

EN BANC

[A.M. No. P-01-1520, November 21, 2001]

MARILOU A. CABANATAN, COMPLAINANT, VS. CRISOSTOMO T. MOLINA, RESPONDENT.

RESOLUTION

PER CURIAM:

In her verified Complaint^[1] filed on January 19, 2000, Marilou A. Cabanatan, Court Stenographer III of the Regional Trial Court (RTC) of Quirino, Branch 38, charges Crisostomo T. Molina, Sheriff IV and officer-in-charge of the Office of the Clerk of Court, with abuse of authority, grave misconduct, oppression, dishonesty and violation of Civil Service Rules.

The factual circumstances leading to the Administrative Complaint are summarized by the Office of the Court Administrator (OCA), as follows:

"1. SWORN COMPLAINT, with attachments, dated December 23, 1999 of Marilou A. Cabanatan charging Crisostomo T. Molina, Sheriff IV and Officer-In-Charge, RTC, Branch 38, Maddela, Quirino with Abuse of Authority, Grave Misconduct, Oppression, Dishonesty and Violation of Civil Service Rules.

"The charges of Abuse of Authority and Grave Misconduct were based on the following narration of facts:

"On December 21, 1999 at about 9:00 o'clock in the morning, complainant borrowed the office attendance logbook from its custodian, Wilgeer T. Andres. She intended to use the same as reference in the preparation of her answer to the memorandum issued by the respondent (who) required her to explain her alleged absences and tardiness. However, respondent allegedly scolded her as he did not want her to see the logbook.

"Later, at about 1:00 o'clock in the afternoon, respondent, who was then allegedly intoxicated, approached the complainant and said: '*Patas lang ti laban ha? Lumaban ka! Ania ti kayat mo a laban? Putang ina!*' Respondent was, according to the complainant, in a boxing position when he uttered the aforequoted words.

"Complainant added that when she saw again the respondent later in the afternoon, the latter reiterated his challenge to her. Then, much later, even her co-employees, Wilgeer T. Andres and Ernesto V. Fontanilla, were also challenged by the respondent to a fight.

"Regarding the charge of Oppression, the same was anchored on the allegation that respondent withheld complainant's checks representing

her salaries for October 1-15, 1999, September 1-15, 1999 and December 15-31, 1999.

"The complaint for Dishonesty and Violation of Civil Service Rules were premised on the averment that respondent had been going on official travel allegedly to 'submit pertinent papers to the Supreme Court', but he submits Certificate of Appearance issued by Judge Ma. Theresa Dela Torre-Yadao, the presiding judge of RTC, Branch 38, Maddela, Quirino and acting presiding judge of RTC, Quezon City, instead of those issued by the Supreme Court.

"Complainant also adds that respondent refuses to sign or enter his name in the attendance logbook of the court.

"2. COMMENT dated February 29, 2000 of the respondent denying the averments in the complaint.

"On the charge of Abuse of Authority and Grave Misconduct, respondent had a different story to tell. According to him, complainant took the attendance logbook without asking permission from him and she was already fifty (50) meters away from their building when he saw her. Hence, he allegedly instructed the Security Guard, one Marcos Gargabite, to retrieve the said logbook.

"Respondent likewise narrated that it was actually the complainant who shouted invectives at him.

"Anent the charge of Oppression, respondent claims that he never gave any instruction to Mr. Norman A. Ruaboro, the clerk in charge of salary checks from October to December 1999, to withhold the salary of the complainant.

"Lastly, regarding the charges of Dishonesty and Violation of Civil Service Rules, respondent controverted only the allegation in connection with his official travels. He contended that he goes to Manila, specifically to RTC, Branch 99, Quezon City, whenever there were orders, warrants of arrest and other pleadings and documents needed to be brought to the immediate attention of Judge Yadao who was designated as Acting Presiding Judge of said court."^[2]

After evaluating the Complaint, the Court Administrator recommended its referral to the Executive Judge of the Regional Trial Court of Cabarocuis, Quirino, for investigation, report and recommendation within sixty (60) days from receipt of the records.^[3] The Court adopted the recommendation of the OCA in a Resolution dated July 5, 2000.

Meanwhile, this Court also asked the Court Administrator to assess complainant's letter dated June 5, 2000, expressing her doubts on the impartiality of the Executive Judge of Cabarocuis, Quirino.

The Court Administrator recommended in a memorandum dated August 28, 2000 that the instant Complaint be referred instead to Executive Judge Jose Rosales of the Regional Trial Court of Bayombong, Nueva Vizcaya.

Accordingly, in a Resolution dated October 4, 2000,^[4] this Court required Executive Judge Rosales to conduct the investigation of the case.

