presiding Judge Lourdes Grace S. Barrientos-Sasondoncillo (Judge Sasondoncillo) of the Metropolitan Trial Court, Branch 52, Caloocan City (MeTC) to the Office of the Court Administrator (OCA).

The Facts

The facts, as culled from the records, are as follows:

On 24 March 2004, respondent Gilbert T. Inmenzo (Inmenzo) was appointed as Clerk of Court III of the MeTC.

Pursuant to the Order dated 8 March 2007 of then Acting Presiding Judge Josephine Advento-Vito Cruz, Inmenzo issued a *subpoena duces tecum/ad testificandum* directing PO2 Joselito Bagting (PO2 Bagting) to bring the evidence in Criminal Case No. 229179, entitled *People v. Hidalgo*, on 31 May 2007 before the MeTC. On 31 May 2007, Inmenzo acknowledged receiving from PO2 Bagting, "ONE (1) .38 CALIBER PISTOL marked as Exhibit E, 9MM" (firearm), among the evidence subject of the subpoena.^[2]

Around the week of 8 November 2012, Judge Sasondoncillo found out that the firearm involved in Criminal Case No. 229179 was missing. Thus, on 11 December 2012, Judge Sasondoncillo wrote the OCA requesting for an investigation of the missing firearm. She attached in her letter: (a) her Memorandum to Inmenzo asking him to produce the missing firearm within 72 hours or explain in writing why the firearm could not be produced; and (b) Inmenzo's Reply to the Memorandum.

In the Initial Investigation Report^[3] dated 19 February 2014, the investigation team found that Inmenzo received in *custodia legis* the missing firearm from PO2 Bagting on 31 May 2007, evidenced by an acknowledgment receipt. Thus, they recommended that the instant matter be considered a formal administrative complaint against Inmenzo and that he be required to comment on it.

In his Comment^[4] dated 27 May 2014, Inmenzo denied receiving the firearm. He, however, admitted signing the acknowledgment receipt, but he claimed that he signed inadvertently and without reading its contents due to heavy workload. To

support his claim, he attached a Joint Affidavit^[5] dated 27 May 2014 of his five co-employees, namely, Court Stenographer II Esperancilla B. Kabiling (Kabiling), Court Stenographer II Cristita F. Tolentino (Tolentino), Clerk III Rosario H. Santos (Santos), Clerk III Melissa P. Pulangas (Pulangas) and Job Order Employee Archilles M. De Vera (De Vera), stating that they heard PO2 Bagting utter the following words to Inmenzo: "*Nagtataka nga po aka sa iyo sir, bakit pinirmahan niyo po yung acknowledgment receipt eh di ko po naman dito iyon ipinareceived kungdi dun sa matandang Branch Clerk na nakasalamín.*"^[6]

On 15 July 2015, Inmenzo resigned from the service as Clerk of Court III.

In a Resolution^[7] dated 3 August 2015, the Court, through the Second Division, resolved to refer the instant administrative complaint to the Executive Judge of the MeTC for investigation, report and recommendation, considering that factual issues, which were material to the ultimate resolution of the case, could be ventilated only in a formal investigation.

The Recommendation of the Investigating Judge

In the Formal Investigation Report^[8] dated 20 January 2016, Investigating Judge Michael V. Francisco (Investigating Judge) stated that during the formal investigation: (1) PO2 B0agting denied uttering the statement: "*Nagtataka nga po aka sa iyo sir, bakit pinirmahan niyo po yung acknowledgment receipt eh di ko po naman dito iyon ipinareceived kungdi dun sa matandang Branch Clerk na nakasalamín.*;" (2) Kabiling, Tolentino, Santos, Pulangas, and De Vera recanted their statement in the Joint Affidavit and unanimously declared that the Joint Affidavit was prepared by Inmenzo, who merely made them sign it without allowing them to thoroughly read its contents; (3) Kabiling, Tolentino, Santos, Pulangas, and De Vera also unanimously declared that the only words they heard from PO2 Bagting was: "*sa matandang Branch Clerk na nakasalamín.*;" and (4) when confronted with the testimonies of PO2 Bagting and those of his co-employees, Inmenzo no longer contested his receipt of the missing firearm, and only pleaded for benevolence and compassion from the court.

Thus, the Investigating Judge recommended the imposition of the penalty of six months suspension on Inmenzo for simple neglect of duty, after finding that the firearm was lost while under Inmenzo's custody due to his carelessness. In imposing the penalty, the Investigating Judge considered the following circumstances: (1) in his 22 years of service, this is the first time that evidence entrusted to Inmenzo has been misplaced; (2) he exerted efforts to safeguard the evidence kept in the dilapidated storage facilities of the court by restricting access to the room; and (3) there was no discernible willful, intentional or conscious indifference to his inactions as to warrant a finding of gross neglect.

The Recommendation of the OCA

In a Memorandum^[9] dated 27 September 2016 addressed to Senior Associate Justice Antonio T. Carpio, the OCA adopted *in toto* the findings of the Investigating Judge, except as to the penalty, to wit:

1. the instant administrative complaint be **RE-DOCKETED** as a regular administrative matter against respondent Gilbert T. Inmenzo, Clerk of Court III, Metropolitan Trial Court, Branch 52, Caloocan City; and