

EN BANC

[A.M. NO. CA-07-21-P, June 22, 2007]

**NELSON P. VALDEZ, COMPLAINANT, VS. ATTY. ANTOLIN
ALLYSON M. DABON, RESPONDENT.**

DECISION

YNARES-SANTIAGO, J.:

This is a complaint for Gross Immorality, Gross Violation of Administrative Matter No. 99-12-08-SC and falsification and/or misrepresentation, filed by Nelson P. Valdez against Atty. Antolin Allyson M. Dabon, Jr., then Division Clerk of Court of the Court of Appeals. Complainant is the husband of Sonia Valdez, then a Court Stenographer IV at the Court of Appeals, with whom Atty. Dabon allegedly had an illicit relationship.

The administrative case was subsequently assigned to Court of Appeals Associate Justice Rosalinda Asuncion-Vicente for investigation who issued an Order dated June 5, 2006 directing the parties to attend a preliminary conference on June 28, 2006.

On June 8, 2006, Process Server Fernando Sia made a report that he failed to serve a copy of the Order upon the respondent because the housemaid at respondent's address in Pandacan, Manila refused to receive the same. Sia proceeded to respondent's provincial address at Greenfields Subdivision in San Fernando, Pampanga, but the guard did not allow him to enter. In both instances, the housemaid and the guard informed Sia that respondent had left for the United States.

Thus, in an Amended Order dated June 16, 2006, the Investigating Justice cancelled the scheduled preliminary conference and directed the respondent to submit his Answer within 15 days from notice, otherwise, the case shall be deemed submitted for resolution. A copy of the Amended Order was sent by courier service to respondent's address in the United States.

On June 23, 2006, Pamela Ann B. Antonio, Trace Services Manager of Federal Express, informed Clerk of Court Tessie L. Gatmaitan that they failed to deliver the documents to Atty. Dabon at his address in the United States because "he is always out during delivery attempts."

Meanwhile, on June 28, 2006, complainant filed an *Ex Parte Motion to Refer for Question Documents and Fingerprint Examination Attached Exhibits*. Complainant alleged that on June 24, 2006, he received a parcel from a certain Nenita Palupayon of Quezon City containing two computer printed nude photos of his wife, Sonia Valdez, together with a compact disk showing the same photo. According to the complainant, this is a form of harassment which should not be countenanced.

On November 14, 2006, complainant filed an *Ex-Parte Manifestation and Motion* claiming that respondent has successfully held in abeyance the proceedings in the instant case by his stubborn refusal to receive and comply with the processes of the court.

On November 28, 2006, the Investigating Justice again directed the respondent to file his answer within 15 days from receipt of notice, failing which, the case shall be deemed submitted for decision.

In his report, Process Server Sia narrated that on November 30, 2006, he went to Pampanga but was informed by the guards at Greenfields Subdivision that Atty. Dabon is no longer residing thereat. He then went to Pandacan but the housemaid refused to receive the notices. She also informed him that respondent is still in the United States.

Thus, in an Order dated January 12, 2007, the Investigating Justice directed Sia to re-serve the envelope addressed to Atty. Dabon at his two aforesaid addresses and in case of refusal, to leave the same in the premises with a person of sufficient age and discretion residing thereat.

That same day, Sia went to respondent's Pandacan, Manila address and noticed that the house was locked. So he left the envelope underneath the door in the presence of a certain Pamela, who lives next door. On January 16, 2007, Sia went to Greenfields Subdivision in San Fernando, Pampanga and left the envelope with the guard on duty.

However, both envelopes were later returned to the Court of Appeals via LBC. An examination of the envelopes revealed that both had been opened.

Thereafter, the Investigating Justice deemed the case submitted for resolution.

In his complaint, Nelson alleged that his wife, Sonia, admitted to him that she engaged in an adulterous and immoral relationship with Atty. Dabon since November 2000. In March 2006, she decided to end the relationship but respondent would not agree. He started harassing and threatening Sonia. In one instance, respondent brought Sonia to a motel against her will. Their arrival caused a commotion which forced Atty. Dabon to drive back to the Court of Appeals. In another occasion, respondent forcibly boarded Sonia's car and refused to alight despite her pleas. Respondent likewise used members of his staff to deliver messages or packages to Sonia.

In his supplemental complaint, Nelson alleged that on May 16, 2006, or one day after the complaint was filed, respondent surreptitiously left for the United States without securing a travel authority from the Supreme Court. He likewise averred that in his Embarkation Card, Atty. Dabon indicated that he is a lawyer without disclosing that he is also a government employee.

On the basis of the complaint and the evidence submitted by the complainant, the Investigating Justice found as follows:

In his sworn letter-complaint dated May 15, 2006, complainant alleged that respondent had an adulterous and immoral relationship with his

wife, Sonia Valdez, for a span of five years; that he only came to know of the said adulterous relationship on April 18, 2006 from an anonymous text message; that Sonia admitted that the relationship started sometime in November 2000 and continued until March of 2006; that Sonia, bothered by her conscience, decided to break off with respondent who, however, persisted communicating with her, threatening and harassing her through phone calls and handwritten messages; that Sonia, in her effort to stop said harassment, decided to speak with respondent one last time aboard respondent's car somewhere along Roxas Boulevard, however, respondent instead took her into a motel; and that Sonia parried respondent's advances by being hysterical, which prompted respondent to drive her back to the office.

