

THIRD DIVISION

[A.M. No. P-04-1886 [Formerly AM OCA IPI 99-737-P], December 09, 2004]

JUANITO AGULAN, JR., COMPLAINANT, VS. TERESITA S. ESTEBAN, CLERK OF COURT II, MUNICIPAL CIRCUIT TRIAL COURT OF GEN. NATIVIDAD-LLANERA, NUEVA ECIJA, RESPONDENT.

DECISION

CARPIO MORALES, J.:

Juanito Agulan, Jr. (complainant), head of the Llanera, Nueva Ecija Peace and Order Council, by a verified letter-complaint dated September 24, 1999 addressed to the Chief Justice which was received at his office on September 27, 1999, charges Teresita S. Esteban, Clerk of Court II of the 2nd Municipal Circuit Trial Court (MCTC) of General Natividad-Llanera, Nueva Ecija, (respondent), with Grave Misconduct and Dishonesty.

The facts that spawned the filing of the complaint are as follows:

Jesus Agulan was indicted for Frustrated Homicide before the 2nd MCTC of Gen. Natividad-Llanera, Nueva Ecija on complaint of Juanito Agulan, father of herein complainant.

In the early morning of August 8, 1999, Jesus Agulan was arrested by the Llanera police. At about noon of the same day, August 8, 1999, he was released by the Llanera police upon receipt from respondent of a copy of an order bearing the words "Original Signed" printed above the name of the presiding judge of the MCTC, Judge Octavio Fernandez, which copy of order, while stating that Jesus Agulan posted a cash bond, did not indicate the Official Receipt Number covering the receipt of such cash bond.

Alleging that Jesus Agulan was released without him posting a cash bond, the present administrative complaint details the acts complained of as follows:

1. . . . issuing the attached order, marked as Annex A, where she made it appear that accused Jesus Agulan posted a cash bond of P12,500.00 in Crim. Case No. 160, when in truth and in fact, said accused has not done so, which is a clear case of dishonesty;
2. . . . directing the Station Commander of Llanera, Nueva Ecija to release accused Jesus Agulan, when he has not posted any cash bond and Judge Octavio Fernandez has not issued the attached order and which act is a clear case of Usurpation of Authority and is a Serious Misconduct in Office;

3. . . . making it appear that the original of Annex A was signed by Judge Fernandez when there is no such order in the records, which act is another case of Dishonesty and Grave Misconduct.^[1] (Underscoring supplied)

The court order^[2] referred to in the first act complained of reads:

The accused in the above entitled case having posted his cash bond deposited to this court in the amount of P12,500.00 for his provisional liberty, the same is hereby APPROVED.

The Station Commander of PNP Llanera, Nueva Ecija is hereby directed to release the accused Jesus Agulan from custody of the law unless he is being held for another legal cause of action.

SO ORDERED.

Respondent, in her Comment,^[3] denies the charges which she brands to be malicious, false and unfounded. She asserts "that the Order itself contained the Official Receipt bearing No. 7237611 and dated August 8, 1999."^[4]

By Resolution^[5] of March 14, 2001, this Court referred the complaint to Executive Judge Johnson L. Ballutay of the Regional Trial Court, Branch 25, Cabanatuan City, for investigation, report and recommendation.

Upon termination of the investigation, the investigating judge made the following conclusions and recommendation:^[6]

CONCLUSIONS OF LAW:

A perusal of the evidence presented by the complainant and respondent yields that there was no clear evidence to support the contention of the complainant that there was no cashbond actually put up by accused Jesus Agulan in Criminal Case No. 160-L before the MCTC of Llanera-Gen. Natividad, Nueva Ecija, when he was released because the respondent was able to refute the same by presenting the cash deposit slip (Exhibit "4") showing that the P12,500.00 cashbond put up by accused Jesus Agulan was deposited by the respondent Clerk of Court to the Land Bank of the Philippines, Cabanatuan City Branch, together with the Savings Account Withdrawal Slip (Exhibit "9") showing that the said amount was withdrawn from the Land Bank of the Philippines and refunded to accused Jesus Agulan as shown by certification dated April 25, 2001 (Exhibit "10") signed by Jesus Agulan by virtue of the order dated April 19, 2001 (Exhibit "8") issued by Honorable Johnson L. Ballutay, and the undertaking signed by Mr. Agulan dated August 9, 1999 subscribed and sworn to before Judge Fernandez showing that Jesus Agulan was indeed released from custody by virtue of a cashbond posted by him and showing that Judge Fernandez was in Llanera, Nueva Ecija on August 8, 1999 when he signed the **original** copy of the release order as well as when he made the acknowledgment in the undertaking of Jesus Agulan on August 8, 1999. However, it was established that respondent Clerk of Court Teresita Esteban is remiss of her duty as mandated by the Civil Service Rules to observe efficiency in the performance of her official