

EN BANC

[A.M. No. P-16-3505 [Formerly OCA IPI No. 13-4134-P], January 22, 2019]

**ZENMOND D. DUQUE, COMPLAINANT, VS. CESAR C. CALPO,
COURT STENOGRAPHER III, REGIONAL TRIAL COURT, BRANCH
16, CAVITE CITY, RESPONDENT.**

DECISION

PER CURIAM:

This refers to the May 28, 2013 Complaint-Affidavit^[1] filed by Zenmond D. Duque (*complainant*) against Cesar C. Calpo (*respondent*), Court Stenographer III, Regional Trial Court (RTC) of Cavite City, Cavite, Branch 16, before the Office of the Court Administrator (OCA) for malfeasance, grave misconduct, dishonesty, and conduct unbecoming of a public official in the judiciary.

Respondent filed a Comment,^[2] dated September 6, 2013 on the complaint-affidavit. In his comment, respondent neither denied nor admitted receiving any amount from complainant and giving the latter a copy of any decision.

Considering the conflicting statements of the parties and seriousness of the charges, the Court referred the administrative complaint for investigation to the Executive Judge of the RTC of Cavite City, Cavite.^[3]

In his June 14, 2016 Report,^[4] the investigating judge, Executive Judge Agapito S. Lu, declared that after conducting hearings, he obtained the following information:

Complainant, a member of the Philippine Coast Guard, alleged that sometime in September 2010, he met respondent through a common friend. After opening up about his marital problems to respondent, the latter voluntarily offered his services to help complainant secure an annulment order from the court. As payment, complainant paid respondent the total amount of One hundred fifty thousand pesos (P150,000.00) in three equal installments, evidenced by receipts duly signed by respondent.^[5]

Sometime within the last week of October or first week of November 2010, respondent accompanied complainant to the office of a certain Dr. Macario S. Barinque in Mandaluyong City for a psychological examination. A few weeks later, complainant received a copy of the psychological examination results.^[6]

Months passed but there was no progress in the annulment case. A year later, sometime in November 2011, respondent gave a copy of the Decision^[7] issued by the RTC of Dasmariñas City, Cavite, Branch 90, docketed as Civil Case No. DAS-815-11, penned by Executive Judge Perla V. Cabrera-Faller (*Judge Cabrera-Faller*),

granting complainant an annulment of his marriage.

Suspicious of the veracity of the decision, complainant followed the advice of a lawyer and sought to verify its authenticity. To his dismay, complainant learned that there was no such case and that Judge Cabrera-Faller had not issued any such decision. He also learned that her signature therein was a forgery.

Complainant confronted respondent of his discovery, who begged complainant not to file any case against him and promised to return the money.

Despite several demands and time to comply, respondent failed to fulfill his promise. On April 10, 2013, complainant sent a demand letter requiring respondent to pay the amount within five (5) days from receipt thereof, otherwise, complainant would file the appropriate criminal and administrative cases. But the demand fell on deaf ears, hence, the present administrative complaint.

During the investigation, respondent admitted to receiving the amount of P150,000.00 from complainant. He explained that he used the money for the processing fee, filing fee, psychological examination fee, and lawyer's fee. However, respondent denied that he handed the subject decision to complainant.

After the hearings, the investigating judge determined that it was respondent who offered his services to complainant for the annulment of the latter's marriage for a fee of P150,000.00, which respondent did not deny. The investigating judge also resolved that respondent manufactured and falsified the decision purportedly rendered by the RTC of Dasmariñas City, Cavite, Branch 90 and forged the signature of Judge Cabrera-Faller appearing thereon. Considering that the acts of respondent clearly constitute grave misconduct, the investigating judge recommended the dismissal of respondent from service and all of his benefits forfeited therefor.

The OCA Recommendation

In its October 28, 2016 Report and Recommendation,^[8] the OCA concurred with the findings of the investigating judge and accordingly found respondent guilty of grave misconduct and recommended his dismissal from service, with forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification from re-employment in government service. The OCA subscribed to the findings of the investigating judge that respondent's act of receiving money from a litigant to facilitate the annulment of his marriage amounted to grave misconduct.

The OCA further explained that respondent, as a court stenographer, was not authorized to collect or receive any amount of money from any litigant. The act of collecting or receiving money from a litigant constituted grave misconduct in office.

The Court's Ruling

The Court adopts and accepts the findings and recommendation of the OCA.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer.^[9] It is intentional wrongdoing or deliberate violation of a rule of law or standard of