Thereafter, on August 9, 2001, Executive Judge Rosales submitted his "Investigation, Report and Recommendation," wherein he recommended the dismissal of the respondent. Regarding the charge of abuse of authority and grave misconduct, Executive Judge Rosales made the following findings:^[5]

"It is thus crystal clear that in the morning of December 21, 1999 during office hours, the respondent not only allowed but also himself joined a drinking session with his male co-employees of the court inside the courtroom which caused his inebriation in the morning and afternoon of that date. As the designated OIC of the Court, he should have prohibited the holding of such drinking session within the courtroom and he should have refrained from himself imbibing the hard drink as it was still office hours to provide good example to the other employees under him.

"It will be noted that, according to the respondent himself, they (he and the employees) 'declared x x x a Christmas party. It was a holiday on our part' (TSN, July 2, 2001, p. 6) despite the fact that by his own admission, it was a working day.

"The pretext that it was an 'extended Christmas Celebration' of all courts (TSN June 25, 2001, p. 10) does not seem to have any basis at all. Firstly, only the male employees participated. Secondly, the evidence discloses that the party only consisted of drinking one bottle of Fundador and no food was served, contrary to the claim of the respondent that they prepared some food for the lady employees. Thirdly, even the respondent went somewhere else at 11:00 A.M. and only returned at around 12:45 P.M. No one testified that they took lunch in the courtroom at noontime. It is thus apparent that the group of male employees led by the respondent took it upon themselves to unilaterally declare a holiday without any sanction of law or any authority from any court official. This alone and the drunkenness of the respondent already are sufficient bases for disciplinary action against the respondent.

"The charge that while very drunk he challenged the complainant, Wilgeer Andres and Ernesto Fontanilla his subordinates, is supported by clear and convincing evidence."

As to the charge of oppression, Executive Judge Rosales found that the respondent's "withholding of the salary checks and bonus did not have a solid basis. There was no authorization [by] the presiding judge or the respondent as OIC [officer in charge] of the Court to direct the withholding of the complainant's checks emanating from the Supreme Court. Moreover, it would appear that the complainant's side was not first heard before her salary was cut off, thus, depriving her of her right to her salary without due process."^[6]

Executive Judge Rosales also found the respondent guilty of dishonesty. The latter's act of collecting reimbursement for trips made with inadequate or false supporting documents is an act of dishonesty. There is no evidence that he went to the Supreme Court, as he could not present any certificate

of appearance signed by the OCA. By submitting Certificates of Travel stating that his destination was the Supreme Court, but failing to substantiate them^[7] with the proper certificates of appearance from the Court itself, it appears that he "falsified" such Certificates, an act tantamount to dishonesty. In the words of Executive Judge Rosales:

"The explanation of the respondent that it was a requirement for the certificate of appearance to be signed only by Judge Yadao and that there was no need to obtain a certificate of appearance from the Supreme Court opens up a new can of worms.

"For it is common knowledge that for every official travel made by a public official, he usually claims travel expenses and per diems. Hence the respondent's claim that he travelled to Metro Manila on official business and for official purpose at his own expense culled from his RATA sounds incredible. Complainant Marilou Cabanatan posited that she obtained the carbon originals of the Travel [O]rders and Certificates of Appearance from the relevant office in the Provincial Government of Quirino Province where the respondent submitted them to claim reimbursements of travel expenses and per diems. She further testified that she saw documents in the Provincial Capitol of Quirino showing that the respondent collected his claims for travel expenses; as a matter of fact, the copies of Travel Orders and Certificates of Appearance of the respondent which had been submitted during the instant investigation were extra copies taken from the files of the Provincial Government of Quirino in connection with the still pending claims for the respondent's travel expenses and that she could not obtain other travel orders and certificates of appearance because they were already on file, the respondent already having received his reimbursements of his travel expenses and per diems for such travels.

"The act of respondent of collecting reimbursements for trips made with inadequate or false supporting documents is an act of dishonesty. Apparently, the employees of the Provincial Capitol of Quirino processing his claims for reimbursements of travel expenses and per diems did/do not realize that the signature of Judge Yadao on the certificates of appearance was inadequate to support his said claims and that the certificates of appearance must emanate from the Supreme Court when the travel orders directed him to go to the Supreme Court or to the Court Administrator in Manila. It will be borne in mind that among the required documents supporting a claim for transportation is a certificate of travel completed. If the travel order directed the respondent to go to the Supreme Court or to the Court Administrator, his travel would not be considered complete if he did not go to the Supreme Court in Manila 'to deliver pertinent papers.' There is no evidence that he went to the Supreme Court as he could not present any certificate of appearance signed by the Office of the Court Administrator. In submitting a certificate of travel completed where his destination was the Supreme Court in accordance with his travel order and he did not go to the Supreme Court as he did not have any certificate of appearance, perforce, he would be considered to have falsified such certification. Such falsification is an act of dishonesty."^[8]