

SECOND DIVISION

[A.M. NO. MTJ-03-1491 (FORMERLY A.M. NO. 02-9-228-MTC), June 08, 2005]

LOSS OF COURT EXHIBITS AT MTC-DASMARIÑAS, CAVITE.

R E S O L U T I O N

AUSTRIA-MARTINEZ, J.:

The present administrative case stems from a letter, dated February 26, 2002, of Mylene Reintegrado (Mylene) requesting for an investigation on the refusal of Judge Lorinda T. Mupas, of the Municipal Trial Court (MTC) of Dasmariñas, Cavite, to sign the clearance of Giovanni Reintegrado (Giovanni), a Junior Process Server in said court who committed suicide on December 4, 2001.^[1]

When required by the Office of the Court Administrator (OCA) to comment on the letter,^[2] Judge Mupas, in her letter dated March 11, 2002, explains that Giovanni has property accountability relating to exhibits in pending cases with the court, namely:

(a) one Cal. 45 pistol colt custom with one pc. magazine and six live ammos used as exhibits in Criminal Case No. 00-0707 entitled "PP vs. Jaime Arandia";

(b) one Cal. 45 pistol (Serial No. 1945040) with one magazine and five live ammos used as exhibits in Criminal Case No. 01-1903 entitled "PP vs. Leonardo Gloton"; and,

(c) one Cal. 38 (defaced Serial No. 094009) with one magazine and six live ammos used as exhibits in Criminal Case No. 01-1618 entitled "PP vs. Silverio Palapo." ^[3]

In a letter dated April 19, 2002, the OCA directed Amelia G. Rivor (Rivor), Clerk of Court, MTC, Dasmariñas, Cavite, to explain why Giovanni should be held accountable for the loss of the firearms considering that she is the custodian thereof. ^[4]

In her compliance letter dated May 10, 2002, Rivor admits that she is the custodian of the lost firearms which have been properly recorded and kept in one of the court's locked cabinet of which she has the only key. She claims that she came to know of the loss of the firearms only when Judge Mupas informed her that the firearm used by Giovanni in committing suicide was one of the missing firearms. Considering that she could not think of a reason why said firearm came to be in his possession, she concluded that Giovanni took said firearms from the steel cabinet with the use of a picklock. She disclaims any participation or knowledge of the actions of Giovanni concerning the missing exhibits.^[5]

In a Resolution dated September 25, 2002, the Court, upon recommendation of the Deputy Court Administrator, referred the administrative matter to Executive Judge Dolores L. Español of the Regional Trial Court, Branch 90, Dasmariñas, Cavite for investigation, report and recommendation.^[6]

After conducting the necessary investigation, Judge Español submitted on March 6, 2003 her Report and Recommendation, portions of which read as follows:

. . The following irregularities were established as pervasively taking place in the MTC Dasmariñas only in relation to this Administrative Case. Other instances of similar nature that (sic) have already been reported to the Supreme Court.

1. In this particular instance, Judge Mupas is guilty of obstructing justice by not turning over the firearm in question to the NBI for ballistic examination. She is likewise remiss in her responsibility to conduct a more formal investigation of the reported amorous relationship of her personnel, to see to it that the inventory is conducted properly and, further, she lacks the moral ascendancy to press for an impartial investigation of the alleged "stealing" by Giovanni of the firearms, because she could have been responsible for the same.
2. In addition to the above, she abates the utilization of official time and service of court personnel for her personal needs. As testified to by Bisente, he drives for Judge Mupas from Mondays to Wednesdays and performs his duties as Junior Process Server only on Thursdays and Fridays (TSN, Nov. 27, 2002, p. 9). Likewise, Giovanni was allegedly driving for her and acted as bodyguard driver of Judge Mupas and even cooked for her (TSN, Nov. 12, 2002, p. 7). Thus, to be able to perform his work, he was bringing home his paper work such that Mylene had to return 300 unmailed documents and two booklets of Registry Receipts after the incident, evidenced by the Receipt issued by Ms. Rivor (Records, p. 138).
3. Non-submission of the cases after the preliminary investigation to the Provincial Prosecutor's Office; keeping so many firearms submitted to the court as evidence inside the cabinet, without formally turning them over to the proper authorities, even as the case may have already been terminated for preliminary investigation, a temptation that could have aggravated the proliferation of firearms in the Court. In addition, the following show gross ignorance of the law.
 - a) In Criminal Case No. 00-0707, entitled People of the Philippines vs. Jaime Arandia for "Homicide", Judge Mupas provisionally dismissed the case even as the MTC does not have jurisdiction over the case. She acted on the Motion as if the MTC has original jurisdiction of the case, as shown in her Order dated March 5, 2001, without submitting the outcome of her preliminary

