

## SECOND DIVISION

**[ A.M. No. P-06-2111, February 08, 2012 ]**

**ANNABELLE F. GARCIA, CLERK OF COURT, MUNICIPAL TRIAL COURT IN CITIES, BRANCH 2, OLONGAPO CITY, COMPLAINANT, VS. HERMINIO C. REYES AND ZOSIMA S. DE VERA, INTERPRETER AND STENOGRAPHER, RESPECTIVELY, MUNICIPAL TRIAL COURT IN CITIES, BRANCH 2, OLONGAPO CITY, RESPONDENTS.**

### DECISION

**CARPIO, J.:**

#### The Case

A.M. No. P-06-2111 originates from a Memorandum<sup>[1]</sup> issued by Annabelle F. Garcia (Garcia), in her capacity as Clerk of Court of Branch 2, Municipal Trial Court in Cities (MTCC), Olongapo City, to Court Interpreter Herminio C. Reyes (Reyes) and Court Stenographer Zosima S. De Vera (De Vera). Pairing Judge Merinnisa O. Ligaya (Judge Ligaya) indorsed the memorandum to the Office of the Court Administrator (OCA). The OCA recommended that the memorandum be redocketed as a regular administrative matter, and that Reyes and De Vera be penalized with a fine in the amount of P5,000.00 and a warning that repetition of the same or similar acts shall be dealt with more severely.

This Court referred the administrative matter to the OCA for designation of an investigating judge to conduct an investigation, report and recommendation. Executive Judge Ndrman V. Pamintuan (Judge Pamintuan) recommended penalties for Reyes and De Vera, as well as the conduct of an investigation to assess the culpability of complainant Garcia and of witness Amelia Gonzales Pronto (Pronto). In turn, the OCA recommended penalties for Reyes, De Vera, and Pronto.

#### The Facts

On 26 November 2004, Reyes and De Vera, for different reasons, left their stations and instructed Pronto to punch their respective time cards to make it appear that they were in the office until 5:00 p.m. Garcia later issued a Memorandum to Reyes and De Vera, and directed them to explain in writing why no disciplinary action should be taken against them for their violation of Civil Service rules. Judge Ligaya noted Garcia's memorandum and indorsed it to the OCA. OCA's Memorandum<sup>[2]</sup> to this Court summarized Reyes and De Vera's explanations, which read:

In his written explanation dated 10 January 2005 in compliance with the Memorandum aforementioned which he adopts as his Comment, respondent Herminio Reyes admits having left the office at around 11:40 a.m. and requested Ms. Pronto to punch out his time card for lunch

break.

He avers, however, that he readily went back to the office after a thirty-minute consultation with his physician about his back pain, thus denying the allegation that he was out of the office the entire afternoon on 26 November 2004. He asserts that it was he who personally punched out his card at 5:00 o'clock in the afternoon on that day, and not Ms. Pronto.

In her "Manifestation with Additional Comment" dated 6 March 2005, respondent Zosima De Vera, repleads and incorporates her written explanation dated 13 January 2005, as her Comment where she admitted that she left the office at around 4:30 p.m. that day to escort her relatives to the Binictican Housing SBMA. She claims that she intended to be back at the office before 5:00 p.m. that was why she requested Ms. Pronto to punch out her card only if she could not manage to be back on time and since she failed to return to the office on time, it was Ms. Pronto [who punched out her Daily Time Record]. She avers that she tried to ask for [Garcia's] permission before leaving as a precautionary measure, in view of the pendency of a previous complaint that [Garcia] had filed against her for Gross Insubordination. [Garcia] herself, however, was not in the office when [De Vera] left. [De Vera] contends that [Garcia] should be similarly charged with falsification because when [Garcia] signed [De Vera's] DTR, [Garcia] attested to its truth, veracity and due execution. [De Vera] likewise claims that [Garcia] filed this instant complaint to get even with her as she, too, had earlier filed two administrative complaints against [Garcia] for falsification of Time Record and Grave Abuse of Authority.

