

THIRD DIVISION

[A.M. No. P-10-2865 (FORMERLY A.M. OCA I.P.I. NO. 09-3044-P), November 22, 2010]

EXECUTIVE JUDGE AURORA MAQUEDA ROMAN, REGIONAL TRIAL COURT, GUMACA, QUEZON, COMPLAINANT, VS. VIRGILIO M. FORTALEZA, CLERK OF COURT, MUNICIPAL TRIAL COURT, CATANAUAN, QUEZON, RESPONDENT.

D E C I S I O N

BRION, J.:

This administrative case arose from a letter-complaint, dated May 24, 2007, by one who wanted to keep her identity confidential, addressed to former Chief Justice Reynato S. Puno, informing him of the alleged irregularities happening at the Municipal Trial Court (*MTC*) of Catanauan, Quezon. For purposes of this Decision, the letter-sender shall be referred to as the "informant."

The letter-complaint reported that respondent Clerk of Court Virgilio M. Fortaleza is the husband of stenographer Norberta Fortaleza and the brother-in-law of process server Gavino Otico Ramos. All three work at the *MTC*. On the basis of these relations, Norberta and Gavino got performance ratings higher than those given to the other *MTC* employees. The informant further claimed that the respondent made her sign blank performance evaluation forms without telling her what rating she would get, and added that she was not evaluated for the period July to December 2006. She likewise reported that the respondent is fond of attending cockfights during office hours, and allows Norberta to sign his daily time record during his absence. She also charged the respondent and his wife of using abusive words in addressing her in the presence of other people. Despite these specific charges, the informant still requested that her identity be kept confidential.

The Office of the Chief Justice referred the letter-complaint to then Court Administrator Christopher O. Lock for discreet investigation. The Office of the Court Administrator (*OCA*), in its letter of September 20, 2007, informed the informant that her allegations regarding the abusive conduct of the respondent and his wife, as well as the irregularities in the filling up of her performance evaluation sheet, cannot prosper without the disclosure of her identity. The *OCA* explained that the informant's testimony was needed to substantiate these charges. The *OCA*, nevertheless, stated that the informant's other charges, such as attending cockfights during office hours and tampering of attendance record, may be referred to Executive Judge Aurora V. Maqueda-Roman of the Regional Trial Court, Gumaca, Quezon, for investigation. Accordingly, the *OCA* referred the letter-complaint to Judge Maqueda-Roman for the conduct of a discreet investigation.

In her Report and Recommendation dated January 2, 2008, Judge Maqueda-Roman found merit in the allegation that the respondent had been "loafing on his job" and

recommended that he be meted a P3,000.00 fine, with a warning that a repetition of the same or similar acts will be dealt with more severely. Judge Maqueda-Roman dismissed the other charges against the respondent for lack of basis.

The Report and Recommendation of Judge Maqueda-Roman reads in part:

x x x x

After careful consideration of the testimonies of Virgilio Fortaleza and his co-employees including his wife at MTC Catanauan as well as the other employees at [DAR], Catanauan, Quezon and a policeman at MPS, Catanauan, Quezon, [the] undersigned Executive Judge of RTC, Gumaca, Quezon is inclined to believe that indeed Virgilio Fortaleza has been *loafing* in office. Even his wife, Norberta Fortaleza stated that once in a while, her husband, Virgilio Fortaleza leaves office, sometimes for half an hour and stays at the police station to smoke to while away his sleepy feeling. Other employees testified that at times[,] Virgilio left office and stayed out for less than an hour or for an hour or for two (2) or three (3) hours for two (2) or three (3) days a week. In this light[,] his co-employees differ in their estimate as to the duration of his stay out of office during office hours. Where Virgilio Fortaleza went out and stayed out of office has not been clearly established, it was not shown that he stayed out of office to attend cockfight[s]. No one of the witnesses disclosed and confirmed that he went out of office and attended cockfights during office hours.^[1]

In our Resolution dated February 11, 2009, the Court resolved to: (1) treat Judge Maqueda-Roman's Report and Recommendation as a complaint against the respondent and (2) require the respondent to submit his comment on the complaint. Thus, Judge Maqueda-Roman was made the nominal complainant.

The respondent, in his comment, admitted going to cockfights during Saturdays and Sundays, but denied doing so during office hours. He likewise admitted going out of his office either to smoke, read newspapers in the library, or communicate with the police on legal matters.

In our Resolution of July 6, 2009, we referred the case to the OCA for evaluation, report and recommendation. The OCA, in its Memorandum dated October 26, 2009, recommended that the respondent be held liable for loafing during office hours, and be suspended from office without pay for six (6) months.

The OCA explained that the testimonies of the various witnesses during the investigation, conducted by Judge Maqueda-Roman, established that the respondent had been loafing during office hours.

THE COURT'S RULING

After due consideration, we adopt the OCA's findings.

Court personnel must devote every moment of official time to public service. The