

EN BANC

[**A.M. No. P-16-3564 [Formerly OCA IPI No. 10-3503-P], January 24, 2017**]

JUDGE ANDREW U. BARCENA, COMPLAINANT, VS. CLERK OF COURT II THELMA S. ABADILLA, CASHIER I ROSELLER O. ISRAEL, CLERK IV ULYSSES D. DUPAYA, CLERK III ROY C. ROSALES AND JUNIOR PROCESS SERVER JAMES D. LORILLA, ALL OF THE OFFICE OF THE CLERK OF COURT, MUNICIPAL TRIAL COURT, LAL-LO, CAGAYAN, RESPONDENTS.

D E C I S I O N

PER CURIAM:

Before the Court is an administrative complaint filed by Judge Andrew U. Barcena (*Judge Barcena*), Presiding Judge, Branch 1, Municipal Trial Court (*MTC*), Lal-lo, Cagayan, against James D. Lorilla, Junior Process Server (*Lorilla*); Ulysses Dupaya, Clerk IV (*Dupaya*), Roy Rosales, Clerk III (*Rosales*); Roseller Israel, Cashier I (*Israel*); and Thelma S. Abadilla (*Abadilla*), Clerk of Court II, all of the Office of the Clerk of Court, MTC (*OCC*), for gross insubordination and gross disrespect to a judicial authority.

The Complainant's Position

In his Affidavit-Complaint,^[1] dated July 16, 2010, Judge Barcena stated that he was also the Acting Presiding Judge of Branch 3, MTC, and the designated Executive Judge of the MTC. He further narrated the events as follows:

2. On July 15, 2010 around 11:30 o'clock in the morning, I was inside my chamber at MTC Branch I busy working when Mr. Peter Cusipag, Clerk II in my Court, came in and informed me that four (4) male personnel of the OCC, namely, James D. Lorilla, Junior Process Server; Ulysses D. Dupaya, Clerk IV; Roy C. Rosales, Clerk II; and Roseller O. Israel, Cashier I, were outside my chamber in an angry mood and demanding that I sign their accomplished Performance Evaluation Forms (PEFs) for the period January-June 2010;

3. At that time, Estelita P. Constantino, Court Stenographer II in my Court, was inside my chamber encoding an Order which I just finished dictating to her;

4. Mr. Cusipag was already holding the PEFs of OCC personnel including that of Thelma S. Abadilla, Clerk of Court II, which were handed to him by Mr. Lorilla. The PEFs of all the OCC personnel, except that of Ms. Abadilla, were already signed by them as Ratees and by Ms. Abadilla as Rater. I will also sign as the Next Higher Supervisor. The PEF (for

supervisor) of Ms. Abadilla was already accomplished as she already rated herself when I should be the one rating her performance being the Rater;

5. Mr. Cusipag informed me further that James Lorilla wanted to know if I would sign their PEFs right away;

6. As I was then busy drafting a decision, I just listened to Mr. Cusipag and knowing that I was busy drafting a decision, he went out still holding the PEFs;

7. Sometime in the first week of July, Ms. Judy Cusipag, Records Officer of the OCC, went to my chamber purposely to let me sign the accomplished PEFs of all OCC staff including that of Ms. Abadilla. I instructed her that I will confer with each staff to assess their individual performance before I will sign their PEFs;

8. On July 12, 2010, Ms. Leticia U. Israel, Branch Clerk of Court, MTC Branch III, also went to my office to have their already accomplished PEFs signed. I also instructed her that I will confer with each staff to assess and evaluate their individual ratings before I will sign their PEFs. As my instruction is clear, she did not anymore insist;

9. On that same day, Ms. Abadilla went to my office and again asked me to sign their PEFs. I repeated to her my earlier instruction to Ms. Cusipag that I will confer with each staff to assess and evaluate their performance before I will sign their PEFs;

10. I specifically instructed Ms. Abadilla to hold meanwhile their PEFs anyway the period of submission of performance ratings to the Office of the Court Administrator is not yet due as I know for a fact that the deadline is still in August 10 and reiterated my directive that I will sign their PEFs on the third week of July after I shall have conferred with each staff and review the ratings they themselves have already indicated in their respective PEFs;

