

THIRD DIVISION

[A.M. NO. P-06-2252 (FORMERLY OCA IPI NO. 06-2391-P), July 09, 2007]

**VIRGINIA D. SEANGIO, COMPLAINANT, VS. COURT
STENOGRAPHER III, REGIONAL TRIAL COURT, BRANCH 36,
MANILA, RESPONDENT.**

R E S O L U T I O N

AUSTRIA-MARTINEZ, J.

Before the Court is a letter-complaint-affidavit^[1] dated February 6, 2006 of Virginia D. Seangio (complainant) charging Julieta F. Parce (respondent), Court Stenographer III, Regional Trial Court, Branch 36, Manila, with Conduct Unbecoming a Court Personnel relative to SP Proc. No. 98-90870, captioned *In the Matter of the Intestate Estate of Segundo C. Seangio, et al.*

Complainant alleges: On May 20, 2002, she was appointed as the administratrix of the estate of the late Segundo C. Seangio. On August 25, 2005 and September 5, 2005, she took the witness stand to testify on the correctness of her inventory and account, with respondent as the assigned stenographer. Respondent made the transcript of stenographic notes (TSN) available only on November 7, 2005, despite several follow-ups. There were numerous variations and discrepancies in the said TSN vis-à-vis those material matters testified to, if not a total deviation from, the actual testimonies. The August 25, 2005 TSN does not have page 9; thus, there appear to be gaps in the flow of discussions indicating untranscribed discussions and exchanges of arguments. In the TSN, respondent attributed to her statements which she did not make and statements which were transcribed differently from what were actually testified to. Her counsel filed a Motion for Correction of the TSN. Acting on the said Motion, the court directed respondent to appear on a scheduled date and bring with her the tape recordings for the hearings held on April 29, 2005, August 25, 2005 and September 5, 2005, and to effect the necessary correction on the TSN. When the tape recordings were played, they discovered that it was not properly reflected in the TSN, such that, those written on page 77 were followed by the transcription supposed to be found on page 82, while those found on pages 78 to 81, were found in another portion of the tape; and after page 81, it went back to page 78. The tape recording for April 29, 2005 was no longer available because respondent had already re-used the tape for another hearing, although the other stenographers claimed that it is not their practice to recycle any tapes. Also, respondent declared that it was not her practice to submit to the court, or attach to the case folder, her untranscribed handwritten notes, which is in violation of the rules.

In her letter-comment^[2] dated March 31, 2006, respondent avers: There were no variations in the TSNs taken during the August 25, 2005 and September 5, 2005 hearings. The lacking page in the TSN of August 25, 2005, particularly page 9, was

a clear error in placing the page numbers. A review of the tape recordings of August 25, 2005 would show that there was no gap in the flow of the discussion as it appeared on pages 8 and 10. As to the allegation that the manifestations of the counsels were not in order, it has always been her practice to make a draft of the TSN especially when it is very lengthy and a controversial one. It so happened that her drafts were not numerically arranged or continuous. Thus, when she made the final form, she did not notice that the pages were not in order. However, a review of the tape does not indicate any missing statement. Considering the voluminous notes, it was not attached to the case records. The usual practice of court stenographers using the stenotype machine is to transcribe them and submit the final form to the Clerk of Court with copies furnished to the parties. The delay in the submission of the August 25, 2005 and September 5, 2005 TSNs was not deliberately done but due to heavy workload, as she was not only working for Branch 36 at that time but also assisting the sala of Judge Marino dela Cruz, whose stenographer was on leave. Judge Amor Reyes of Branch 21, to whom the subject case was assigned, also asked for her assistance; and, in relation to the hearings for the inventory and accounting of the complainant, she had been the stenographer-on-duty for eight times already. For 32 years in the service, not a single case has been filed against her due to discrepancies in her TSNs. She will never alter her TSNs being aware that she will be criminally liable if she tampers with them. With respect to the April 29, 2005 tape, she relied on the manifestation of complainant's counsel that only one correction has to be made on the April 29, 2005 hearing. Thus, she informed complainant's counsel that the said tape was no longer available, having used the same in another hearing. The Supreme Court does not provide court stenographers with free blank tapes; and after reviewing the TSN, and for economic reasons, they re-use the tape for other cases.

In the Agenda Report^[3] dated August 16, 2006, the Office of the Court Administrator (OCA) submitted its evaluation and recommendation, to wit:

EVALUATION: Although we find merit in the present I.P.I., we don't find the acts and omissions complained of to be constitutive of "Conduct Unbecoming a Court Employee." Instead, we hold that respondent is guilty of Simple Neglect of Duty.

