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[A.M. No. SCC-10-14-P (Formerly OCA IPI No. 09-31-SCC-P), February 21, 2017]

JUDGE BENSAUDI A. ARABANI, JR., PETITIONER, VS. RAHIM A. ARABANI, JUNIOR PROCESS SERVER, AND ABDURAJI G. BAKIL, UTILITY WORKER I, BOTH FROM SHARI'A CIRCUIT COURT, MAIMBUNG, SULU, RESPONDENTS.

[A.M. NO. SCC-10-15-P (FORMERLY A.M. NO. 06-3-03-SCC)]

JUDGE BENSAUDI A. ARABANI, JR., 4TH SHARI'A CIRCUIT COURT, MAIMBUNG, SULU, PETITIONER, VS. RODRIGO RAMOS, JR., CLERK OF COURT, 4TH SHARI'A CIRCUIT COURT, MAIMBUNG, SULU, RESPONDENT.

[A.M. NO. SCC-11-17 (FORMERLY A.M. NO. 10-34-SCC)]

CLERK OF COURT RODRIGO RAMOS, JR., PROCESS SERVER RAHIM A. ARABANI AND UTILITY WORKER I ABDURAJI G. BAKIL, ALL OF 4TH SHARI'A CIRCUIT COURT, MAIMBUNG, SULU, AND UTILITY CLERK SHELDALYN* I. MAHARAN, 5TH SHARI'A CIRCUIT COURT, PATIKUL, SULU, PETITIONERS, VS. JUDGE BENSAUDI A. ARABANI, JR., 4TH SHARI'A CIRCUIT COURT, MAIMBUNG, SULU, RESPONDENT.

D E C I S I O N

PERLAS-BERNABE, J.:

Before the Court are consolidated petitions involving the Judge and staff of the 4th Shari'a Circuit Court (4th SCC) of Maimbung, Sulu.

The Facts

I. In **A.M. No. SCC-10-14-P:**

In a letter[1] complaint dated July 17, 2009, Presiding Judge Bensaudi A. Arabani, Jr. (Judge Arabani) charged respondents Rahim A. Arabani (Rahim), Junior Process Server, and Abduraji G. Bakil (Abduraji), Utility Worker I, with conduct unbecoming of a court employee, dishonesty, insubordination, and misconduct[2] arising out of Bakil's alleged punching of Rahim's bundy card on three (3) occasions despite being repeatedly warned by Judge Arabani.[3]

In a joint letter[4] reply dated October 22, 2009, Rahim and Abduraji countered that there were only two (2) instances of punching involved, *i.e.: (a)* when Abduraji accidentally punched Rahim's bundy card one afternoon that Rahim was absent, mistakenly thinking that it was his bundy card, but he immediately informed Judge Arabani of the mistake; and *(b)* when Abduraji punched Rahim's bundy card upon seeing the latter approximately 3 to 4 meters away from the bundy clock with his way blocked by another person, as it was "nearing time" already. The latter incident was seen by Judge Arabani who happened to be behind Rahim, and scolded them. However, Rahim immediately erased the time and punched his bundy card again. They both apologized to Judge Arabani and promised that it would not happen again.[5]

In the same letter, Rahim and Abduraji made counter-charges against Judge Arabani, which are among the subject matter of **A.M. No. SCC-11-17,** which will be discussed hereunder.

2. In **A.M. No. SCC-10-15-P:**

In a letter[6] dated May 13, 2010, Judge Arabani charged Clerk of Court Rodrigo Ramos, Jr. (Rodrigo) with conduct unbecoming a court employee, alleging, among others, that, from the time Rodrigo reported back to his station at the 4th sec in January 2010, after his detail to the 3rd SCC of Parang-Indanan, Sulu was revoked by the Court in a Resolution[7] dated November 17, 2009 in **A.M. No. 06-3-03-SCC,** Rodrigo: *(a)* was constantly not at his assigned table; *(b)* roams in and out of the office openly; (c) does not attend to his work; *(d)* refused to comply with the directive to place his bundy card on the designated rack, thereby making it difficult to monitor the correctness and accuracy of the entries therein for the months of March and April 2010; and *(e)* did not properly fill-up his Application for Leave (leave application) filed in April 2010 with the specific dates of his intended leave of absence.[8] In a letter[9] dated May 17, 2010, Judge Arabani requested that all succeeding unverified/unsigned bundy cards of Rodrigo be made part of the complaint.