11. On July 14, 2010, Ms. Abadilla went again to my office insisting that I should sign their PEFs and again repeated my earlier directive that I will sign those PEFs only after I shall have conferred with each of the staff which I will do on the third week of July as by that time I would be done with the more pressing concerns in the office;

12. That is why I was surprised when Mr. Cusipag informed me that Mr. Lorilla and his three male companions are in my office, demanding that I should sign their PEFs despite my earlier verbal instructions to Ms. Abadilla, their immediate supervisor, that I would first personally confer with the OCC staff regarding their ratings before I will sign the PEFs;

13. I decided then to inquire from Ms. Abadilla why her process server and other male employees are demanding that I will sign their PEFs right then and how come they have in their possession their PEFs which is a willful disregard of my verbal instructions to her to hold the PEFs and that

I would sign them only after I shall have conferred with the OCC staff and evaluated the ratings which they themselves indicated in their PEFs;

14. It was about 12:00 o'clock noon of that fateful day when I went out of my chamber to request one of my staff to call for Ms. Abadilla. I saw my staff Estelita Constantino, Avelina Evangelista and Corazon Vasquez still inside the office. I also notice Mr. Lorilla, with a grim expression on his face, standing near my chamber;

15. Since Mr. Lorilla was there anyway, I instructed him to call his superior, Ms. Abadilla;

16. Much to my surprise, instead of complying with my instruction, Mr. Lorilla suddenly flew into rage, pointed his forefinger right at my face and angrily shouted, "Bakit ayaw mong pirmahan ang rating namin! Bakit si Thelma ang tinatawag mo eh nandito naman ako! Hindi ako natatakot sayo!" (Why do you refuse to sign our ratings! Why do you want to call for Thelma when I am already here! I am not afraid of you!);

17. I was shocked by the vicious tirade and menacing demeanor of Mr. Lorilla but I just ignored him. I repeated my instruction for him to call Ms. Abadilla and then headed towards my chamber as I wanted to avoid the menacing and adversarial demeanor of Mr. Lorilla;

18. As I turned my back from Mr. Lorilla, he suddenly attacked me by fiercely grabbing and strangling my neck with his right arm while his left arm strongly clamped my body, leaving me choking and totally immobilized;

19. While Mr. Lorilla was strangling my neck and clamped my body tightly, I felt a sharp object pointed at my neck;

20. I struggled hard to break free but Mr. Lorilla strangled me harder determined to choke me to death. Ms. Constantino tried to pull Mr. Lorilla away from me but she failed because Mr. Lorilla is a very strong man with big body built;

21. When I was already choking and losing breath, I struggled hard but failed. Then, somebody whom I learned later to be Alex Tugade, Court Utility Worker of MTC Branch II, extricated the hands of Mr. Lorilla from my neck and body although it took him some time before he could totally extricate Mr. Lorilla away from me;

22. I was losing breath and consciousness by the time Mr. Lorilla was extricated from me. It took me some time to catch my breath and breathe normally. When I finally regained my normal breathing and composure from the onslaught of Mr. Lorilla, my entire neck was in deep pain. I also felt a stinging pain just below my left ear and when I examined it, I found a wound just below my left ear;

On July 19, 2010, Judge Barcena wrote a letter^[3] to then Executive Judge Conrado F. Manauis (*Executive Judge Manauis*), Regional Trial Court, Aparri, Cagayan, (RTC) and reported the incident that transpired on July 15, 2010 in his office. Attaching the complaint-affidavit and the affidavits of the court employees who witnessed the said incident, Judge Barcena stated that he would file criminal and administrative charges against Lorilla, Dupaya, Rosales, Israel, and Abadilla.

On even date, Executive Judge Manauis issued the Memorandum^[4] requiring the said OCC employees to reply to the affidavit-complaint of Judge Barcena. In compliance, the said court employees submitted their Reply,^[5] dated July 29, 2010, stating that they were adopting as part of their reply the counter-affidavits and the affidavits of their witnesses which they executed before the Office of the Provincial Prosecutor (OPP) in relation to the criminal case filed by Judge Barcena.

