

## SECOND DIVISION

**[ A.M. No. P-11-2999 [formerly OCA IPI No. 10-3517-P], February 27, 2012 ]**

**SHEILA G. DEL ROSARIO, COURT STENOGRAPHER III, REGIONAL TRIAL COURT, BRANCH 36, SANTIAGO CITY, ISABELA, COMPLAINANT, VS. MARY ANNE C. PASCUA, COURT STENOGRAPHER III, SAME COURT, RESPONDENT.**

### R E S O L U T I O N

**BRION, J.:**

In her complaint-affidavit,<sup>[1]</sup> complainant Sheila G. del Rosario charges Mary Anne C. Pascua (*respondent*), Court Stenographer III of the Regional Trial Court, Branch 36, Santiago City, Isabela, with Dishonesty (1) for traveling to Hong Kong from June 1 to 6, 2008 without securing a travel authority from the Supreme Court and for not stating in her leave application her foreign travel; and (2) for misrepresenting in her official documents in the Supreme Court her date of birth as June 27, 1974, when her registered date of birth in the National Statistics Office (NSO) is August 7, 1974.

The Office of the Court Administrator (OCA) directed the respondent to comment on the complaint.<sup>[2]</sup>

The respondent admitted that she failed to secure a travel authority from the Supreme Court, but explained that it was due to mere inadvertence. She alleged that her true date of birth, as reflected in her baptismal certificate and her marriage contract, is June 27, 1974, and she was in the process of correcting with the NSO her registered date of birth to reflect her true date of birth. She insisted that she did not commit any act of dishonesty.<sup>[3]</sup>

The OCA recommended that the present matter be redocketed as a regular administrative matter. It found the respondent guilty of violation of reasonable office rules and regulations for traveling abroad without the required travel authority. It recommended that the respondent be reprimanded for her first offense.<sup>[4]</sup>

The OCA also found the respondent guilty of simple dishonesty for failing to disclose in her leave application her foreign travel. It recommended the penalty of suspension for one (1) month. It noted that the respondent did not commit any dishonesty regarding the discrepancy in her date of birth since she wanted to reflect her true date of birth as June 27, 1974, though her registered date of birth has not yet been corrected.<sup>[5]</sup>

***We adopt the OCA's findings, but modify the recommended penalties.***

OCA Circular No. 49-2003<sup>[6]</sup> provides that "*court personnel who wish to travel*

*abroad must secure a travel authority from the Office of the Court Administrator."* Section 67 of the Omnibus Rules on Leave<sup>[7]</sup> provides that "[a]ny violation of the leave laws, rules or regulations, or any misrepresentation or deception in connection with an application for leave shall be a ground for disciplinary action." Under the Uniform Rules on Administrative Cases in the Civil Service,<sup>[8]</sup> violation of reasonable office rules and regulations is a light offense punishable with the penalty of reprimand for the first offense, suspension of one (1) day to thirty (30) days for the second offense, and dismissal from the service for the third offense.

In this case, since the respondent traveled without securing a travel authority and did not state her foreign travel in her leave application, she is guilty of violating at least two (2) office rules and regulations. These twin violations should be reflected in her penalties, particularly in the second offense – failure to state in her leave application her travel abroad – which, to our mind, strongly suggests deception on her part amounting to dishonesty. She should be suspended without pay for three (3) months for her twin infractions. Let this be a warning to all who might be minded to risk a one-month suspension if only to avoid disclosing to the Court that they shall be traveling abroad.

We find that the discrepancy in the respondent's date of birth in her records does not amount to dishonesty, as she made no false statement. No deliberate intent to mislead, deceive or defraud appears from the cited circumstances of this case. Dishonesty means "the concealment of truth in a matter of fact relevant to one's office or connected with the performance of his duties. It is an absence of integrity, a disposition to betray, cheat, deceive or defraud, bad faith."<sup>[9]</sup> The respondent's date of birth is not a fact directly relevant to her functions or qualification to office or connected with the performance of her duties. Besides, her other records, i.e., baptismal certificate and marriage contract, reflected June 27, 1974 as her true date of birth; she simply wanted to reflect this fact in her records.

**WHEREFORE**, respondent Mary Anne C. Pascua, Court Stenographer III of the Regional Trial Court, Branch 36, Santiago City, Isabela, is found **GUILTY** of violation of the rules requiring court permission for travel abroad and for failing to disclose her intended foreign trip in her leave application. For her twin violations, she is hereby **SUSPENDED** for three (3) months without pay, and **WARNED** that a repetition of the same or similar offense will be penalized more severely.

**SO ORDERED.**

*Perez, and Reyes, JJ., concur.*

*Carpio, (Chairperson), J., see dissenting opinion.*

*Sereno, J., I join the dissent of J. Carpio.*

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<sup>[1]</sup> Dated October 4, 2010; *rollo*, pp. 6-7.

<sup>[2]</sup> *Id.* at 19.

<sup>[3]</sup> Dated November 30, 2010; *id.* at 20-23.

[4] Memorandum dated May 2, 2011; id. at 31-35.

[5] Ibid.

[6] Dated May 20, 2003.

[7] As amended by Civil Service Commission Memorandum Circular No. 41, s. 1998; Nos. 6, 14 and 24, s. 1999.

[8] Promulgated by the Civil Service Commission through Resolution No. 99-1936 dated August 31, 1999 and implemented by Memorandum Circular No. 19, s. 1999.

[9] *Basilla v. Ricafort*, A.M. No. P-06-2233, September 26, 2008, 566 SCRA 425, 433.

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## DISSENTING OPINION

### **CARPIO, J.:**

Complainant alleged that respondent, during her approved leave of absence, traveled to Hong Kong on 1 to 6 June 2008 without securing a travel authority from the Supreme Court and that she omitted to state her intended foreign travel in her leave application. Furthermore, complainant charged respondent of dishonesty for misrepresenting her date of birth as 27 June 1974 in her official documents, when her registered date of birth in the National Statistics Office is 7 August 1974.

Respondent maintained that she failed to secure a travel authority from the Supreme Court due to inadvertence. Respondent assumed that since she did not have custody of and is not accountable for government funds, then she is not required to secure a clearance from the Office of the Court Administrator before she can travel abroad. On the discrepancy in her date of birth, respondent claimed that she is in the process of correcting her Certificate of Live Birth to reflect her true date of birth which is 7 August 1974.

The *ponente* finds that "the discrepancy in the respondent's date of birth in her records does not amount to dishonesty, as she made no false statement." However, the *ponente* holds that respondent has violated OCA Circular No. 49-2003<sup>[1]</sup> for failure to secure permission to travel abroad and for failing to disclose her intended foreign trip in her leave application. The *ponente* finds respondent "guilty of violation of the rules requiring court permission for travel abroad and for failing to disclose her intended foreign trip in her leave application." Thus, respondent is imposed the penalty of three-month suspension without pay and warned that a repetition of the same or similar offense will be penalized more severely.

I disagree with the *ponente* on the issue of respondent's unauthorized foreign travel. This issue involves a government employee's constitutional right to travel abroad