

FIRST DIVISION

[A.M. NO. P-05-2009, April 19, 2007]

FEMINE HERRERA, COMPLAINANT, VS. ASSISTANT CLERK OF COURT PETER DE VERA, JR., MUNICIPAL TRIAL COURT IN CITIES, OLONGAPO CITY, RESPONDENT.

DECISION

AZCUNA, J.:

On November 27, 2002, a verified letter-complaint^[1] was filed by complainant Femine Herrera against her former neighbor, Peter de Vera, Assistant Clerk of Court of the Municipal Trial Court in Cities (MTCC) of Olongapo City, for Gross Misconduct and Conduct Unbecoming in connection with a brawl that allegedly transpired on March 15, 2001.

Complainant claimed that at about 12:00 midnight on March 15, 2001, she heard a commotion outside her house in Balic-balic, Sta. Rita, Olongapo City. According to her, when she stepped out to investigate, she saw respondent de Vera who appeared to be drunk engaged in a fistfight with her friends Jerico Amalong and Jeffrey Rafanan. When complainant tried to intervene and pacify respondent and her friends, respondent purportedly shouted at her in the vernacular not to interfere and verbally berated her and her friends for not recognizing that he was the Assistant to the Sheriff. While shouting, respondent allegedly collared and punched complainant, inflicting upon her physical injuries that were subsequently treated at the Olongapo Memorial Hospital. Complainant further expressed surprise when she learned that respondent had immediately filed a complaint at the Barangay Hall of Sta. Rita whereby he claimed that he had been the one attacked and mauled.^[2]

Respondent was required by the Office of the Court Administrator (OCA) to file his comment to the complaint in the indorsement ^[3] dated January 6, 2003 forwarded to the Office of the Clerk of Court in the MTCC of Olongapo City. When respondent failed to file his comment, a first tracer^[4] dated May 29, 2003 was subsequently sent by the OCA reiterating the previous directive. Added to that, the Court, in a resolution dated February 16, 2004, gave respondent a last opportunity to file his comment, with a warning that his failure to do so would warrant that the case be decided based on the complaint alone. Despite the foregoing, respondent still did not file his comment.

Upon verification with the Office of Administrative Services, OCA, it was discovered that respondent had been absent without leave (AWOL) since July 1, 2003. For this reason, he was dropped from the rolls per the resolution dated November 22, 2004 of the First Division in Administrative Matter No. 04-10-294-MTCC.

For repeatedly refusing to file his comment as ordered by the Court, the OCA found