investigation to the Provincial Prosecutor's Office as required under Rule 112 of the Revised Rules of Criminal Procedure.

To top it all, the Motion to Declare the said case "Permanently Dismissed" and the release of the firearm, Colt .45 caliber pistol, Judge Mupas pretended to direct Ms. Rivor to release subject firearm even as she knows that the subject firearm was missing as she herself reported it to DCA Perez.

b) Criminal Case No. 01-1903, entitled People of the Philippines vs. Sgt. Leonardo Gloton, for "Violation of P.D. No. 1866," the MTC does not have jurisdiction over the same, yet Judge Mupas did not forward the cases to the Provincial Prosecutor's Office for review. In the same manner, Judge Mupas provisionally dismissed the same on February 20, 2002, and the case was never forwarded to the Provincial Prosecutor's Office for its action.

In both cases, the Criminal Complaints should not have been accepted for preliminary investigation by Judge Mupas, as the respondents were for inquest, and Judge Mupas is not authorized to conduct inquest proceedings, provided for in Section 7, Rule 112 of the Revised Rules of Criminal Procedure.

Further, the MTC Dasmariñas does not have jurisdiction of both cases as the firearms are categorized as high powered and they fall within the provisions of Section 1, paragraph 2 of R.A. No. 8294.^[7]

In the Resolution dated April 23, 2003, the Court resolved to:

- (1) Re-docket the administrative matter as a regular administrative case;
- (2) Require Judge Mupas to show cause why she should not be dealt with administratively for Grave Misconduct, Gross Neglect of Duty, Grave Abuse of Authority and Gross Ignorance of Law more particularly described by the Investigating Judge in paragraphs 1, 2 and 3 reproduced in pages 3 to 4 of herein Resolution;
- (3) Require Amelia Rivor, who had retired as of July 31, 2002 but has not yet been issued clearance, to show cause why her retirement benefits or a portion thereof should not be withheld on ground of Gross Neglect of Duty in the safekeeping of the following items:
 - (a) one (1) cal. 45 pistol colt custom
one (1) pc. Magazine
six (6) live ammos
(Note: used as exhibits in Crim. Case No. 00-0707
entitled "Pp vs. Jaime Arandia")

- (b) one (1) cal. 45 pistol with SN 1945040
one (1) magazine
five (5) live ammos
(Note: used as exhibits in Crim. Case No. 01-1903
entitled "Pp vs. Leonardo Gloton")
- (c) one (1) cal. 38 with defaced SN 094009
one (1) magazine
six (6) live ammos.
(Note: used as exhibits in Crim. Case No. 01-1618
entitled "PP vs. Silverio Palapo"); and,

pending termination of herein case; and,

(4) in view of the demise of process server Giovanni Reintegrado on December 4, 2001 before the filing of an administrative case against him - Require the Clerk of Court and the Presiding Judge of the MTC, Dasmariñas, Cavite to sign the clearance insofar only as the above-subject items are concerned without prejudice to the clearances of other government properties for which Giovanni Reintegrado was accountable that must be obtained by Mylene Reintegrado, widow of the deceased, before she may be allowed to receive the benefits due the deceased employee under applicable laws.^[8]

In compliance, Judge Mupas submitted her Comment,^[9] dated May 30, 2003, refuting that she obstructed justice by not turning over the firearm in question to the National Bureau of Investigation (NBI) for ballistic examination because she claims to have ordered Rivor to do so.