In another incident on March 13, 2006, respondent forcibly boarded his wife's car at the Court of Appeals parking lot; and that it was only upon pleas of Sonia's officemates, Atty. Heiddi Barroso and Atty. Aileen Ligot, that respondent alighted from the car. Complainant also alleged that respondent continuously made threats to reveal their illicit relationship if Sonia would not reconcile with respondent, thus, Sonia was forced to shun respondent's calls in her office and to change their house phone number.

On May 4, 2006, complainant allegedly received text messages from respondent's wife, Atty. Joy Dabon and from respondent himself, apologizing and asking forgiveness for the incident. Said messages read as follows:

"A) Text message from Atty. Joy Dabon:

'Nelson, Jun and I were separating I will file an annulment anytime soon, although I'm in great pain, I ask for your apology and forgiveness for everything he is leaving for US and I hope he evolves into a strong and mature person there. D. cya masamang tao, just emotional and easily manipulated. Sana don't blame entirely bec. he is the type that never initiate things. He is passive and tame. He was honest with me and I hope Sonia would find the courage to tell d truth to you. I just pray for peace and a fresh start for all of us. I just want to go on with my life and use above all of these for my son's sake. I love jun and I appeal to you na sana wala ka maisip sa atin lahat. Just as I have accepted everything. Salamat sa panahon and pangunawa. God bless.'

B) Text message from respondent:

'Nelson alam ko wala akong pwedeng sbhin at dis pt. na makakagaan mo o makapagbabalik ng nakaraan. I did the terrible n hurtful things. I did thinking only of my selfish desire to hurt Sonia. Naisip ko kasi nun she just used me for her own personal reasons at nung nasa ere na ako, bigla niya ako binitawan.'"

In his Supplemental Complaint-Affidavit dated May 19, 2006, complainant alleged that respondent surreptitiously left the country on May 16, 2006 to evade the administrative complaint filed against him;

and that respondent committed acts of falsification and/or misrepresentation when respondent deliberately omitted to disclose that he is a government employee to avoid presenting the required Authority to Travel, which he did not have at that time, in violation of Administrative Matter No. 99-12-08-SC.

Complainant's allegations are corroborated by the following:

1. Atty. Heiddi Venecia Barrozo and Atty. Aileen T. Ligot, Court Attorney IV of this Court, who executed a Joint Affidavit alleging that sometime in March 2006 at around 5:00 in the afternoon, Sonia asked them to accompany her to the parking lot of the Court of Appeals because respondent refused to disembark from her car; that upon arriving at the parking lot, they saw respondent sitting in front of Sonia's car; that Sonia shouted and demanded that respondent get out of the car but the latter refused and insisted on talking with Sonia; that the commotion started drawing attention so they begged respondent to alight from the car, who then obliged.

Atty. Barrozo and Atty. Ligot further alleged that they received a text message from respondent the next day requesting them to see him in his office; that respondent told them that "alam ko na malaki and kasalanan ko kay son, at alam ko na imposible na nya akong mapatawad..." and begged them to convince Sonia to talk and settle things with him; that respondent kept sending them text messages such as: "musta na sya?", "nakakakain ba sya?", "pumunta ba sya sa gym ngaun?", "Sana mapatawad na nya ako...", "mahirap para sa akin ito.", "Hindi ko na kaya, sana naman maconvince nyo sya na kausapin na ako..."; that they told respondent that Sonia refused to talk with him; and that on May 10, 2006 at 11:00 in the morning, Atty. Ligot received another text message from respondent which reads: "Gud am aileen. Alam ko na kahit papaano kapakanan pa rin ni sonia nasa isip nyo, na gagamitin kayo to testify against me. Pero kung talagang mahalaga pa rin si sons sa inyo, isipin nyo twice if wat u wil do wud help her or makakahirap pa sa kanya..."

2. Virginia D. Ramos, Court Stenographer IV in the Office of the Presiding Justice, who executed an Affidavit alleging that sometime in the third week of April 2006, she received some telephone calls at the local line from respondent expressing his desire to speak with Sonia but the latter refused to speak with him; that sometime in the fourth week of April 2006, respondent went to their office located at the third floor of the Court of Appeals main building, supposedly to inquire about some court matters from her officemate, Mr. Raul Yumang; that respondent also proceeded to Sonia's working area who was surprised and infuriated upon seeing respondent; that Sonia asked respondent "Ano kailangan mo dito?" and the latter replied "May kukunin lang ako kay Mang Raul.", then Sonia said "Dun ka lang sa labas, huwag kang lumapit sa akin!"; and that respondent hurriedly left their office after the