

## EN BANC

**[ A.M. NO. 03-11-29-SC, June 08, 2005 ]**

**RE : REPORT OF MR. DOMINADOR P. ITLIONG, OFFICER-IN-CHARGE, BAGUIO CITY**

### DECISION

**AZCUNA, J.:**

This involves two (2) reports submitted to Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer of the Office of Administrative Services (OAS), this Court, by Dominador P. Itliong, Supervising Judicial Staff Officer and Officer-in-Charge (OIC) of the Court's Security Division detailed in Baguio City, with regard to the September 20, 2003 incident when Henry Omega Diaz,<sup>[1]</sup> a reporter of the ABS-CBN [Channel 2] network, accompanied by a cameraman from the same network, entered the Court premises in Baguio City without seeking prior permission and took footages of the ongoing construction of the cottages for the Justices of the Court.

In a report dated September 27, 2003,<sup>[2]</sup> Itliong narrated the incident as follows: Based on his inquiry from the foreman, construction workers, and other persons present at the time of the incident, at around 2:00 p.m. of September 20, 2003, Diaz, then staying at the Baguio Convention Center, sought permission to enter the Court premises, but was denied entry. However, when a delivery van entered the place, Diaz and the cameraman took the opportunity to get in. They tried to enter the place where the cottages are located, but were denied access by S/G Stevenson V. Tugas, Sr., Detailed Gate Guard for the second shift, 1500H-2300H (or from 3:00 to 11:00 p.m.). At around 4:35 p.m., Diaz and the cameraman moved in further through the pathway at the back of the compound and began taking footages of the ongoing construction. Diaz was able to interview one Alfredo Rigodon, Jr., a granite setter. According to Andy Itliong, Itliong's nephew, after Ricky Pelaje (a construction worker) called the attention of the Court guards about the presence of Diaz, Tugas responded. Tugas had a pleasant conversation with Diaz for about five minutes and even accompanied the latter to the Staff House. They apparently exchanged numbers of their mobile telephones (cell phones). The logbook of the contractor, Gulf Builders Development Corporation,<sup>[3]</sup> recorded that the taking of the footages started from 1608H (or 4:08 p.m.) and lasted for 20 minutes (or until 4:28 p.m.); however, the same was never reflected in the Security Guard's logbook,<sup>[4]</sup> thus,

20 September 2003 \*Saturday\*  
– Second Shift – 1500H–2300H  
Duty Guards:  
1. Tugas, S. V.  
2. Villanueva, A.  
De Guzman, I. Jr. – S/C

Itliong, D. P. – OIC

. . .

Re: No untoward incident to be noted w/in the duration of our duties.

Itliong asked Tugas why the matter was not reported immediately, but the latter replied that he was "trying to protect the Court." Itliong added that at the time of the incident, he was out of the compound inquiring about the bathroom accessories to be installed at one of the old cottages. When he came back, Tugas did not report the matter to him or to Inocencio C. De Guzman, Jr., Security Guard III and the Shift-in-Charge (Shift Supervisor). He also mentioned that only Court employees and members of his household knew about the existence of the said route which he and his family frequently use as passageway to their house.

In a supplemental report dated October 1, 2003,<sup>[5]</sup> Itliong attached the affidavits<sup>[6]</sup> of Inocencio C. De Guzman and Delfin Cariño (another guard), respectively, wherein they declared that S/G Arturo C. Villanueva, Detailed Roving Guard for the second shift, 1500H-2300H (or from 3:00 to 11:00 p.m.), admitted to them that he was the one who informed Diaz about the passageway located at the back of the compound. Itliong raised his observation: that the passageway was not readily visible to the passersby; that after Villanueva had allowed Diaz to enter the premises, Tugas did nothing to request Diaz to immediately leave the area; that such unusual incident should have been entered in the Security's logbook; that in the past, Villanueva and Tugas had been vocal in expressing their dissatisfaction regarding his policies; and that the probable reason why the two did not report the incident was to pass the blame to him as the passageway was at the back of his house.

In the undated joint Explanation Report<sup>[7]</sup> of Tugas and Villanueva, they averred that since Diaz and the cameraman had no authority from the Security Office to proceed to the construction site, they were denied entry; that ten (10) minutes later, upon being informed by a construction worker that the two were in the vicinity, they responded; that when they reached the place, they saw Diaz and the cameraman leaving the construction site via "the back gate[,] down to the Military Cut-Off road where they parked their service vehicle"; and that they observed that the "back gate is vulnerable to intruders because of the following reasons: 1. It has no security padlock, 2. No control sign, and 3. It is use[d] as an access point of the OIC and his family heading to their residence."

On October 11, 2003, Atty. Ma. Carina M. Cunanan, Assistant Chief of Office, OAS, and Antonio Pedroso, Investigator, Security Division conducted an investigation at the Conference Room of the Baguio office. They concluded that Diaz and a cameraman gained entry to the Court premises due to the neglect of duty of both guards as the passageway cannot be readily seen from the main road unless one was specifically directed to it.

