

## FIRST DIVISION

[ A.M. No. P-03-1672, June 08, 2007 ]

**PETER A. DE VERA, JR., COMPLAINANT, VS. ALEXANDER C. RIMANDO, CLERK OF COURT IV, MUNICIPAL TRIAL COURT IN CITIES, OLONGAPO CITY, RESPONDENT.**

### D E C I S I O N

#### **GARCIA, J.:**

Under consideration are (1) the sworn letter-complaint<sup>[1]</sup> filed with the Office of the Court Administrator (OCA) by herein complainant Peter A. de Vera, Jr. (De Vera), Clerk of Court III of the Municipal Trial Court in Cities (MTCC), Office of the Clerk of Court (OCC), Olongapo City, charging his co-employee, herein respondent Alexander C. Rimando (Rimando), Clerk of Court IV, with ***grave misconduct and conduct prejudicial to the best interest of the service***; and (2) respondent's amended-answer with amended counter-complaint<sup>[2]</sup> charging complainant De Vera with ***insubordination, discourteousness and gross misconduct***.

The factual antecedents are as follows:

Complainant De Vera joined the government service on November 18, 1992, starting as legal researcher at the Regional Trial Court (RTC), Branch 73, Olongapo City. On May 31, 1999, he was promoted to the position of Clerk of Court III or Assistant Clerk of Court of the MTCC, OCC, Olongapo City, making respondent Rimando, Olongapo City's MTCC Clerk of Court IV, his immediate supervisor.

Sometime in January 1996, at which time De Vera was still with the RTC, one Mila Martinez lodged before the OCA an administrative complaint for ***grave misconduct*** against Rimando and Sheriff Abraham Almazan. That case, docketed as Adm. Matter No. P-96-1204A, ended up with the Court finding both Rimando and Almazan guilty of gross inefficiency and incompetence and meting upon each of them the penalty of suspension for six (6) months and a fine.

Owing to the above development, then MTCC Executive Judge Reynaldo Laigo of Olongapo City designated, on April 26, 2000, De Vera as the Acting Clerk of Court of the MTCC, Olongapo City, the designation to last for the entire duration of Rimando's suspension.

After the issuance of the Decision in Adm. Matter No. P-96-1204A, Rimando, according to De Vera, started to exhibit a belligerent attitude towards him. Rimando, it would seem, suspected De Vera of having a hand in his eventual suspension from office.

De Vera would further allege in his complaint that Rimando's arrogance became more pronounced upon his return for work following his suspension. And in what De

Vera described as a display of vindictiveness, Rimando declined to give him (De Vera) work assignment, thereby effectively stripping him of official duty. In fact, De Vera adds, Rimando, even if absent, would authorize other subordinate personnel, instead of him (De Vera), to act for Rimando's behalf, in disregard of the hierarchy of functions set forth in the Manual for Clerks of Court.

Sometime in 2002, De Vera was detailed to another branch of the RTC as legal researcher. He claims that upon his return to his mother unit, Rimando subjected him to all kinds of harassment. In this regard, De Vera mentioned a June 10, 2002 incident where a court employee, Marites Morales, was seen entering De Vera's office. Thereafter, Rimando allegedly asked Ms. Morales to step into his room and, at the top of his voice, then uttered the following: "*Ano na naman ang ginagawa nyo doon? Putang ina yan*" (referring to complainant). When confronted about his cutting remarks, Rimando allegedly merely gave De Vera the usual menacing looks and ended their encounter with the same "*Putang ina mo*" line.

What, according to De Vera, finally prompted him to address his letter-complaint to the OCA was when his plea for the intercession of the MTCC Executive Judge went for naught.

On July 9, 2002, Rimando, by way of compliance with a directive from Acting Court Administrator Zenaida N. Elepaño, submitted, before the office of the Olangapo City MTCC Executive Judge an answer to the complaint with counter-complaint. Over a month later, an amended answer with counter-complaint followed.

