

## EN BANC

**[ A.M. NO. P-04-1873, January 13, 2005 ]**

**JUDGE LUIS ENRIQUEZ REYES, COMPLAINANT, VS. RAQUEL S. BAUTISTA, STENOGRAPHER I, MUNICIPAL TRIAL COURT, GUIGUINTO, BULACAN, RESPONDENT.**

### ***DECISION***

#### **PER CURIAM:**

Complainant Judge Luis Enriquez Reyes charges respondent Raquel S. Bautista, Stenographer I, with misconduct for – (1) traveling abroad without securing the Supreme Court’s permission; (2) misrepresenting that the application for leave would be spent “within the Philippines” when the same was in fact spent abroad; and (3) failing to submit the transcript of stenographic notes within the required period.<sup>[1]</sup>

On September 26, 2003, respondent applied for a 22-day leave for the periods October 2-8, 2003 (forced leave) and October 9-31, 2003 (vacation leave)\* to concentrate on her training as a caregiver, preparatory to possible foreign employment. On October 27, 2003, she again filed another application for vacation leave from November 3, 2003 to January 2, 2004.\* Complainant averred that he approved said leave applications considering that she had been a court stenographer since 1990 and that he saw no reason to prevent her from seeking new opportunities. He reminded respondent to finish the transcription of all the stenographic notes assigned to her should she finally decide to resign. Complainant was surprised when he learned that respondent had already left the country considering that her application for leave stated that the vacation sought will be spent within the Philippines.

Per report of Erlinda U. Cabrera, Clerk of Court of complainant Judge, respondent failed to transcribe the following stenographic notes, to wit:

1. Criminal Case No. 5391  
Pp. vs. Lamberto Maximo  
TSN dated March 13, 2003  
(Cross-exam of Bernarda Llanza)
2. Criminal Case No. 6714  
Pp. vs. Alberto Puno  
TSN dated September 13, 2001  
(Prosecution’s Formal Offer)
3. Criminal Case No. 5336  
Pp. vs. Dolores Gutierrez<sup>[2]</sup>

- a. dated September 2, 1999  
(Cross-examination of Lerida Joaquin)
  - b. dated November 11, 1999  
(Prosecution's Formal Offer)
- 4. Criminal Case No. 5492  
Pp. vs. Olivia Bitangcol
  - a. TSN dated July 15, 1999
  - b. TSN dated September 9, 1999
- 5. Criminal Case Nos. 8036-39-40  
Pp. vs. Concepcion Garcia  
TSN dated July 18, 2002
- 6. Criminal Case No. 9372  
Pp. vs. Roberto Idos  
TSN dated May 9, 2002  
(Cont. of cross of Mercedita Valencia)
- 7. Criminal Case No. 6445  
Pp. vs. Consolacion Dayrit
  - a. TSN dated August 25, 2002
  - b. TSN dated August 28, 2003<sup>[3]</sup>

On December 2, 2003, complainant issued Office Circular No. 3-2003 directing respondent to transcribe the foregoing notes within 20 days from receipt thereof,<sup>[4]</sup> but respondent failed to comply therewith.

Thereafter, complainant received respondent's resignation letter dated January 5, 2004.<sup>[5]</sup>

In her Letter-Comment,<sup>[6]</sup> respondent averred that she decided to work overseas to give her family a better future and that she was not able to secure the required clearances for travel abroad because the job offered to her in Dubai was urgently needed. She admitted that when she left the country on October 16, 2003, she had pending transcripts to accomplish. She claimed, however, that some of the transcripts listed in complainant's Office Circular No. 3-2003 were not her obligation. Respondent added that on February 23, 2004 her husband attempted to submit the transcription of the notes<sup>[7]</sup> assigned to her as of January 2004 but complainant refused to receive the same. For humanitarian reasons, respondent prays that her resignation be approved.

