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[A.M. No. 2008-23-SC, September 30, 2014]

ALLEGED LOSS OF VARIOUS BOXES OF COPY PAPER DURING THEIR TRANSFER FROM THE PROPERTY DIVISION, OFFICE OF ADMINISTRATIVE SERVICES (OAS), TO THE VARIOUS ROOMS OF THE PHILIPPINE JUDICIAL ACADEMY.

[A.M. No. 2014-025-Ret.]

RELEASE OF COMPULSORY RETIREMENT BENEFITS UNDER R.A. NO. 8291 OF MR. ISIDRO P. AUSTRIA, FORMER SUPPLY OFFICER II, PHILIPPINE JUDICIAL ACADEMY, SUPREME COURT.

D E C I S I O N

BERSAMIN, J.:

Before us is the administrative matter inquiring into the loss of 140 reams of long copy paper, and 40 reams of short copy paper, valued at P27,000.00, delivered to the Philippine Judicial Academy (PHILJA). The loss was criminal theft by all means.

Also for our consideration now is the application for the release of his retirement benefits due to his intervening compulsory retirement from the service on his 65th birthday on August 17, 2012 of one of the employees under investigation.

Antecedents

On October 23, 2008, Boc's Trading Co., Inc. delivered 1,300 reams of short copy paper and 1,100 reams of long copy paper to the Supreme Court intended for the Philippine Judicial Academy (PHILJA). As instructed by Administrative Officer Ma. Christina M. Recio, the delivery was initially accepted by Ryan Orcullo, the Property Custodian of the PHILJA, because Supply Officer II Isidro Austria and Store Keeper IV Lenin Mario Ordoñez, both of the Property and Supply Section, PHILJA Administrative Office, were then not around. The first batch of copy paper, consisting of 300 reams long copy paper and 800 reams of short copy paper, were unloaded under the supervision of Orcullo and brought directly to the stock rooms and available spaces at the premises of the PHILJA. When Orcullo left for his lunch break, Ordoñez took over. The rest of the delivery were unloaded from the delivery truck at the Centennial Building of the Court upon the instruction of Ordoñez.

With the help of Judicial Staff Employee II Elizalde S. Carmona, Ordoñez then initiated the transfer of the copy paper to the stockroom and the Reproduction Room (Repro Room) of the Office of the Court Administrator (OCA) in the Supreme Court Multipurpose Building located in the SC New Building. In the afternoon of October 23, 2008, Orcullo informed Administrative Officer Recio that 400 reams of short copy paper and 40 reams of long copy paper were missing.

In his letter dated October 27, 2008, Atty. Rodel O. Hernandez formally reported the missing boxes of copy paper belonging to the PHILJA to PHILJA Vice Chancellor Justice Justo P. Torres, Jr., disclosing that the preliminary investigation conducted by Administrative Officer Recio and HR Officer III Ma. Lourdes Pelaus revealed that: (a) Austria had admitted having used the SC's Lite Ace van with Plate No. SEF 868 to unload 50 reams of short bond paper contained in five boxes in Intramuros to pay his outstanding personal debt of P5,000.00; but had denied any involvement in the loss of the other boxes of copy paper; (b) Ordoñez had claimed that he supervised and made the transfer of 300 reams in 30 boxes of long bond paper to the OCA stock room, but the verification had shown only 270 reams in 27 boxes; he had admitted riding the PHILJA van with Plate No. SFV 785 to deliver the reams of copy paper to the Repro Room without the proper trip ticket, leaving the boxes of copy paper there without padlocking the stockrooms; (c) driver Eusebio M. Glor of the Administrative Division had admitted driving the Lite Ace van with Plate No. SEF 868 to Intramuros with Austria on board, and had acknowledged facilitating the unlawful transfer of 50 reams of copy paper in 50 boxes; but had denied knowledge of the remaining missing boxes of copy paper; and (d) Carmona had driven the PHILJA van with Plate No. SFV 785 upon the request of Ordoñez without the corresponding trip ticket, and had assisted Ordoñez only in the transfer of the boxes from the OCA stockroom to the Repro Room.[1]

The Office of Administrative Services (OAS) directed Austria, Ordoñez, Glor and Carmona to submit their respective comments, and to show cause why they should not be held administratively liable for grave misconduct, and/or conduct prejudicial to the best interest of the service. They were further summoned to appear before the OAS for investigation.

