

THIRD DIVISION

[A.M. NO. P-05-2040, January 24, 2006]

ATTY. LELU P. CONTRERAS, COMPLAINANT, VS. TERESITA O. MONGE, CLERK IV, REGIONAL TRIAL COURT, IRIGA CITY, RESPONDENT.

RESOLUTION

QUISUMBING, J:

This administrative matter arose from the **Complaint**^[1] of Atty. Lelu P. Contreras, Clerk of Court VI and Ex-Officio Provincial Sheriff, Regional Trial Court (RTC), Iriga City, against respondent Teresita O. Monge, Clerk IV of the same court, for gross insubordination.

In her Complaint, Atty. Contreras averred that respondent Monge verbally assaulted her on July 20, 2000, a few days after the latter returned to work from a long absence due to sickness. Complainant narrated that on that day, when Executive Judge Ernesto B. Amisola went to her office to bring some documents, respondent Monge approached the judge. Complainant averred that she heard respondent complaining to the judge about a memorandum she issued to respondent. Complainant herein tried to butt in but respondent prevented her and uttered "*pumundo ika siton, Attorney!* (You shut up there, attorney!)". Respondent continued her verbal tirade even after Judge Amisola left complainant's office. This was witnessed by Atty. Ramon C. Avengoza, Assistant Clerk of Court, who tried to mollify respondent. Thereafter, respondent left the complainant's office, meanwhile uttering loudly: "*Di ako makipaglevel kanimo ta pagtaod mo pirmi ikang tama!* (I will never level with you because you think you are always right!)".

It appears that the foregoing incident stemmed from the memorandum, dated July 11, 2000, which Atty. Contreras issued to respondent Monge because of the latter's failure to give the Clerk of Court's office a notice of absence in case of a sick leave as required by the Civil Service Rules. Complainant avers that during Monge's four-week absence, she did not give any notice of absence. According to Atty. Contreras, she merely overheard from their co-workers that Monge was sick. Complainant averred that although Monge called, she did so only after receiving the memorandum. Respondent did not acknowledge her fault, but mockingly commented that instead of receiving a "get-well-soon" card, she instead received a memorandum. In addition, when respondent went back to work on July 17, 2000, she did not personally report to the Clerk of Court, which normally should have been done after an employee's long absence. Complainant added that Monge's claim that respondent had instructed her son-in-law to inform complainant about her illness, was a lie.

In her Comment, ^[2] dated October 6, 2000, respondent Monge denies uttering the harsh words attributed to her by complainant. She says that after she went back to

work, she did not report to Atty. Contreras but went directly to the judge because she felt that Atty. Contreras would not listen to her explanation. On July 20, 2000, she talked to Judge Amisola to explain her side regarding the memorandum. While she was talking to the judge, Atty. Contreras angrily interrupted them, prompting Judge Amisola to walk away.

Respondent, for her part, avers (1) that complainant Atty. Contreras in another instance had displayed arrogance towards Judge Alfredo D. Agawa in a misunderstanding over an air-conditioning unit; (2) that complainant was always engaged in cross-stitching during office hours; (3) that complainant orders court employees to perform unofficial tasks; and (4) that complainant altered respondent's performance rating for the second semester of 1997 from *Very Satisfactory* to *Satisfactory*.

Attached to respondent Monge's Comment were the approved applications for sick leave for the period beginning June 19 to June 30, 2000, and from July 3 to July 14, 2000, and her letter complaining to Hon. Judge Orlando L. Espinas about the alterations made by Atty. Contreras on her Performance Rating for the second semester of the year 1997.

After Judge Mulry P. Mendez, Regional Trial Court of Iriga City, inhibited herself from investigating, reporting, and recommending action on the case, RTC Vice-Executive Judge Josue F. Ernacio was assigned these tasks. [3]

In his Report of Investigation, [4] dated January 6, 2005, Judge Ernacio stated that: 1) respondent failed to give notice of absence to the office or the complainant during her absence; 2) there was no substantial evidence to show that respondent exhibited disrespect towards the complainant; 3) the alteration made on respondent's performance rating was valid and not without authority; and 4) during the misunderstanding anent the air-conditioning unit, Judge Agawa testified that complainant did not commit any misconduct.

Judge Ernacio concluded that respondent could not be held guilty of gross insubordination. Instead, he recommended that respondent Monge be reprimanded for failing to give notice of her absences on account of her sickness.

On respondent's countercharges, complainant readily admitted that during break times or even lull times in the office, she did cross-stitching but she claimed that this did not affect her work. Likewise, complainant admitted directing Mario Eleno B. Gonzales to perform work outside his duties. Thus, Judge Ernacio recommended that Atty. Contreras be warned and advised not to use any subordinate to do extra work during office hours.

The Office of the Court Administrator (OCA) agreed with the investigator, Judge Ernacio, that respondent Monge could not be held administratively liable for gross insubordination but should be disciplined for violation of the Civil Service Rules. The OCA recommended that Monge be reprimanded and sternly warned that a repetition of the same or similar acts in the future shall be dealt with more severely. [5]

Further, the OCA agreed with the investigating judge, that Atty. Contreras erred in directing her subordinate to do extra work during office hours. Thus, the OCA