In his amended answer,<sup>[3]</sup> Rimando denied having blamed De Vera for his suspension or as having issued any memorandum stripping the latter of his duties as assistant clerk of court. As if to prove his point, Rimando drew attention to the "*highly satisfactory performance*" rating he gave De Vera for the period from July 1999 to December 2001.<sup>[4]</sup>

Rimando also averred in his answer that it was De Vera who started the "p ...g-ina mo" incident which triggered the shouting match between them. And *vis-à-vis* allegations depicting him as threatening to inflict bodily harm on De Vera, Rimando countered that he cannot possibly harm someone who, like De Vera, is physically superiorly-built. He also denied having been involved in any physical altercation since his appointment as clerk of court in 1987, adding that it was De Vera who had the tendency towards notoriety.<sup>[5]</sup>

Acting on the recommendation of the OCA, the Court, in a resolution dated January 13, 2002, directed then Executive Judge Eliodoro G. Ubias, RTC, Olangapo City, to conduct an investigation on the case and thereafter to submit a report and recommendation thereon.

In compliance with the Court's directive, Executive Judge Avelino A. Lazo, who took over from Judge Ubias in the conduct of the required investigation, submitted a Report dated August 9, 2006, thereunder finding the charges against respondent Rimando to be without basis. Accordingly, Judge Lazo recommended the dismissal of De Vera's complaint on the following rationalization:

The undersigned noted that no substantial evidence was adduced to prove that respondent is guilty of grave misconduct and conduct prejudicial to the best interest of the service. Nor what was alleged to have been uttered by respondent on several occasions means so much in this investigation. The phrases "*Putang ina yan*" or "*Putang ina mo*," assuming that respondent uttered such remarks viewed from its context, is not of such serious and grave character. It is a common expression in the dialect which is uttered everyday. Not to slander the one it is directed but a kind of reprimand or at times to express some anger or displeasure.

Insofar as the imputation that respondent threatened to assault complainant, it is unbelievable considering that the former is aware of his physical built compared to him. It is unthinkable that sane and educated person like respondent will enter into a situation where he will just endanger himself to serious physical injuries.

The allegation that respondent's actuations are prejudicial to the best interest of the service when the latter intentionally did not delegate his duties to the complainant as Assistant Clerk of Court is baseless and uncorroborated. There is no record of any grievance by civilians/litigants that their transaction with the MTCC, OCC was ever delayed or slow-moving.

Judge Lazo, however, urged that respondent Rimando be advised to control his temper and watch his language to avoid being misunderstood by his subordinates and the public.

Asked for its own evaluation and recommendation on the Lazo Report aforementioned, the OCA submitted a memorandum-report dated January 11, 2007. In it, the OCA, citing *Quiroz v. Orfila*,<sup>[6]</sup> recommended that both complainant De Vera and respondent Rimando be adjudged guilty of simple misconduct for shouting at each other within court premises and each fined in the amount of P1,000.00. The OCA further recommended that an additional fine of P1,000.00 be imposed against Rimando for conduct prejudicial to the best interest of the service. Partly wrote the OCA:

After careful evaluation of the record of the case, the undersigned mainly agrees with the report and recommendation of the investigating judge. However, the undersigned believe that the fighting of court employees inside the court room or even a shouting match inside the court room should not be condoned. Complainant and respondent, both being court employees should be reminded that courts are looked upon by the people with high respect and are regarded as sacred places, where litigants are heard, rights and conflicts settled and justice solemnly dispensed. Misbehavior within and around their vicinities diminishes their sanctity and dignity (*Bedural vs. Edroso*, AM. No. 00-1395, 12 October 2000). By having a shouting match inside the Office of the Clerk of Court, the parties have failed, not only to observe the proper decorum expected of members of the judiciary, they have failed to promote public confidence in the integrity and impartiality of the judiciary.