

EN BANC

[A.M. No. P-16-3490 [Formerly OCA IPI No. 14-4278-P], August 30, 2016]

JUDGE FE GALLON-GAYANILO, COMPLAINANT, VS. ERIC C. CALDITO, PROCESS SERVER, BRANCH 35, REGIONAL TRIAL COURT, ILOILO CITY, ILOILO,, RESPONDENT.

DECISION

PER CURIAM:

Subject of this disposition is the Letter-Complaint,^[1] dated May 2, 2014, of Judge Fe Gallon-Gayanilo (*Judge Gallo-Gayanilo*), Regional Trial Court, Branch 35, Iloilo City, Iloilo, charging respondent Eric C. Caldito (*Caldito*), Process Server of the same court, with Dishonesty and Gross Misconduct for falsifying a court order.

In her letter-complaint, Judge Gallon-Gayanilo claimed that she received a letter, dated April 21, 2014, from Branch Clerk of Court Atty. Tisha Diane A. Alipao (*Atty. Alipao*) informing her that Caldito falsified the contents of the February 27, 2014 Order of the court in Cadastral Case No. 14-479, entitled "*Petition for the Issuance of Owner's Copy of OCT No. 0-10480 covering Lot 6606 of the Cadastral Survey of Cabatuan, Iloilo.*"

Judge Gallon-Gayanilo averred that the original February 27, 2014 Order only directed the amendment of the petition without any setting for a hearing or a directive for posting. Caldito altered the order to make it appear that the petition would be heard on May 22, 2014 and that he must immediately post the notice. He made the alteration by copying the contents of an earlier order issued by the court in another cadastral case (Cadastral Case No. 12-235). In truth, the petition in Cadastral Case No. 14-479 was set for hearing not on May 22, 2014 but on June 5, 2015 as stated in the April 10, 2014 Order of the Court.

Judge Gallon-Gayanilo also emphasized that it was not her practice to sign machine copies of orders to be sent to counsels, as what Caldito did, although she signed on the carbon copies thereof. Apparently, Caldito falsified the order to solicit the amount of P1,000.00 from the law firm of Que, Lebrilla and Associates for posting expenses.

Judge Gallon-Gayanilo added that Caldito showed no remorse for his misdeeds when he was asked to comment on the matter by Atty. Alipao. Instead of filing a reply, he went on absence without leave (*AWOL*).

In its 1st Indorsement,^[2] dated May 13, 2014, the Office of the Court Administrator (OCA) directed Caldito to comment on the letter-complaint. In a Letter, dated May 12, 2014, however, Caldito informed the Court of his resignation from his post as process server, with a copy sent to Judge Gallon-Gayanilo.

The OCA, in a letter,^[3] dated September 18, 2014, accepted his resignation effective May 12, 2014, subject to the usual clearance requirements. In the 1st Tracer,^[4] dated March 3, 2015, the OCA notified Caldito of his failure to submit his comment on the letter-complaint and reiterated its directive to comply within five (5) days from receipt of the notice. To date, however, Caldito has not made any effort to answer the charges against him.

Findings of the OCA:

The OCA found that there was compelling reason to hold Caldito administratively liable.

The OCA opined that falsifying an order of the court and soliciting money from a law firm with a pending case in court constituted falsification, dishonesty and gross misconduct, which were grave offenses punishable by dismissal from the service even on the first offense, with forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification from reemployment in the government service. Citing A.M. No. 2005-24-SC,^[5] the OCA stated that in some cases, the Court had refrained from imposing these penalties in the presence of mitigating circumstances such as the respondent's length of service in the Judiciary, acknowledgment of his infractions, feeling of remorse and family situations, among other things. In this case, however, the OCA found no reason for leniency as Caldito expressed no remorse for his acts. In fact, he tried to evade administrative sanction by resigning.

The OCA believed that Caldito's attempt to elude administrative liability by resigning from the service was a stratagem that should not be countenanced as it kept the door open for his possible return to the Judiciary. For said reason, the OCA submitted the following recommendations:

1. the instant administrative complaint be RE-DOCKETED as a regular administrative matter against respondent Eric C. Caldito, Process Server, Branch 35, RTC, Iloilo City, Iloilo; and
2. respondent Process Server Caldito be found GUILTY of Grave Misconduct, Falsification and Dishonesty and be ordered DISMISSED from the service, but considering that his resignation had already been accepted effective 12 May 2014, that respondent Process Server Caldito be made to suffer instead the accessory penalties of FORFEITURE of all benefits, except accrued leave credits, if any, and PERPETUAL DISQUALIFICATION from re-employment in any government instrumentality, including government- owned and controlled corporations.^[6]

The Court's Disposition

The Court agrees with the findings and recommendations of the OCA.

There is grave misconduct when the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule are present.^[7]

The Code of Conduct for Court Personnel prescribes the norms of conduct which are specific to personnel employed in the Judiciary. The specificity of these norms is due to "the special nature of court personnel's duties and responsibilities."^[8] The Code provides:

CANON IV
PERFORMANCE OF DUTIES

SECTION 1. Court personnel shall at all times perform official duties properly and with diligence. They shall commit themselves exclusively to the business and responsibilities of their office during working hours.

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SECTION 3. Court personnel shall not alter, falsify, destroy or mutilate any record within their control.

This provision does not prohibit amendment, correction or expungement of records or documents pursuant to a court order.

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In this case, Caldito miserably failed to meet the high ethical standards expected of court employees. His act of falsifying an order of the court to be able to solicit money from the law firm representing a party in the case constituted gross misconduct, as correctly found by the OCA.

The Court also notes that Caldito was directed by the Branch Clerk of Court to comment on the complaint but instead of complying, he went on AWOL. A similar directive from the OCA was ignored by him. He sent his letter of resignation to the Court even before he was notified of the directive. He was later reminded of his failure to file his comment on the letter-complaint, but again failed to answer the charges against him.

Caldito's failure to submit his comment constituted clear and willful disrespect for the OCA and for the Court, which exercised direct administrative supervision over trial court officers and employees. Non-compliance with the OCA directives was tantamount to disrespect for the Court's lawful order and directive. A court employee who deliberately and continuously fails and refuses to comply with the directive of this Court is guilty of gross misconduct.^[9]

Caldito undoubtedly committed falsification of an official document when he altered the contents of the court order, dated February 27, 2014, in Cadastral Case No. 14-479 and made it appear that the said case was set for hearing on a certain date but it was actually not so calendared. This falsification to solicit the amount of P1,000.00 from the law firm on his misrepresentation that the said amount was needed for posting expenses, constituted gross dishonesty that the Court cannot tolerate.

Dishonesty is defined as a disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straight forwardness.^[10]