The complaint against respondent is primarily anchored on the alleged "discrepancies and variations" in the TSN prepared by respondent and with the matters that had been actually testified to by the complainant during the hearings on August 25, 2005 and September 5, 2005 for the latter's testimony on her Inventory and Account as Administratrix of the Estate of the late Segundo Seangio. In particular, complainant pointed to the following statements as the ones which were erroneously transcribed and are compared to the respective versions of the parties:

| Submitted transcription | Correct Statement |
|---|---|
| 1. "That will be what I have intended, part with everything that I have. I will put it in the estate." (TSN, 8/25/05) | 1. <i>Complainant's version (CV)</i> : "That will be an insult to my intelligence for me to give everything I have to the Estate." <i>Respondent's version</i> |

(RV):

"That will be insulting my intelligence to part with everything that I have and I put it in the estate and not" (correct version per TSN, 11/14/2005)

| | |
|---|--|
| 2. "I don't know what is in the mind of my father, why it was not negotiated to me. You ask him, he is already dead." (TSN, 9/5/05) | 2. CV: "I don't know, you ask my father." RV: same/correct transcription per review of the tape |
|---|--|

| | |
|--|--|
| 3. "I made it in the inventory. Here, that's not complete." (TSN, 8/25/05) | 3. CV: "It is all in the inventory and marked from Exhibit "3" to "365". RV: same/correct transcription per review of the tape. |
|--|--|

| | |
|--|---|
| 4. "I am not aware of any dividend. I already answered. I keep on repeating." (TSN, 8/25/05) | 4. CV: "I am not aware of any dividend, I already answered. You keep repeating the question, I keep repeating the answer." RV: same / correct transcription per review of the tape |
|--|---|

Although attached to the record of the case is a copy of the TSN dated January 30, 2006 covering the proceedings that took place during the hearing for the correction of the August 25, 2005 and September 5, 2005 TSNs, the above mentioned portions are not covered or reflected therein. Except for the first statement, there is no way for us to determine from the records whose version is correct or what should properly appear in the subject TSNs.

With respect to the first statement, it is certain that respondent recorded and submitted a wrong transcription as she herself stated in her Comment the correct statement that should have appeared in the TSN based from the re-playing of the tape recording. Said correction is also reflected in the TSN dated November 14, 2005 attached to the record. This is not an isolated mistake however, as perusal of the TSN dated January 30, 2006 reveals more erroneous transcriptions xxx

x x x x

Respondent also failed to comply with par. 1, Section 17 of Rule 136 of

the Rules of Court as embodied in paragraph (a) Chapter 6 Section D subsection 1.2.2.3 of the 2202 Revised Manual for Clerks of Court and reiterated in Administrative Circular No. 24-90 which all provide:

Duties of stenographers — It shall be the duty of the stenographers who has attended a session of a court either in the morning or in the afternoon to deliver to the Clerk of Court immediately at the close of such morning or afternoon session, all the notes he has taken to be attached to the record of the case: and it shall likewise be the duty of the Clerk of Court to demand that the stenographer comply with said duty. The Clerk of Court shall stamp the date on which such notes are received by him. When such notes are transcribed, the transcript shall be delivered to the Clerk, duly initialed on each page thereof, to be attached to the record of the case.

Respondent is also guilty of delay in the transcription of her stenographic notes. As alleged by complainant and as admitted by respondent, the TSNs for the August 25, 2005 and September 5, 2005 hearings were made available only on November, 2005 which is way beyond the 20-day period provided in the Circular and said Manual for Clerks of Court, xxx

x x x x

In her attempt to shield herself from liability, respondent raises her heavy workload in defense. While in this particular case it may be taken as a mitigating circumstance, respondent cannot be totally exonerated therefrom. x x x

With respect to the non-production of the tape recording covering the April 29, 2005 hearing, we cannot directly fault respondent absent any rule or circular governing the use and utilization of these mode for recording court proceedings. The use of cassette tape and cassette player, though not directly provided for by the Rules are neither prohibited by the court and hence may be resorted to by the court stenographers for a more efficient and convenient performance of their duties at their instance and account. This explains the non- disbursement of court funds for these materials.

With all the foregoing, we believe that respondent had been remiss and negligent in her duty. However, from the records, we see no apparent ill or malicious motive on her part for her non- feasance and misfeasance. Absent any attribution and substantial proof of fraud or bad faith on the part of respondent, (her) failure to transcribe the stenographic notes on time, (her non- attachment of the stenographic notes to the record of the case and her not too accurate recording of the court proceedings) constitute simple neglect of duty. Defined as a disregard of, or a failure to give proper attention to a task expected of an employee, simple neglect of duty signifies carelessness or indifference. (*SPO2 Jonathan M. Alcover, Sr. vs. Edgardo Y. Bacatan, A.M. No. P-05-2043, December 1, 2005*).