In his letter-referral,^[6] dated August 2, 2010, addressed to Deputy Court Administrator Raul B. Villanueva (*DCA Villanueva*), Executive Judge Manauis recommended that the respondents be charged with gross insubordination and gross disrespect to judicial authority and be subjected to an investigation.

Acting thereon, DCA Villanueva required the respondents to comment on the charges against them.^[7] The respondents, in turn, filed their respective comments, reiterating and adopting their reply submitted to the Office of Executive Judge Manauis.

The Respondents' Position

In his Counter-Affidavit,^[8] Lorilla averred that:

3.9 About 11:30 o'clock in the morning of 15 July 2010, I together with Ulysses D. Dupaya, Roy C. Rosales and Rosseler O. Israel, all staff of OCC, saw Leo Arteta of MTC Br. 3 allegedly called by Judge Barcena regarding the approval of their PEFs, hence, we also decided to go to Judge Barcena to politely inquire if we can also courteously request Judge Barcena to approve our PEFs;

3.10 The folder containing our PEFs was left on the table of Ms. Cusipag as she temporarily left our office at that time but she left an instruction to Mr. Ulysses D. Dupaya that we can readily get said folder if ever Judge Barcena needs the same for his approval;

3.11 As such, we decided to bring the folder containing our PEFs to the chambers of Judge Barcena in order to request for his approval;

3.12 When we arrived thereat, we inquired from Avelina Evangelista, MTC-Br. 1 staff, if we can respectfully request Judge Barcena to approve our performance rating. Ms Evangelista instructed Mr. Pedro Cusipag, another MTC-Br. 1 staff, to inquire the same inside the chamber of Judge Barcena;

- 3.13 When Mr. Pedro Cusipag returned, he informed us to wait for a while because he was still busy, hence, we waited for further instruction;
- 3.14 After a few minutes, I saw Leticia I. Israel, Clerk of Court I of MTC-Br. 1, entered the chambers of Judge Barcena but I do not know if she noticed us as I was then seated behind the back door of MTC-Br. 1 while Ulysses D. Dupaya, Roy C. Rosales and Rosseler O. Israel were seated in benches of the session hall of MTC-Br. 1;
- 3.15 I noticed that Leticia U. Israel went out then returned back again. Likewise, I observed that Ms. Estelita Constantino, an MTC-Br. 1 staff, was also going in and out the judge's chamber as if looking for a document regarding the deadline of submission of PEF;
- 3.16 At about 12:00 o'clock noon, Ulysses D. Dupaya, Roy C. Rosales and Rosseler O. Israel told me that they will just go ahead in order to take their lunch. They requested me to stay behind in order to courteously inquire if we can leave the folder containing their PEFs and just return in the afternoon;
- 3.17 They even retorted that I should be the one to inquire because I have a very good professional relationship with Judge Barcena because they know that Judge Barcena even commented that I should be given an excellent in my performance rating due to my initiative in serving summons, subpoena and other processes of the court, thus, I acceded also to their request;
- 3.18 As such, I asked Mrs. Constantino in a well-mannered voice if we can leave the folder containing their PEFs and just return in the afternoon. Ms. Constantino, in turn, directed Ms. Corazon Vasquez to go inside the chamber to ask Judge Barcena regarding the same;
- 3.19 Ms. Corazon Vasquez entered the chambers of Judge Barcena and then she came out.
- 3.20 Then Judge Barcena also came out of his chambers, then he suddenly threw the folder containing our PEFs against one of the tables thereat;

x x x x x x x x x^[9]

In their Joint Counter-Affidavit,^[10] Dupaya, Rosales and Israel corroborated the statement of Lorilla and asserted that Abadilla did not give them their PEFs; that Abadilla did not instruct them to go to Judge Barcena for his signature; that they went to the office of Judge Barcena on their own volition; and that if they were not instructed to wait, they would have left the office of Judge Barcena immediately, but having been told to wait, they did so patiently.