In his comment,[2] Ordoñez reiterated his denial of any knowledge of the loss of the 30 boxes of long copy paper from the OCA stockroom, but admitted that he had initiated the transfer upon the instructions of Administrative Officer Recio. He claimed that he had merely endorsed the copy paper to Orcullo as the PHILJA Property Custodian tasked with overseeing the supplies in the stockroom; that it was already the practice in the PHILJA to bring to or take supplies from the Repro Room with the help of any available PHILJA drivers even without any corresponding trip tickets although the drivers might have other driving assignments; and that even the guards were aware of the practice.

On his part, Austria conceded that he had used the 50 reams of papers to pay for the copy paper he had borrowed from one "Mr. Roy" of the Jimmy Roy Trading, a supplier of toners, inks, and sometimes copy paper. He denied that the copy paper was payment for his personal loan, maintaining that he had only borrowed the copy paper in order to avoid delays for an upcoming PHILJA training. Recalled by the OAS, however, Austria retracted, and pointed to Glor as having taken the copy paper. According to him, Glor even planned their purported escape.

Glor declared that Austria had instructed him to load five boxes of short copy paper in the van, and directed him to proceed to a place in Intramuros, where someone else unloaded the copy paper. Recalled by the OAS, Glor likewise recanted, averring instead that the paper had been unloaded by Austria on Orosa St. near the Philam Insurance Company; and that he had been coached by Austria on what their version

would be.[3]

After conducting the investigation, the OAS concluded that Ordoñez had failed to exercise the required diligence in the performance of his task in overseeing the delivery of the copy paper by not seeing to the safe storage of the copy paper, and by not properly endorsing the copy paper to his office or to the security guard assigned in the area where he had left the reams of copy paper. The OAS pointed out that the loss of the copy paper from the OCA stockroom had been Ordoñez's fault, because he was the person in charge of the stockroom; that Ordoñez's negligence had facilitated the theft of the 50 reams by Austria and Glor; and that the theft had resulted in the loss of approximately P27,000.00 by the Court.[4]

The OAS found that Austria and Glor had committed perjury by giving false statements, as borne out by the incongruence of their initial narration of facts and their subsequent statements blaming each other as the perpetrator of the theft of the copy paper; that it was clear that their act of taking the copy paper without authority constituted theft; that they were liable for serious dishonesty considering that their acts were attended by certain circumstances that rendered their offense serious, namely: (a) damage and prejudice to the Government; (b) moral depravity; and (c) employment of fraud or falsification of official documents in committing the dishonest acts.[5]

As to Carmona, the OAS observed that he was still responsible for securing the trip ticket as a driver even if he had been requested to help Ordoñez.[6]

The OAS ultimately recommended as follows:

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> I. For having been found guilty of Gross Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service, **Mesrs. Isidro T. Austria and Eusebio M. Glor**, be meted with the penalty of **DISMISSAL** from the service with forfeiture of benefits except accrued leave credits;
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> II. For having been found guilty of Gross Neglect of Duty, **Mr. Lenin Mario M. Ordoñez**, be meted the penalty of **DISMISSAL** from the service with forfeiture of benefits except accrued leave credits;
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> III. **Mesrs. Austria, Glor and Ordoñez,** be directed to restitute to the Court the copy papers stolen; and
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> IV. For driving without a trip ticket to the PHILJA Reproduction Room, **Mr. Elizalde S. Carmona**, be **WARNED** that a repetition of similar acts in the future shall be dealt with more severely.

B. The Security Division be reminded to strictly implement the Resolution of the Court dated July 11, 1989, Re: Security Guidelines for the Supreme Court; and directed to enforce the use of trip tickets with corresponding Gate Pass, Requisition and Issue Slip (RIS), or transfer slip, whichever is appropriate for the property/ies or supplies to be brought outside the Court's premises.

C. This Office submits for the Court's information, the Memorandum with supporting documents dated February 20, 2009 of Justice Justo P. Torres, Jr., Vice Chancellor, PHILJA, providing (a) their stock position as of December 2008; (b) documents showing distribution of supplies and materials to the various PHILJA offices/divisions; (c) information that the PHILJA has implemented stricter rules in order to resolve any form or (sic) waste or pilferage at PHILJA.