Responding to the Court's Resolution[10] dated August 24, 2010 directing him to comment on the charges against him, Rodrigo averred that he kept with him his bundy cards for the months of January and February 2010[11] for reasons of convenience.[12] He, however, complied with Judge Arabani 's directive to place his March 2010 bundy card on the designated rack[13] but the latter took and hid the same in bad faith, and submitted the same to the Leave Division, Office of the Court Administrator (OCA) after a few months without signing the same.[14] Accordingly, in a letter[15] dated October 27, 2010 to the Leave Division, OCA, Rodrigo manifested that he is submitting his April to September 2010 Daily Time Records (DTRs) sans Judge Arabani's signature.[16]

Further, Rodrigo denied the charge of "loafing," and alleged that since the court had no clients for the most part, and considering the strained relations between him and Judge Arabani who surrounded himself with bodyguards who tried to intimidate him, for his own protection, he started to place himself within close range of the security guards and the Philippine marines detailed at the Hall of Justice which is a stone's

throw away from his office, and where he can clearly see any client who goes to the adjoining Shari'a Building.[17] He, thus, claimed that he started incurring absences as an act of self-preservation for fear of being killed.[18]

3. In **A.M. No. SCC-11-17:**

In separate Affidavits[19] both dated May 31, 2010, Rahim and Abduraji charged Judge Arabani with conduct unbecoming of a Judge, and many abuses consisting, among others, of his absences without filing the corresponding leaves of absence, and toleration of the absences and tardiness of members of his family.[20] Rahim further claimed that Judge Arabani was courting a court employee, Sheldalyn A. Maharan (Sheldalyn), who he asked to accompany him on his motorcycle to go around town, professing his love and buying her gifts.[21] At one time, Judge Arabani made a drawing of a vagina and a penis and tried to show it to Sheldalyn, but their Clerk, Mirad Ahmad (Mirad), grabbed the drawing, tore the same, and told Judge Arabani "Lummuh kaw sir."[22] The incident was reported to Rodrigo who even picked up the drawing from the wastebasket.[23]

On the other hand, Sheldalyn, in an Affidavit[24] dated January 26, 2010, charged Judge Arabani of sexual harassment, alleging, among others, that: *(a)* when they were still holding office at the residence of Judge Arabani, he would take her for a ride on his motorcycle, and while going around town, he would court her; *(b)* there were instances when he would suddenly step on the brakes so that her body would touch his; *(c)* he once took her to a snack house, called her at home, and bought her lotion, baby powder, and other things; *(d)* he also made a drawing of a penis and a vagina on a piece of paper and tried to show it to her, but the same was crumpled by Mirad who threw it in a wastebasket; *(e)* one time, he forced her to learn karate, and while teaching her, she felt him caressing her arms; *(f)* when he professed his for love for her, she started avoiding him by going out with Rodrigo; and *(g)* because she was afraid, she and her officemate, Jean Maldisa (Mrs. Maldisa) would accompany each other in going to the comfort room.[25]

In several letters dated May 8, 2010,[26] June 16, 2010,[27] and July 30, 2010,[28] Rodrigo charged Judge Arabani with grave abuse of authority, verbal abuses, dishonesty in his certificate of service, and sexual harassment,[29] arising out of the following acts, among others: *(a)* harassing him by taking and hiding his DTR for the month of March 2010; *(b)* surrounding himself with goons who tried to intimidate him with their "tiger look";[30] *(c)* his wife's tardiness;[31] *(d)* irregularities in the conduct of flag ceremony;[32] *(e)* molestation of a "labandera" and her teenage daughter;[33] and *(f)* courting Sheldalyn to whom he had shown a drawing of a penis and a vagina.[34]

Responding to the Court's directive[35] to comment on the charges against him, Judge Arabani filed his Comment[36] dated October 27, 2010 essentially denying the same, and claiming that the accusations were merely fabricated to muddle the issues involving the complaints he filed against Rodrigo, Rahim and Abduraji,[37] and were mere repetition of issues already resolved and terminated in **A.M. No. 06-3-03-SCC,**[38] like the one involving his wife's purported tardiness in coming to

office, which remained unsubstantiated and uncorroborated in the present complaints.[39] He further maintained that: *(a)* his absences were covered with the corresponding leave applications[40] and/or certificates of appearance;[41] *(b)* he does not have even a single body guard;[42] *(c)* Rodrigo was the only employee complaining about the location of the bundy clock and the placing of the bundy card on the designated rack;[43] *(d)* he did not steal Rodrigo's bundy card, which was submitted to the OCA together with his leave application to support the complaint against him;[44] *(e)* it is not true that he was courting Sheldalyn who is publicly known to be a tomboy, and the story of immorality was fabricated to destroy his credibility; and *(f)* the drawing of a penis and vagina which purportedly occurred in 2005 when the court was still holding office in his residence was merely fabricated; otherwise, it would have been included in Rodrigo's previous complaints against him between the years 2005 and 2006.[45]

In a Resolution[46] dated November 15, 2011, the cases were consolidated, and referred for joint investigation, recommendation and report by the Presiding Judge of the Regional Trial Court of Jolo, Sulu, Branch 3.

