

EN BANC

[**A.M. No. P-17-3763 [Formerly OCA IPI No. 14-4320-P], November 21, 2017**]

ENGR. DARWIN A. RECI, COMPLAINANT, VS. ATTY. EMMANUEL P. VILLANUEVA, FORMER CLERK OF COURT V AND SONIA S. CARREON, FORMER COURT STENOGRAPHER III, BOTH OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH 9, RESPONDENTS.

DECISION

PER CURIAM:

This case stemmed from the Sworn Complaint^[1] dated March 8, 2012 of complainant Engr. Darwin Azuela Recí (Engr. Recí), addressed to Court Administrator Midas Marquez, expressing his disappointment over the inaction of Judge Amelia Tria-Infante (Judge Tria-Infante) in the transmittal of the court records to the Court of Appeals (CA), relative to Criminal Case No. 05-236956, entitled *People of the Philippines v. PO2 Dennis Recí y Azuela, Feliciano Manansala y Pangilinan and John Doe alias "Mommy Angel"* for violation of Republic Act (R.A.) No. 9208^[2] also known as the Anti-Trafficking in Persons Act of 2003 in relation to R.A. No. 9231.^[3]

Facts of the Case

In Criminal Case No. 05-236956, Judge Tria-Infante rendered a Decision on September 17, 2009 wherein Engr. Recí's brother, PO2 Dennis Recí was convicted of the crime of Qualified Trafficking in Persons and was sentenced to a penalty of life imprisonment and a fine in the amount of P2,000,000.00.^[4]

The decision was promptly appealed^[5] on October 2, 2009 but Engr. Recí later discovered that after almost three years, no transmittal of the records of the case was made to the CA.^[6]

Consequently, Engr. Recí filed an administrative complaint against Judge Tria-Infante for grave abuse of discretion and gross neglect of duty^[7] docketed as A.M. No. RTJ-14-2397, entitled *"Engr. Darwin A. Recí v. Judge Amelia J. Tria-Infante, Regional Trial Court, Br. 9, Manila."*

In a Resolution^[8] dated September 17, 2014, however, the Court declared that the delay is attributed to Clerk of Court Atty. Emmanuel P. Villanueva (Atty. Villanueva) and Court Stenographer Sonia S. Carreon (Carreon) (respondents), who were tasked to prepare the case records, collate the Transcript of Stenographic Notes, and transmit them to the CA.

Accordingly, the Court resolved to docket the complaint as a separate administrative

matter against the respondents, and to submit their comments thereto within 10 days from receipt thereof.^[9]

In her Comment,^[10] Carreon averred that as court stenographer, it was not part of her duties and obligation to prepare records of cases for transmittal to another court.

Moreover, Carreon countered that Atty. Villanueva coerced her to execute her Memorandum^[11] dated April 18, 2012 wherein she allegedly admitted the blame in the delay of the transmittal of the records of the case. Considering that Atty. Villanueva was her immediate supervisor, she was forced to just comply with his order.^[12]

In its 1st Tracer,^[13] the Office of the Court Administrator (OCA) reiterated its order to Atty. Villanueva to file his comment and was given another five days to comply, counted from the day of receipt thereof. No return card, however, was received by the Court despite repeated re-sending of the Court's resolutions to him in the address indicated in his 201 file. Thus, the OCA proceeded with the evaluation of the case and was submitted to the Court.^[14]

Recommendation of OCA

On July 26, 2017, the OCA issued its Memorandum^[15] wherein it recommended the dismissal of Atty. Villanueva from the service for gross neglect of duty. Considering, however, that he already resigned from office on December 31, 2012, the OCA recommended the forfeiture of his separation benefits, except accrued leave credits, with prejudice to re-employment in the government or any of its agencies, including government-owned or controlled corporations.

Also, the OCA recommended that Carreon, who already resigned on February 14, 2014, be fined in the amount of P20,000.00, to be deducted from any benefits due her, for gross neglect of duty.

The OCA noted that as a result of the instant administrative case against herein respondents, they have not been issued clearances by the Court despite their resignation.

Issue

Mainly, the issue to be resolved in the instant case is whether or not the respondents are guilty of the offense charged.

Ruling of the Court

The Court finds the recommendation of OCA against Atty. Villanueva proper under the circumstances. With regard to Carreon, however, the Court finds that the administrative complaint against her should be dismissed for lack of merit.

Atty. Villanueva is liable only for simple neglect of duty

Section 10, Rule 41 of the Rules of Court explicitly provides:

Sec. 10. Duty of clerk of court of the lower court upon perfection of appeal. — Within thirty (30) days after perfection of all the appeals in accordance with the preceding section, it shall be the duty of the clerk of court of the lower court:

- (a) To verify the correctness of the original record or the record on appeal, as the case may be aid to make certification of its correctness;
- (b) To verify the completeness of the records that will be transmitted to the appellate court;
- (c) If found to be incomplete, to take such measures as may be required to complete the records, availing of the authority that he or the court may exercise for this purpose; and
- (d) To transmit the records to the appellate court.**
(Emphasis supplied)

Here, as found by the OCA, Atty. Villanueva admitted in his Memorandum dated April 19, 2012 addressed to Judge Tria-Infante that he has no valid excuse for his failure to comply with the order directing him to immediately transmit to the CA the records of Criminal Case No. 05-236956.^[16]

Indeed, Atty. Villanueva cannot escape liability by imputing liability to Carreon. As clerk of court, he occupies a very sensitive position that calls for the exercise of competence and efficiency to affirm the confidence of the public in the administration of justice. He is responsible for the shortcomings of his subordinates and thus, he is still primarily liable for the negligence of his staff.^[17]

The next question to be resolved is whether Atty. Villanueva's negligence, in failing to immediately transmit the records of Criminal Case No. 05-236956 to the CA, is gross in nature.

The Court rules in the negative.

In *Judge Fuentes v. Atty. Fabro, et al.*^[18] the respondent clerk of court was found guilty only of simple neglect of duty for failure to elevate the records of the case for more than two years.

Pursuant to Section 46D (1), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service, simple neglect of duty is classified as a less grave offense. It is