

EN BANC

[A.M. NO. 03-3-179-RTC, January 26, 2005]

WITHHOLDING OF THE SALARY AND BENEFITS OF MICHAEL A. LATIZA, COURT AIDE, REGIONAL TRIAL COURT, BRANCH 14, CEBU CITY, FOR UNEXPLAINED ABSENCES AND INVOLVEMENT IN THE LOSS OF EVIDENCE

[A.M. NO. 03-10-576-RTC]

RE: RESIGNATION OF MICHAEL A. LATIZA, UTILITY WORKER I, REGIONAL TRIAL COURT, BRANCH 14, CEBU CITY

D E C I S I O N

PER CURIAM:

In a criminal case for violation of Section 16, Article II, Republic Act No. 6425, docketed as Criminal Case No. CBU-50474 before the Regional Trial Court of Cebu City, Branch 14, the trial court ordered the return to the accused Danilo Ceniza ("Ceniza") of P118,040 presented as evidence in the criminal case. Court Interpreter Alicia Caburnay ("Caburnay"), in the presence of Ceniza's wife and Atty. Cornelius Gonzales, Ceniza's counsel, counted the money that was kept inside an attaché case and stored in the cabinet of the court. They discovered that only P93,240 was inside the attaché case. Caburnay immediately informed Branch Clerk of Court Atty. Aurora Ventura-Villamor ("BCoC Villamor") and Legal Researcher Teotimo Vallar II ("Vallar") of the loss of P24,800. After a recounting, Villamor, Vallar and Caburnay informed their Presiding Judge Rafael Yrastorza ("Judge Yrastorza") of the shortage.

Court Aide Michael Latiza ("Latiza") was the only one who used the court premises as his sleeping quarters. When Judge Yrastorza informed Latiza of the loss of the money, Latiza admitted that he allowed some outsiders to stay in the courtroom overnight. Latiza offered to pay the amount of the shortage. On 31 January 2003, Judge Yrastorza again called Latiza to his chambers but this time in the presence of BCoC Villamor and Vallar. Latiza again admitted liability for the loss and repeated his offer to pay the shortage. BCoC Villamor requested for an investigation from the police authorities on Latiza's involvement in the loss of the P24,800.

On 18 February 2003, BCoC Villamor sent a letter to Court Administrator Presbitero J. Velasco, Jr. informing the latter that Latiza has been absent without leave since 10 February 2003. BCoC Villamor requested that the salary and benefits of Latiza be withheld because of his unexplained absences and his involvement in the loss of evidence in Criminal Case No. CBU-50474. The offshoot is this administrative case docketed as **A.M. No. 03-3-179-RTC**.

In the Resolution of 28 April 2003, the Court's First Division directed Executive

Judge Pampio A. Abarintos ("Judge Abarintos") of the Regional Trial Court of Cebu City to conduct immediately an investigation on the loss of evidence in Criminal Case No. CBU-50474 and to submit a report.

During the investigation before Judge Abarintos, Latiza failed to appear despite notices to him. Latiza could no longer be found at his last known address. In recommending the dismissal of Latiza from the service, Judge Abarintos considered the following: (1) Latiza's flight; (2) his being AWOL since 10 February 2003; (3) his letter of resignation submitted on 19 March 2003; and (4) the affidavits submitted by his co-employees stating that Latiza admitted liability for the loss of the P24,800.

Meanwhile, prior to the issuance of the Resolution of 28 April 2003, Latiza submitted his letter of resignation dated 19 March 2003 to Judge Yrastorza who indorsed the same to the Office of the Court Administrator ("OCA") for appropriate action. The Court En Banc docketed this letter of resignation as **A.M. No. 03-10-576-RTC**.

The OCA found that Latiza has a pending administrative case for Insubordination and Simple Misconduct docketed as A.M. No. P-02-1610. The OCA recommended that Latiza's resignation be accepted, without prejudice to the outcome of the proceedings in A.M. No. P-02-1610.

On 14 October 2003, the Court En Banc issued a Resolution in **A.M. No. 03-10-576-RTC** accepting the resignation of Latiza without prejudice to the outcome of the proceedings in the administrative complaints against him. The Court directed OCA's Financial Management Office to withhold the amount of P50,000 from whatever benefits that may be due Latiza. The Court further directed Deputy Court Administrator Zenaida Elepaño to make a report on the alleged involvement of Latiza in the loss of the P24,800.

In A.M. No. 03-3-179-RTC, the OCA found Latiza guilty of dishonesty. The OCA held Latiza responsible for the loss of the P24,800 that was part of the evidence presented in the criminal case. The OCA stated that Latiza's absence without leave since February 2003 constituted abandonment of office and an indication of his guilt. The OCA pointed out that dishonesty is a grave offense punishable by dismissal from service. However, since Latiza's dismissal is no longer feasible because of his resignation, the OCA recommended that Latiza be fined P40,000 for dishonesty. The OCA further recommended that the legal office of the OCA be directed to file the appropriate criminal charges against him.

In the En Banc Resolution of 27 January 2004, the Court resolved to consolidate A.M. No. 03-10-576-RTC with A.M. No. 03-3-179-RTC and to refer the same to the Division for appropriate action. In view of the penalty imposed, these consolidated cases are to be resolved by the Court En Banc.^[1]

During the investigation on the missing P24,800, Latiza failed to appear despite notices to him. His refusal to appear before the investigating judge, his being AWOL since February 2003, and his precipitate resignation from the service, are clear indicia of his guilt. Latiza's act of taking the P24,800, which is part of the evidence in a criminal case, constitutes dishonesty and grave misconduct.

In ***OCA v. Dominique D. Juan***,^[2] we found respondent therein guilty of dishonesty and grave misconduct for taking a CZ pistol marked as an exhibit in a