**OTHER RELEVANT INFORMATION:** Respondent Zosima De Vera is also the respondent in OCA IPI No. 04-1936, entitled "*Annabelle F. Garcia vs. Zosima De Vera*" for *Insubordination and Unworthy Behavior*. In said complaint, [Garcia] charges [De Vera] with improper conduct for uttering defamatory words and acting rudely to show [De Vera's] disrespect for [Garcia], who is the Acting Clerk of Court of Branch 2, MTCC, in Olongapo City, where [De Vera] is detailed.<sup>[3]</sup>

### **The OCA's Recommendation**

The OCA docketed the present complaint as OCA IPI No. 05-2120-P. The OCA issued a Memorandum on 22 November 2005, the Evaluation and Recommendation of which read as follows:

**EVALUATION:** [Reyes and De Vera] admitted that they left the office before the lapse of the official office hours, and also admitted that they requested Ms. Pronto to punch their respective time cards. With [Reyes and De Vera's] admissions, they can be held liable for misconduct for making it appear in their respective daily time records that they were in their office from 8:00 A.M. to 12:00 Noon and from 1:00 P.M. to 5:00 P.M. in violation of Supreme Court Circular No. 2-99 and reiterated in Circular No. 03-2001 entitled "Strict Observance of Prescribed Working

Hours and Session Hours and Rules on Punctuality and Attendance" which provides that: *"by reason of the nature and functions of their office, the officials and employees of the judiciary must be role models in the faithful observance of the constitutional canon that public office is a public trust. Inherent in this mandate is the observance of prescribed office hours and the efficient use of every month thereof for public service if only to recompense the government and ultimately, the people, who shoulder the cost of maintaining the cost of judiciary. Accordingly, all courts must observe the following office hours, without, however, prejudice to the approved flexi-time of certain personnel:*

*Monday to Friday 8:00 A.M. to 12:00 [Noon] 1:00 P.M. to 5:00 P.M. "*

Under Section 22[a] Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 as amended by CSC Memorandum Circular No. 19, s. 1999, [Reyes and De Vera's] dishonesty may be meted with the penalty of dismissal from service even if it is their first offense. However, considering Section 53 of the Revised Uniform Rules on Administrative Cases in the Civil Service which provides that in the determination of penalties to be imposed, the extenuating, mitigating, aggravating or alternative circumstances may be considered. As the act constituting the charge was committed only at one instance and that respondents duly admitted the act being complained of, the same may be considered as a mitigating circumstance.

It is well to remind [Reyes and De Vera] once again that public service requires outmost [sic] integrity and strictest discipline. A public servant must exhibit at all times the highest sense of honesty and integrity. The administration of justice is a sacred task. By the very nature of their duties and responsibilities, all those involved in it must faithfully adhere to hold inviolate, and invigorate the principle that is solemnly enshrined in the 1987 Constitution that a public office is a public trust; and all public officers and employees must be at all times accountable to the people, serve them with outmost [sic] responsibility, loyalty and efficiency. The conduct and behavior of everyone connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk should be circumscribed with the heavy burden of responsibility. Their conduct, at all times, must not only be characterized by propriety and decorum but above all else, must be above suspicion. Indeed, every employee of the judiciary should be an example of integrity, uprightness and honesty.

**RECOMMENDATION**: Respectfully submitted for the consideration of the Honorable Court is our recommendation that: [1] the instant IPI be REDOCKETED as regular administrative matter and; [2] Respondents, Interpreter Elmerminio C. Reyes and Stenographer Zosima C. De Vera, be penalized to pay a FINE in the amount of Five Thousand Pesos [P5,000.00] each and they be WARNED that repetition of the same or similar act in the future shall be dealt with more severely.<sup>[4]</sup>

In its Resolution<sup>[5]</sup> dated 6 February 2006, this Court resolved to redocket OCA IPI

No. 05-2120-P as a regular administrative matter. In a 14 June 2006 Resolution, the Court required the parties to manifest within ten days from notice whether they are willing to submit the case for decision on the basis of the pleadings and records already filed and submitted. On 27 September 2006, the Court noted that Reyes and De Vera failed to make any manifestation within the period granted; hence, the Court resolved that the filing of manifestation was deemed waived by Reyes and De Vera.