In his Reply to respondent's Letter-Comment,<sup>[8]</sup> complainant admitted that on February 23, 2004, respondent's husband indeed attempted to submit some transcribed stenographic notes. He refused to accept the transcripts because he doubted their veracity considering that respondent was, at the time of the submission, already out of the country. He decided not to allow the notes to become part of the records to avoid adverse consequences.

After evaluation, the Office of the Court Administrator (OCA) recommended that the case be re-docketed as a regular administrative matter and that respondent be dismissed from the service with forfeiture of benefits and with prejudice to reemployment in the government.<sup>[9]</sup>

Upon being required by the Court,<sup>[10]</sup> complainant manifested that he is willing to submit the case for resolution on the basis of the pleadings filed.<sup>[11]</sup> However, respondent failed to file her manifestation, which is deemed waived.

The recommendation of the OCA is well-taken.

Per OCA Circular No. 6-2003,<sup>[12]</sup> the Policy on Filing of Applications for Maternity, Paternity, Sick, Vacation, Special Privilege, Forced Leave and Leave to be Spent Abroad, provides:

VI. Leave to be Spent Abroad.

All foreign travels of judges and court personnel, regardless of the number of days, must be with prior permission from the Supreme Court through the Chief Justice and the Chairmen of the Divisions pursuant to the resolution in A.M. 99-12-08-SC (Memorandum Order No. 14-2000 dated 6 November 2000). In line with the policy, the judge or court personnel concerned must submit the following:

x x x x x x x x

For Court Personnel:

1. application or request addressed to the Court Administrator, stating therein the purpose of the travel abroad;
2. application for leave covering the period of the travel abroad duly recommended by the Executive Judge/Presiding Judge;
3. clearance as to money and property accountability;
4. clearance as to pending criminal and administrative case filed against him/her, if any; and
5. for court stenographer, clearance as to pending stenographic notes for transcription from his/her court and from the Court of Appeals.

Likewise, OCA Circular No. 49-2003,<sup>[13]</sup> states –

B. Vacation Leave to be Spent Abroad.

Pursuant to the resolution in A.M. No. 99-12-08-SC dated 6 November 2000, all foreign travels of judges and court personnel, regardless of the number of days, must be with prior permission from the Supreme Court through the Chief Justice and the Chairmen of the Divisions.

1. Judges and court personnel who wish to travel abroad must secure a

travel authority from the Office of the Court Administrator. The judge or court personnel must submit the following:

x x x            x x x            x x x

(b) For Court Personnel:

- application or letter-request addressed to the Court Administrator stating the purpose of the travel abroad
- application for leave covering the period of the travel abroad, favorably recommended by the Presiding Judge or Executive Judge;
- clearance as to money and property accountability
- clearance as to pending criminal and administrative case filed against him/her, if any
- for court stenographer, clearance as to pending stenographic notes for transcription from his/her court and from the Court of Appeals
- Supreme Court clearance

x x x            x x x            x x x

5. Any violation of the leave laws, rules or regulations, or any misrepresentation or deception in connection with an application for leave shall be a ground for disciplinary action (Sec. 67, Omnibus Rules on Leave).

For violation of the foregoing circulars in traveling abroad without securing the necessary permission for foreign travel, respondent should be held administratively liable.

Moreover, the misrepresentation in respondent's leave application that her vacation will be spent within the Philippines, when she in fact spent the same abroad where she worked as a caregiver, amounts to dishonesty punishable by dismissal from service. The alleged urgency of her job abroad is no justification to her dishonest conduct which has no place in the judiciary. In *Recio v. Acuña*,<sup>[14]</sup> a sheriff was dismissed for going on a 6 month sick leave to cover up his employment overseas as a contract worker, thus –

Respondent Acuña's act of going abroad without permission of this Court is in violation of Memorandum Order No. 26 which provides that:

x x x            x x x            x x x

Requests for permission to travel abroad from members and employees of the judiciary shall henceforth be obtained from the Supreme Court.