With regard to the lack of investigation on the alleged amorous relationship of her personnel, she claims that sometime in November 2001 she informed the mother of Giovanni of the same so that the latter, as his mother, could do something about it. She adds that she even confronted the personnel allegedly involved in the relationship but both vehemently denied having an illicit affair.

In connection with the inventory of exhibits, she claims that she requested Rivor to conduct an inventory of exhibits upon receipt of the information from Rosauro de Guzman, the godfather of Giovanni, on the lost firearm and as a result of the inventory, caliber .38 was discovered as one of the exhibits in Criminal Case No. 01-1618, entitled, "People of the Philippines vs. Silverio Palapo" for Violation of P.D. No. 1866.

As to the utilization of the official time and service of court personnel for her personal needs, she denies the same. She claims that Process Server Edgardo Bisente goes to office with her to save time and money considering that both of them reside in Cavite City. As for Giovanni, she states that she never asked him to drive, act as her bodyguard or cook for her and it was not her fault that he brought home his paperwork because she does the same.

On the performance of her job, she claims that she follows the provisions of Section 2, Rule 112 of the Rules of Court which provides that Judges of the MTCs are among

the officers authorized by law to conduct preliminary investigation. Moreover, Section 6 of the same Rule states that, without waiting for the conclusion of the investigation, the judge may issue a warrant of arrest if he finds after an examination in writing and under oath of the complainant and his witnesses in the form of searching questions and answers, that a probable cause exists and that there is a necessity of placing the respondent under immediate custody not to frustrate the ends of justice.

With respect to the court's exhibits, she asserts that the Clerk of Court, as custodian of the court exhibits, is the person who turns over the same to the proper authorities.

Lastly, she submits that Criminal Case Nos. 00-0707 and 01-1903 were provisionally dismissed for failure of the prosecution witnesses to appear and testify on the scheduled preliminary investigation. She explains that said cases have not been forwarded to the Office of the Provincial Prosecutor, Imus, Cavite considering that the prosecution witnesses could still file appropriate pleadings within the reglementary period from notice and the fact that the said cases are the subject matter of the present administrative matter.

On the other hand, Rivor, in her Compliance,^[10] dated June 2, 2003, explains that she discovered the loss of the firearms on December 8, 2001, or four days after Giovanni died, when Judge Mupas went to her house and informed her that the firearm used by Giovanni in committing suicide was one of the missing firearms, and considering that she could not think of a reason why said firearm came to be in his possession, she concluded that he took said firearm from the steel cabinet with the use of a picklock. She maintains that she has never been remiss in her duties as Clerk of Court and that it is just unfortunate that she was dragged into the controversy without her knowledge, as a result of which she decided to avail of early retirement on July 31, 2002.

In a Resolution dated May 17, 2004, upon recommendation of the Court Administrator, the Court referred the administrative matter to a consultant in the OCA for reinvestigation, report and recommendation. Retired Justice Narciso T. Atienza was assigned by the OCA as consultant to reinvestigate the administrative matter.

In his Report and Recommendation, Investigating Justice Atienza noted that Judge Español did not confine her investigation on the loss of the court exhibits but she also made inquiries on matters not germane to the subject of her investigation, namely: (a) the preliminary investigation in Criminal Case Nos. 00-0707 for homicide and 01-1903 for Violation of P.D. No. 1866; (b) the alleged utilization of official time of court personnel for her personal use; and (c) the failure to put a stop to the alleged illicit relationship of her personnel.

As for the loss of the court exhibits, Investigating Justice Atienza found that there is no direct evidence that could link Judge Mupas to their loss as not a single witness testified on personal knowledge that Judge Mupas knew something about the taking out of the three firearms from the steel cabinet of the court. Nonetheless, he opines that Judge Mupas is not immaculately clean in regard to the loss firearms in view of the following: