

EN BANC

[A.M. No. P-15-3290, September 01, 2020]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
GARY G. FUENSALIDA, UTILITY WORKER I, OFFICE OF THE
CLERK OF COURT, REGIONAL TRIAL COURT, SORSOGON CITY,
SORSOGON, RESPONDENT.**

DECISION

DELOS SANTOS, J.:

The Facts

On April 10, 2013, Atty. Marilyn D. Valino (Clerk of Court Valino), Clerk of Court VI, Office of the Clerk of Court (OCC), Regional Trial Court (RTC), Sorsogon City, wrote a Letter^[1] addressed to the Office of the Court Administrator (OCA) and reported that on November 5, 2012, a check was lost in their office while checks were being distributed to the employees of the court. The subject check^[2] was dated October 31, 2012 in the amount of P21,379.00, which belonged to Salvacion Toledo (Toledo), Court Stenographer III, Branch 52, RTC, Sorsogon City. According to Clerk of Court Valino, from the circumstances surrounding the loss of the check, there was no doubt that Gary G. Fuensalida (Fuensalida), Utility Worker I, OCC, RTC, Sorsogon City was the person responsible for the theft and its consequent endorsement by forging the signature of Toledo.

Based from the records, Toledo requested the Fiscal Management and Budget Office (FMBO) of this Court for stoppage of payment of the subject check. However, in its Letter-Reply,^[3] the FMBO informed Ms. Toledo that the check was already negotiated on November 7, 2012 upon its verification with the Land Bank of the Philippines. The FMBO also enclosed a photocopy of the negotiated check^[4] for reference.

According to Clerk of Court Valino, Fuensalida denied that he stole the check and that he forged the signature of Toledo. Thus, upon being furnished with a copy of the negotiated check, Clerk of Court Valino wrote a Letter^[5] to the Sorsogon Provincial Crime Laboratory Office, Camp Salvador Escudero, Sorsogon City, requesting for assistance by way of handwriting examination/investigation as regards the check of Toledo. Clerk of Court Valino likewise submitted the logbook of the checks, which contained the handwriting of the employees including Fuensalida's handwriting, for the crime laboratory's reference and comparison.

In Document Examination Report No. 03-2013,^[6] Police Chief Inspector Gregorio M. Villanueva (PCI Villanueva), Forensic Document Examiner, Sorsogon Provincial Crime Laboratory Office, reported that the comparative examination and analysis of the questioned handwriting and the submitted handwriting revealed significant

similarities in handwriting movement, line quality, stroke structures, and other handwriting characteristics. PCI Villanueva concluded, thusly:

The questioned handwriting **SALVACION J. TOLEDO, RTC-52, Sorsogon City** marked QH-A, QH-B & QH-C appearing at the back of the abovementioned check & the submitted standard handwriting of GARY FUENSALIDA appearing in the abovementioned pages of the logbook marked as SH-1 to SH-22, **WERE WRITTEN BY ONE AND THE SAME PERSON.**^[7]

In view of the foregoing report, Clerk of Court Valino manifested to the OCA that Fuensalida can no longer be trusted because of the gravity of the offense committed and considering that the latter is the custodian of all the property and financial collections of the court. Accordingly, Clerk of Court Valino requested the OCA for an action on the matter because she fears that Fuensalida will repeat the same whilst being absent without official leave.

In his Comment,^[8] Fuensalida admitted that he stole and encashed Toledo's check. Fuensalida claimed he was tempted to steal the check of Toledo due to financial distress that his family was experiencing during that time. According to Fuensalida, he had too many monetary obligations that included many debts and school fees of his five (5) children. Fuensalida expressed his deep remorse for the offense he committed and manifested that his liability to the parties involved were already being settled. Lastly, Fuensalida appealed for compassion and promised the Court that the incident will never happen again.

The OCA's Report and Recommendation

In a Memorandum^[9] dated October 17, 2014, the OCA recommended that: (a) the instant administrative matter be re-docketed as a regular administrative complaint against respondent Gary G. Fuensalida; (b) respondent Fuensalida be found guilty of Grave Misconduct and Serious Dishonesty; and (c) respondent Fuensalida be dismissed from the service, with forfeiture of all the benefits except accrued leave credits and with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.^[10]

The OCA found that the act of Fuensalida of stealing and encashing the check payable to Toledo without the latter's authority constituted grave misconduct and was also considered as serious dishonesty. According to the OCA, even assuming that Fuensalida did not admit to the charge, there was substantial evidence to hold him liable.

The OCA pointed out that Fuensalida's admission of guilt and subsequent explanation cannot exculpate him from liability as none of these defenses can free him from the consequences of his wrongdoing, which was duly established by PCI Villanueva.

Issue

Whether or not Fuensalida should be administratively liable for Grave Misconduct and Serious Dishonesty.

The Court's Ruling

The Court adopts the findings and the recommendation of the OCA.

It must be emphasized that those in the Judiciary serve as sentinels of justice, and any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it. The Institution demands the best possible individuals in the service and it had never and will never tolerate nor condone any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the justice system. As such, the Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards an effective and efficient administration of justice, thus tainting its image in the eyes of the public.^[11]

In this case, it was established that Fuensalida was an accountable officer, being the custodian of all the property and financial collections of the court. Fuensalida's tasks included safekeeping of important and financial documents that required his utmost trustworthiness.

The Court concurs with the OCA that his act of stealing, forging the signature of Toledo in the endorsement of the check, and finally, encashing the check for personal gain, constituted grave misconduct and serious dishonesty.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from service, the misconduct must be grave, serious, important, weighty, momentous, and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment and must also have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office. In order to differentiate [grave] misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in the former.^[12]

On the other hand, dishonesty means "a disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity, lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray."^[13] Although dishonesty covers a broad spectrum of conduct, Civil Service Commission (CSC) Resolution No. 06-0538 sets the criteria for determining the severity of dishonest acts.^[14]

According to Section 3 of CSC Resolution No. 06-0538, for dishonesty to be considered serious, any of the following circumstances must be present:

1. The dishonest act caused serious damage and grave prejudice to the government;
2. The respondent gravely abused his authority in order to commit the dishonest act;
3. **Where the respondent is an accountable officer, the dishonest act directly involves property; accountable forms or money for which he is directly accountable; and**