

EN BANC

[A.M. No. P-16-3436 [Formerly A.M. No. 13-12-261-RTC], April 05, 2016]

REPORT ON THE THEFT OF COURT EXHIBIT BY ROBERTO R. CASTRO, UTILITY WORKER I, REGIONAL TRIAL COURT, BRANCH 172, VALENZUELA CITY

DECISION

PER CURIAM:

This resolves the report^[1] filed by Executive Judge Maria Nena J. Santos (Executive Judge Santos) of the Regional Trial Court (RTC) of Valenzuela City, Metro Manila with the Office of the Court Administrator (OCA), relative to the theft of court exhibit by Roberto R. Castro (Castro), a Utility Worker I at the RTC of Valenzuela City, Branch 172.

Facts

On February 4, 2013, Judge Nancy Rivas-Palmones (Judge Palmones), Presiding Judge of the RTC of Valenzuela City, Branch 172, sent a letter-complaint^[2] to Executive Judge Santos regarding the theft of court exhibit by Castro. Judge Palmones alleged that on August 31, 2011, the Internal Security of Valenzuela City Hall of Justice confiscated from Castro a caliber 9mm firearm with serial number BA009746 and a magazine therefor. Upon inquiry, Castro failed to present any license or permit to carry the firearm.^[3]

Thereafter, Castro was subjected to inquest proceedings by the Valenzuela Police Station, which recommended that he be indicted for illegal possession of firearm under Presidential Decree No. 1866, as amended by Republic Act No. 8294.^[4] Castro was eventually charged for illegal possession of firearm before the Metropolitan Trial Court (MeTC) of Valenzuela City, Branch 82.^[5]

Judge Palmones further alleged that they later on discovered that the firearm that was confiscated from Castro is the exhibit in Criminal Case No. 210-V-98, entitled *People of the Philippines v. Anthony De Gula Lopez*, which was decided by the RTC of Valenzuela City, Branch 172, on August 10, 2012. Apparently, sometime in November 2012, a certain Maria Elizabeth De Gula Lopez requested for the release of the subject firearm in Criminal Case No. 210-V-98 considering that accused Anthony De Gula Lopez was already acquitted of the charge against him. Osita De Guzman (De Guzman), Legal Researcher of Branch 172, searched for the said firearm, but to no avail. Eventually, De Guzman went to the Valenzuela Police Station where she discovered that the missing firearm in Criminal Case No. 210-V-98 is the same firearm that was confiscated from Castro.^[6]

In a separate incident, Judge Palmones, on May 25, 2011, was informed by De Guzman that a cable wire used as evidence in a case was missing. The theft of the cable wire is the subject of a separate administrative case.^[7]

Acting on the letter-complaint, Executive Judge Santos set the case for an informal and preliminary inquiry on February 15, 2013.^[8] During the inquiry, Castro averred that the subject firearm was actually handed to him by Atty. Levi Dybongco-Banez, the Clerk of Court (COC) of Branch 172, during an inventory of exhibits, with instruction to put the gun back in the exhibit room. Instead of complying with the instruction, Castro claimed that he put the gun inside his black shoulder bag, which he kept on top of his office table.^[9] He explained that he kept the gun because a certain Oca, a former utility worker in the RTC of Valenzuela City, challenged him to a gun fight outside the City Hall; he thought that the gun would be useful should Oca try to hurt him.^[10]

Accordingly, Executive Judge Santos recommended that an appropriate administrative complaint be filed against Castro since the latter admitted that he took the subject firearm, which is an exhibit in Criminal Case No. 210-V-98.^[11]

On July 24, 2013, the Court, upon recommendation of the OCA, placed Castro under preventive suspension and directed him to file his Comment within 10 days from notice.^[12]

In October 2013, Castro filed his "*Salaysay*"^[13] and his "*Sinumpaang Salaysay*"^[14] wherein he denied the allegations against him in Judge Palmones' letter-report. Contrary to his statements during the preliminary inquiry conducted by Executive Judge Santos, he denied that there was a gun inside his bag when he entered the Valenzuela City Hall of Justice on August 31, 2011. He insinuated that he was framed-up by the police officers, who placed a gun inside his bag when he left their office in the afternoon of the said date. While he admitted that he was indicted for the crime of illegal possession of firearms, he claimed that the MeTC of Valenzuela City, Branch 82, dismissed the indictment on March 4, 2013 for lack of evidence.

Report and Recommendation of the OCA

On November 21, 2014, the OCA issued its report,^[15] which recommended that Castro be dismissed from the service with forfeiture of all benefits except accrued leave credits, if any, and with prejudice to re-employment in any government office. The OCA pointed out that Castro did not dispute the charge of illegal possession of firearm and theft of firearm from the exhibit room, although he gave reasons therefor. The OCA opined that theft of court exhibit merits the penalty of dismissal from service.

With regard to the issue on the illegal possession of firearm which is an exhibit in a criminal case pending before his court, Mr. Castro pleads no contest as he promptly admitted to his unlawful possession of a gun, although he gave reasons why he had to possess and carry it. He asks forgiveness and another chance. However, he has given statements implying that he might go back to his old, illegal activities if he would be