The Investigating Judge's Findings and Recommendations

In a Joint Investigation, Report and Recommendation[47] dated April 8, 2013, the Investigating Judge, Betlee-Ian J. Barraquias (Judge Barraquias), made the following findings and recommendations:

With respect to **A.M. No. SCC-10-14-P,** Judge Barraquias found that there was an irregularity in the punching of the bundy card of Rahim by Abduraji, and Rahim's silence and inaction despite his awareness thereof made him equally responsible as he is deemed to have consented to the commission of the improper act.[48] This is bolstered by the fact that Abduraji: *(a)* admitted having punched the bundy card of Rahim sometime in the first week of June 2009 (first incident) but explained that he did the same by mistake, thinking that it was his own bundy card, and on June 16, 2009 (second incident), thinking that Rahim was already at the door of the office; and *(b)* averred that he could not recall whether or not he punched the bundy card of Rahim on June 30, 2009 (third incident; subject incidents).[49] Judge Barraquias then concluded that their collaboration *(1)* is a clear violation of *(a)* Office of the Court Administrator (OCA) Circular No. 7-2003 on the accomplishment/submission of Certificates of Service and Daily Time Records, and *(b)* Section 4, Rule XVII of the Omnibus Rules Implementing Book V of Executive Order No. 292[50] (Civil Service Rules); and *(2)* is an act of dishonesty. Noting, however, that it is the first offense of Abduraji and Rahim, he recommended that they be suspended for six (6) months without pay with a stem warning that similar acts would be dealt with more severely.[51]

On the charge of insubordination and conduct unbecoming of court employees, however, Judge Barraquias found no deliberate intent on the part of Abduraji and Rahim to defy the authority of Judge Arabani and, thus, deemed it proper to recommend that they be reprimanded and given a stem warning for their non-compliance with the latter's memorandum requiring them to explain the *subject*

incidents in writing.[52]

Anent **A.M. No. SCC-10-15-P,** Judge Barraquias found sufficient evidence on record showing that Rodrigo *(a)* did not leave his bundy card at the designated bundy card rack,[53] and *(b)* failed to heed Judge Arabani 's directive to refrain from bringing home and carrying in his possession his bundy card, and to leave it in its designated rack. Consequently, he recommended that Rodrigo be meted a two (2) month forfeiture of salary (February and March 2010; *sic)* with a stem warning that any similar incident would be dealt with more severely. However, he found to be unsubstantiated the allegations that Rodrigo was constantly not at his assigned table, roams in and out of the office, and is not attending to his work. He further held that Rodrigo's failure to indicate the specific dates of his absence was a mere formal defect which can be remedied by specifying the dates of his leave.[54]

As regards **A.M. No. SCC-11-17,** Judge Barraquias found that the issues raised by Rodrigo, Rahim and Abduraji against Judge Arabani were mere rehash of those already deliberated upon by the Court in A.M. No. 06-3-03-SCC, which was already closed and terminated. Accordingly, Judge Barraquias refused to pass upon the same.[55]

On the other hand, Judge Barraquias recommended the dropping of the sexual harassment charge filed by Sheldalyn against Judge Arabani for insufficiency of evidence,[56] noting that other than her own account and the parties to this case who have declared their ill-feelings against Judge Arabani, Sheldalyn has no other witness to corroborate the said charge.[57] On the contrary, the charge was disputed by the testimony of Mrs. Maldisa which failed to show any single act of sexual harassment committed by Judge Arabani on Sheldalyn.[58] Nonetheless, Judge Barraquias found it an established fact that Judge Arabani made a drawing of a vagina and a penis in front of his staff, and recommended that the latter *(a)* be reprimanded therefor with a stem warning that any similar distasteful acts would be dealt with more severely; and *(b)* undergo mandatory gender sensitivity seminar so that he may be apprised of the value of giving due respect to the opposite sex.[59]

In a Resolution[60] dated June 23, 2015, the Court referred Judge Barraquias' Joint Investigation, Report and Recommendation dated April 8, 2013 to the OCA for evaluation, report and recommendation.

The OCA's Evaluation, Report and Recommendation

In a Memorandum[61] dated August 25, 2016, the OCA adopted the findings[62] contained in Judge Barraquias' Joint Investigation, Report and Recommendation dated April 8, 2013, and recommended:

1. in **A.M. No. SCC-10-14-P,** that: *(a)* Rahim and Abduraji be found guilty of committing irregularities in the punching of Rahim's bundy card on three (3) occasions *(i.e.,* on the subject incidents), which are also acts of dishonesty, and be suspended for six (6) months without pay with a stem warning that similar acts would be dealt with more severely; *(b)* the complaint for insubordination and conduct unbecoming a court employee against Rahim and Abduraji be dismissed for