

EN BANC

[A.M. No. P-11-2912, April 10, 2012]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
MARY LOU C. SARMIENTO, INTERPRETER II, BRANCH 57,
METROPOLITAN TRIAL COURT, SAN JUAN CITY, AND ARTURO F.
ANATALIO, SHERIFF, BRANCH 58, METROPOLITAN TRIAL
COURT, SAN JUAN CITY, RESPONDENTS.**

DECISION

CARPIO, J.:

The Case

Before the Court are administrative charges for Simple Neglect of Duty against Mary Lou C. Sarmiento (Sarmiento), Interpreter II of Branch 57, Metropolitan Trial Court of San Juan City (MeTC-San Juan) and Arturo F. Anatalio (Anatalio), Sheriff of Branch 58, MeTC-San Juan.

The Antecedent Facts

This administrative case is an offshoot of *Chua v. Sorio*,^[1] where respondent Eleanor A. Sorio (Sorio) of Branch 57, MeTC-San Juan, was found guilty of grave misconduct and conduct prejudicial to the best interest of the service and fined P5,000.

For clarity, we reproduce the facts of the *Sorio* case, as follows:

Complainant Rufina Chua filed in the MeTC (Branch 57) of San Juan City two criminal cases, docketed as Criminal Case Nos. 44739 and 51988, for alleged violation of the Bouncing Checks Law, involving two Interbank checks amounting to P9,563,900.00 issued by William Chiok, the accused in both cases. Upon the inhibition of Presiding Judge Leodegario Quilatan, the two cases were transferred to Branch 58. The presiding judge of Branch 58, Judge Maxwell Rosete, directed the consolidation of the two cases. After trial, Judge Rosete rendered a decision acquitting the accused. Judge Rosete held that the two Interbank checks, which were not drawn to apply on account or for value, were not within the contemplation of the Bouncing Checks Law.

When complainant read the decision, she noticed that the cited check numbers, dates, and amounts of the two Interbank checks were interchanged. Thinking that this mistake was used as basis in acquitting the accused, complainant asked for the records of the case, specifically Criminal Case No. 44739. She discovered that (i) in the formal offer of

evidence by the accused, the exhibit markings of several items of the documentary evidence had been altered; (ii) exhibits 26, 27, 28, 29, 30, and 31 had missing pages when compared with her photocopy of the evidence marked during trial, and (iii) the transcript of stenographic notes (TSN) dated 17 February 1999, which contained an admission by the accused that he negotiated the settlement of the cases with the complainant, was missing.

The complainant wrote the Office of the Court Administrator (OCA) requesting an investigation on the changes found on the exhibits and the missing TSN dated 17 February 1999 in the records of Criminal Case No. 44739. The OCA directed Executive Judge Elvira D.C. Panganiban of the MeTC of San Juan City to investigate.

In her report, Judge Panganiban confirmed the missing TSN, which was no longer included in the Table of Contents when the records of the case were forwarded to Branch 58 upon the inhibition of Judge Quilatan of Branch 57. Judge Panganiban also found that exhibit markings in the formal offer of evidence were not consistent with the TSN. The demand letter dated 25 October 1995 was inserted as exhibit 12 in lieu of another document marked as exhibit 12 during the trial on 6 November 1998. Judge Panganiban also confirmed that exhibit 26, marked during trial, was changed in the formal offer of evidence and did not include pages 2 and 3. Judge Panganiban further confirmed that exhibits 27, 28, 29, 30, and 31 were all changed, had missing pages, and bore no signature of the court officer in the formal offer of evidence.

Lastly, Judge Panganiban observed that a portion of the decision, particularly pages 11-12, mistook check no. 03020694 as issued ahead of check no. 03020693. In her report, Judge Panganiban quoted that portion of Judge Rosete's decision:

One thing more, the prosecution claims that the checks in suit were issued by the accused simultaneously or at least on the same occasion although it is unclear whether it was July 11, 1995 or August 15, 1995. But be that as it may, why is it that Interbank Check No. 03020694 appears to have been issued ahead of the other check despite the fact that following the sequential numbers of the checks, the latter check must have been issued ahead of Interbank Check No. 03020694 because Interbank Check No. 03020693 would have or fall due on a later date which was on August 15, 1995? With such another unexplained circumstance, no other possibility could be said to have happened except a conclusion that the checks in suit were not issued on one and the same occasion and they did not pertain to one and the same transaction contrary to the claim of the prosecution.

However, from the records of the case, Judge Panganiban verified that

check no. 03020693 bore the date 11 July 1995 while check no. 03020694 was dated 15 August 1995.^[2]

The Court directed Sorio to file her comment but she failed to comply with the Court's directive. The Court then referred the case to Judge Amelia Manalastas (Judge Manalastas) of the Regional Trial Court of Pasig City, Branch 268, for further investigation. Thus:

x x x At the hearing conducted on 9 March 2009, Sorio testified that she knew nothing about the missing TSN and the alterations made in the exhibits as she was then on leave. She claimed she was merely prevailed upon by Sarmiento to drop by the office to sign the transmittal letter of the records. Sorio further testified that Sarmiento was the one in charge of marking the exhibits and that Anatalio was the one who retrieved the TSN. Thus, Judge Manalastas summoned Sarmiento and Anatalio to attend the hearing set on 23 March 2009 to clarify Sorio's allegations.