In a memorandum dated November 17, 2003, Atty. Candelaria found both Villanueva and Tugas guilty of simple neglect of duty and recommended their suspension each for one (1) month without pay and without prejudice to the Court's action to be taken on the casual appointment of Tugas, thus:

There were two (2) guards on duty on the said date, Mr. Arturo Villanueva, a permanent employee and Mr. Stevenson Tugas, a casual security guard. It was Mr. Stevenson, who talked to Mr. Omega-Diaz and denied his entry.

However, in a matter of minutes after the said denial, Mr. Omega-Diaz found his way to the construction site through the private passage of Mr. Dominador Itliong which is just a meter away from the site. According to Atty. Cunanan and Mr. Pedroso, this way very surprising since the private passage of Mr. Itliong cannot be seen from the main road. One cannot simply guess its existence unless one was specifically directed to it. Likewise, if the said passage can really be seen from the main road and it may pose a danger to the Court, these guards on duty should have anticipated the move of Mr. Omega-Diaz.

It was also revealed that it was Mr. Tugas who later drove away Mr. Omega-Diaz from the site, after footages of the on-going construction were already taken. Though he volunteered to drive away Mr. Omega-Diaz, this was made after their brief conversation.

Based on the affidavit executed by Mr. Inocencio de Guzman, it was Mr. Villanueva who told Mr. Omega-Diaz the other way to the construction site.

The logbook of the Security Guards was also inspected and it was discovered that the incident was never blottered/entered in the security guards' logbook, nor was their supervisor immediately informed of the matter. Mr. Tugas[,] when confronted about the matter, instead of responding[,] allegedly boasted that even if Mr. Omega-Diaz was denied entry in the main gate, he still has an option. This statement presumably points to the private gate of Mr. Itliong.

Further inquiry from the guards on duty reveals that the reason why they allegedly failed to log the said incident was to protect Mr. Itliong. Yet, in so doing, they just cannot explain how Mr. Omega-Diaz came to know about the private passageway where he was able to gain entrance to the site. Nor could they recall whether an incident similar to this happened with the use of the said passageway. All that they said was this is the first time this has ever happened. In fact, they confirmed that the said passageway has been in existence for about sixteen (16) years and no untoward incident has ever happened using the said gate.

What was even more perplexing was the fact that the whole incident was reflected in the private logbook of the contractor (Gulf Builders) but not in the Court's logbook.

In an attempt to cover up their lapses, Tugas submitted an unsigned explanation report which was ante-dated to make it appear that right then and there the incident was already brought to the attention of his supervisor. Unknown to him, this was not corroborated by the Security's logbook.

The issue to be resolved is not whether media has the right to take footages of the on-going construction of the Justices' cottages but whether the guards on duty allowed the entry of Mr. Omega-Diaz through the private passageway of Mr. Itliong without any authority from the Court.

As a backgrounder for His Honors' information, Mr. Stevenson Tugas, Casual Security Guard, has been a perennial complainant of a number of things, from the leadership style of Mr. Itliong to the schedules of tour of duty and Mr. Itliong's discretion in approving/disapproving leave applications. Just recently, he filed a complaint against Mr. Itliong in the Grievance Committee which was already resolved. He seems to be discontented with a lot of things and he tends to foment intrigues which sometimes resulted to dissention from his fellow guards. Mr. Villanueva on the other hand is one of his followers.

While this Office do[es] not condemn the act of ABS-CBN in taking footages, what is highly detestable however is the manner it was taken with the aid of our very own Security Guards. Mr. Villanueva and Mr. Tugas are Security Guards and by the very nature of their work are mandated to protect the lives and limbs of the Justices, officials and employees of the Court and its interests, secure the premises and protect its property from pilferages. Under no circumstances must their duties be compromised to advance their interests, otherwise, nothing is already safe and there is no one to protect the Court. No doubt therefore [exists] that Mr. Tugas and Mr. Villanueva failed to vigilantly perform their duties. As it is, the denial of Mr. Omega-Diaz's entry at the main gate was simply a show-off since surreptitiously he was later informed of the other entrance through the private passageway of Mr. Itliong.

Moreover, the arrogance and indifference of Mr. Tugas should not pass unnoticed. In the course of the investigation, he has always asserted that media has their way of gathering information and even if [they] are denied entry[,], they always have options. Said assertions would indicate that he is unworthy of his position. His indifference [is] further underscored by the fact that he did not reflect in the Security Guards' logbook the incident nor did he report the matter to his supervisor. His claim that the latter was not done to protect Mr. Itliong is inexcusable. The interests of the Court should have been his primordial consideration rather than the interest of Mr. Itliong.

. . .

Mr. Villanueva has been with the Court for almost fifteen (15) years and is a permanent employee. Mr. Tugas, on the other hand has been with the Court for almost four (4) years and is a casual employee. If this Office is to consider the request of Mr. Itliong, he is not anymore inclined to recommend the renewal of Mr. Tugas because of his questionable actions which amounts to breach of trust and confidence.

Based on the investigation conducted and reports of Mr. Itliong, there is no doubt that both Mr. Arturo Villanueva and Mr. Stevenson Tugas are