In a letter dated 25 October 2006, Garcia submitted documents to form part of the records of the case. The documents included a 22 February 2005 letter of Judge Ligaya withdrawing her certification as to the correctness of the entries of the time cards of Reyes and De Vera, particularly the entry of 26 November 2004, because of the reported falsification, and a photocopy of Reyes' December 2004 timecard. Garcia manifested her willingness to submit the case for decision on the basis of the pleadings filed in a letter dated 3 September 2007. She stated that her late compliance was brought about by "inadvertence in not immediately forwarding the same to [her], thus preventing her to submit the required compliance."<sup>[6]</sup>

In a letter dated 7 September 2007, Reyes claimed that he was unable to comply with the 14 June 2006 Resolution because he did not receive a copy. Upon checking, he saw that the Resolution dated 14 June 2006 was sent to "Municipal Trial Court in Cities, Br. 2, San Fernando, La Union" instead of "Municipal Trial Court in Cities, Br. 2, Olongapo City." Reyes asked for an opportunity to submit his Manifestation before the case is deemed considered submitted for decision.<sup>[7]</sup> Reyes and De Vera jointly filed a Manifestation with Motion for Reconsideration on 17 September 2007. In the attached Comment, Reyes and De Vera stated that, apart from the 16 June 2006 Resolution, they did not receive copies of documents related to the present case: Garcia's 25 October 2006 letter and, because it is attached to Garcia's letter, Judge Ligaya's 22 February 2005 letter. Reyes and De Vera reiterated the explanations for their actions and appealed to this Court to relax the stringent application of the rules on discipline of government employees. Reyes and De Vera also asked the Court to consider their remorse, the number of years of their service to the government without any derogatory record, and their sincere promise not to repeat the same mistake.

Both parties filed various submissions (i.e., reply, rejoinder, surrejoinder) before this Court. In a Resolution<sup>[8]</sup> dated 17 June 2009, the Court resolved to refer the administrative matter to the OCA for the designation of an investigating judge to conduct an investigation, report and recommendation.

Judge Pamintuan of MTCC Olongapo City conducted hearings from 9 to 10 November 2009, and submitted his report to the OCA on 15 December 2009.

### **FINDINGS AND RECOMMENDATIONS:**

Culled from the records of the case, the testimonies of the parties as well as the lone witness in this case, the hereunder Executive Judge reports his findings of facts, applicable jurisprudence and recommended penalties for the respondents herein as well as the possible culpabilities of other parties involve [sic] in this Administrative Matter.

This Administrative Matter although deeply rooted on the animosities between the complainant and respondents herein is just one of several cases involving the parties who are on guard for possible sanctions on perceived violations of each other and the lodging of the same with the Office of the Court Administrator, to wit:

1) **OCA I PI No. 04-1936-P** filed by complainant Annabelle F. Garcia against Zosima S. De Vera;

2) **Adm. Matter OCA IPI No. 04-2052-P** filed by Zosima S. De Vera charging Annabelle F. Garcia with grave misconduct (falsification of DTR), grave abuse of authority and conduct unbecoming of a public officer/employee; Resolved by the First Division on September 12, 2005 admonishing the latter for not reflecting in her daily time record that she was actually on official business on June 25, 2004 and on July 7, 12, 14 and 23, 2004 and May 17, 2004 with a **stern warning** that a repetition of the same or similar acts shall be dealt with more severely;

3) **Adm. Matter No. P-07-2311** - Annabelle F. Garcia vs. Amelia C. Bada resulting in the **Dismissal** of respondent Amelia Bada, Clerk III of Branch 2, MTCC, Olongapo City in an en bane decision of the Supreme Court dated August 23, 2007.

#### **I. Herminio C. Reyes**

Respondent Herminio C. Reyes (Reyes, for brevity) admitted that he left the office 11:40 A.M. on November 26, 2004 and requested Amie Pronto (Amelia Gonzales Pronto) now a Utility Aide and a Supreme Court employee assigned at MTCC, Branch 2, Olongapo City, to punch out his time card for lunch break only. [TSN, November 9, 2009 @ 3:00 P.M., pages 11 and 12].

When asked by the Court the number of times he requested other people to punch his time card, he replied that it was the first and last time. [TSN, November 9, 2009 @ 3:00 P.M., page 24].

With his admission, he is liable not only for violation of Supreme Court Circular No. 2-99 as reiterated in Supreme Court Circular 03-2001 which provides for the Strict Observance of Prescribed Working Hours and Session Hours and Rules on Punctuality and Attendance prescribing the office hours as Monday to Friday, 8:00 a.m. to 12:00 noon and 1:00 p.m. to 5:00 p.m.

He is also liable under Section 22(a), Rule IV of the Omnibus Rules Implementing Book V of Executive Order No. 292 as amended by CSC Memorandum Circular No. 19, Series of 1999 for **dishonesty** which provides for dismissal even for the first offense.

Instead of being honest and remorseful in the wrongdoing which he admitted he did, he even lied to the Court when he replied it was the first and last time he did the same.