For the Court's consideration.[7]

Meanwhile, on May 4, 2009, Ordoñez resigned from the PHILJA, citing the approval of his family's visa application for immigrant status in Canada as the reason for his resignation.[8] On June 23, 2009, the Court *En Banc* approved his resignation, subject to the usual clearance requirements and without prejudice to the outcome of this administrative case.[9]

Subsequently, the parties manifested that they were submitting the case for resolution upon the pleadings filed.[10]

On August 20, 2014, the Third Division directed the consolidation of A.M. No. 2014-025-Ret. with A.M. No. 2008-23-SC.[11] The Banc accepted the consolidation on September 9, 2014.

Ruling

After reviewing the records, we are satisfied with and adopt the findings of the OAS.

There is grave misconduct when the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule are present.[12] 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 straightforwardness.[13] Both gross misconduct and dishonesty are grave offenses that are punishable by dismissal even for the first offense.[14]

Conduct prejudicial to the best interest of the service is also classified as a grave offense under Section 22(t) of the Omnibus Rules Implementing Book V of Executive Order No. 292 and other pertinent Civil Service laws, with the penalty for the first offense being suspension for six (6) months and one (1) day to one (1) year, and for the second offense being dismissal.[15] The Civil Service laws and rules contain no description of what specific acts constitute the grave offense of conduct prejudicial to the best interest of the service. However, jurisprudence has been instructive, with the Court having considered the following acts or omissions as constitutive of

conduct prejudicial to the best interest of the service, namely: (*a*) misappropriation of public funds; (*b*) abandonment of office; (*c*) failure to report back to work without prior notice; (*d*) failure to keep public records and property safe; (*e*) making false entries in public documents; and (f) falsification of court orders.[16]

In *Court Administrator v. Sevillo*,[17] the act of stealing mail matter by the respondent, a process server in the Municipal Circuit Court of Jordan-Buenavista-Nueva Valencia, Guimaras, was held to constitute "grave dishonesty and grave misconduct or conduct prejudicial to the best interest of the service," with the Court opining:

> It can never be said often enough that the conduct of judges and court personnel must not only be characterized by propriety and decorum at all times but must also be above suspicion. In this regard, respondent Sevillo has been grossly deficient. By stealing mail matters he has blatantly degraded the judiciary and diminished the respect and regard of the people for the court and its personnel. Every employee of the judiciary should be an example of integrity, uprightness and honesty. Lamentably, respondent has become no better than a common thief; consequently, he does not deserve to stay a minute longer in the judicial service.

In *Re: Pilferage of Supplies in the Stockroom of the Property Division, OCA Committed by Teodoro L. Saquin, Clerk II,*[18] the respondent admitted stealing office supplies from the OCA, and selling the supplies to sidewalk vendors in front of the Isetann Department Store along Recto Avenue corner Quezon Boulevard, Manila. The Court meted the penalty of dismissal from the service, with forfeiture of all leave credits and retirement benefits, and with prejudice to re-entry to any Government entity or any Government-owned or Government-controlled corporation; and further directed the referral of the records of the case to the Department of Justice for investigation with a view to the filing, if warranted, of the appropriate criminal proceedings.

For making false statements, committing perjury and stealing the copy paper, Austria and Glor are guilty of grave misconduct,[19] gross dishonesty, and conduct prejudicial to the best interest of the service. Their dismissal from the service is the proper penalty, with forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification from re-employment in the Government. In addition, the records of the case should be referred to the Department of Justice for investigation with a view to the filing, if warranted, of the appropriate criminal proceedings.

On August 17, 2012 and during the pendency of A.M. No. 2008-23-SC, Austria turned 65 years old and was deemed compulsorily retired from the service. He applied for retirement benefits under Republic Act No. 8291 (*The Government Service Insurance Act of 1997*), and his application was docketed as A.M. No. 2014-025-Ret. The OAS recommended on July 30, 2104 that the benefits of Austria under Republic Act No. 8291 could be paid to him by the Government Service Insurance System "subject to the usual clearance requirements." As stated, the Third Division of the Court directed the consolidation of A.M. No. 2014-025-Ret. with A.M. No.