At the hearing, Sarmiento admitted she was the one who marked the exhibits presented in Criminal Case No. 44739. She also stated that she collated all the TSN into a separate volume. The first volume consisted of the case records of Criminal Case No. 44739, while the second volume contained the TSN. She claimed she had finished the index of the first volume, the transmittal letter of which Sorio had signed, when Anatalio arrived, asking permission to borrow the TSN dated 17 February 1999 because Judge Rosete needed them. Sarmiento admitted she allowed Anatalio to get the TSN even if she had not numbered them yet, hoping he would return them as soon as possible. Sarmiento testified that Anatalio never returned the TSN to her. For his part, Anatalio testified he could not remember having borrowed the TSN. However, his signature appeared on the transmittal letter of case records, which indicated he indeed received the TSN.^[3]

Judge Manalastas found Sorio liable for falsification of records and recommended her dismissal from the service for gross dishonesty and grave misconduct. However, the Office of the Court Administrator (OCA), which reviewed the Report of Judge Manalastas, found that Sorio was only guilty of simple neglect of duty for her failure to supervise the persons under her, and for failure to check that the records she was transmitting were true, accurate and complete. The OCA recommended that Sorio be suspended for one month and one day, with a stern warning, and that she be fined P5,000 for willfully disregarding the Court's order. The OCA likewise recommended that Sarmiento and Anatalio be included as respondents for conduct prejudicial to the best interest of the service and for violation of office rules, respectively. The OCA further recommended that Sarmiento be suspended for six months and one day with a stern warning and Anatalio be reprimanded with a stern warning.

The Court found reasonable ground to hold Sorio liable for grave misconduct and conduct highly prejudicial to the best interest of the service. The Court dismissed Sorio from the service, with forfeiture of all benefits and with prejudice to re-

employment in the Government or any subdivision, instrumentality, or agency thereof, including government-owned or controlled corporations. The Court further fined Sorio in the amount of P5,000.

However, the Court ruled that while Sarmiento and Anatalio should be made respondents in the Sorio case, they were not named as respondents in the complaint. As such, the Court ruled they should first be formally charged and given a chance to file their comments. The Court directed the Executive Judge of the Regional Trial Court of Pasig City to conduct further investigation on the possible administrative liability of Sarmiento and Anatalio and to submit his recommendation within 45 days from receipt of the Court's Resolution.

The Report of Executive Judge

In his Report dated 2 July 2010, Judge Isagani A. Geronimo (Judge Geronimo), 1st Vice Executive Judge of the Regional Trial Court of Pasig City, recommended the exoneration of Sarmiento and Anatalio from any administrative liability. Judge Geronimo found the explanations of Sarmiento and Anatalio exculpatory and ruled that the acts they committed were not considered violative of office rules nor conduct prejudicial to the best interest of the service.

Judge Geronimo noted that Chua, in particular, observed the following irregularities: (1) the inconsistency of the formal offer of evidence with that of the TSN where a demand letter was inserted as Exhibit "12" in lieu of the exhibit reflected in the TSN; (2) the exclusion of pages of Exhibits "26," "27," "28," "29," "30" and "31" which did not bear the signature of the court officer; and (3) the missing TSN dated 17 February 1999 which was not included in the table of contents when the records of the case were forwarded to Branch 58.

Judge Geronimo found merit in Sarmiento's explanation that as reflected in the TSN dated 6 November 1998, the evidence presented before her which was subsequently marked as Exhibit "12" was a fax transaction receipt and not a demand letter. Further, the TSN of 17 November 1998 showed that what were presented before Sarmiento and marked as Exhibits "26" to "31" were the original passbooks and the markings were made on their cover. However, the defense counsel attached the photocopies of the passbooks in his formal offer of evidence. As such, the markings on the photocopies were not clear and readable. The formal offer of evidence was made before Branch 58 when the case was already transferred and Sarmiento had no participation in the offer. As regards the missing TSN of 17 February 1999, the Order of Branch 58 showed that the hearing was cancelled and reset on that date because of the absence of the defense counsel.

Judge Geronimo likewise found that the transmission of the TSN of Criminal Case No. 44739 without proper indexing was reasonably explained by Sarmiento and Anatalio. Judge Geronimo found that Anatalio's participation in the transmission was only in compliance with the request of Judge Maxwell Rosete (Judge Rosete) of Branch 58 to whom the case was raffled. Anatalio immediately gave the records of the case to Judge Rosete. Judge Geronimo found that while there was no indexing, Sarmiento made a notation on the receipt of the records that they were received by Anatalio together with Volume II containing the TSN which was not yet included in the Index of Volume II and Transmittal.