

## THIRD DIVISION

**[ A.M. No. P-09-2646 (Formerly OCA I.P.I. No. 08-2911-P), June 18, 2012 ]**

**JUDGE AMADO S. CAGUIOA (RET.), COMPLAINANT, VS.  
ELIZABETH G. AUCENA, COURT LEGAL RESEARCHER II,  
REGIONAL TRIAL COURT, BRANCH 4, BAGUIO CITY,  
RESPONDENT.**

### D E C I S I O N

**PERALTA, J.:**

The instant administrative case arose from a letter-complaint dated February 8, 2008 of complainant Judge Amado S. Caguioa, former Presiding Judge of the Regional Trial Court, Branch 4 of Baguio City, charging respondent Elizabeth G. Aucena, Court Legal Researcher II of the same court, with Dishonesty and Falsification of Official Document relative to Civil Case No. 775-FC entitled, *In the Matter of the Custody of Minors, AAA, BBB and CCC, DDD, Petitioner, v. EEE, Respondent.*<sup>[1]</sup>

As borne by the records, on June 28, 2007, complainant judge issued the following Order:

In chambers the respondent mother, EEE,<sup>[2]</sup> agreed to give custody of her three (3) minor children to the custody of (sic) the petitioner-auntie of the husband. While she was allowed visitorial rights, it will always be under the watchful eyes of the petitioner-auntie as she admitted that one time she lost her temper and inflicted injuries to (sic) two of the children. She was admonished not to ever do it again.

SO ORDERED.<sup>[3]</sup>

Meanwhile, on November 10, 2007, Judge Caguioa retired from service. In his letter-complaint addressed to Executive Judge Edilberto T. Claravall,<sup>[4]</sup> Judge Caguioa alleged that the subject order was altered in January 2008, or almost two months after his retirement. Judge Caguioa said that Court Stenographer Leonila Fernandez admitted to him that she was instructed by respondent to type the following as the last sentence of the order:

In view of the agreement of the parties, this case is hereby DISMISSED.  
<sup>[5]</sup>

Afterwards, respondent had a copy of the Order received by the Records Section of the City Prosecutor's Office (CPO) of Baguio City. Thereafter, when the Acting Branch Clerk of Court refused to issue any certification based on the altered order, the

alteration became known to the staff. Complainant stated that respondent even attempted to have the receipt of the copy of the altered order by the CPO ante-dated to make it appear that the altered order was received on June 28, 2007. With the refusal of the Acting Clerk of Court to issue the certification and the prosecutor's office to ante-date the receipt of the order, respondent had to retrieve the distributed orders and cover the alteration with correction fluid. Complainant judge concluded that although no serious damage had resulted, the act is still grave and must not be left unpunished. Thus, he asked for a proper administrative investigation regarding the incident.

After being furnished with the copy of the complaint, Executive Judge Claravall directed the respondent to explain why no administrative charge and/or criminal complaint for falsification of document should be instituted against her. In compliance with the order of the executive judge, respondent submitted her explanation.

The case was referred by Executive Judge Claravall to the Office of the Court Administrator (OCA), which docketed the complaint as OCA-I.P.I. No. 08-2911-P. The OCA forthwith required respondent to submit her Comment.

In her Comment dated October 2, 2008, respondent admitted having ordered the insertion of the sentence in the order as alleged by the complainant, but contended that it was done in good faith to complete a rather incomplete order which failed to depict the real situation, that is, that the case was already dismissed because of the agreement reached by the parties. Respondent denied that she attempted to have the date of the receipt of the order by the CPO ante-dated. She admitted, however, that her act of inserting the last sentence in the order was unjustified and apologized for this error. She begged for understanding and leniency, since the act was done purely in good faith with no malice or ill motives, and promised not to commit the same mistake in the future. She informed the Court that this is the first time that an administrative case has been filed against her and pleaded the court that her sincere apology be accepted and that she be accorded with leniency.

In his Reply, complainant declared that the reasons offered by respondent are untenable. He explained that it was incorrect for the respondent to assume that his order was incomplete, since what transpired during the hearing was that the mother gave up the custody of her children to their biological father's aunt. On the contrary, the dismissal of the case, as respondent would have wanted, would return the custody of the children to the mother.

In her Rejoinder dated December 21, 2008, respondent explained that when a certificate of finality of the case was requested, she was under the impression that no such certificate can be issued without an order expressly stating that the case was finally disposed and terminated. Thus, out of compassion for the three (3) minors involved, who had to process their papers to leave for the United States, she caused the insertion of the above-mentioned sentence but she immediately erased the sentence, upon realizing her honest mistake.

After evaluating the case, the OCA recommended that the case be re-docketed as a regular administrative matter, and respondent be found guilty of dishonesty and be suspended from the service for six (6) months, with a stern warning that a repetition of the same or similar act in the future shall be dealt with more severely.

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The Court, in its Resolution dated June 29, 2009, resolved to adopt and approve the recommendation of the OCA, thus:

- (1) RE-DOCKET this case as a regular administrative matter; and
- (2) HOLD respondent Elizabeth G. Aucena GUILTY of dishonesty and suspend her for six (6) months without pay, with a STERN WARNING that a repetition of the same or similar acts in the future shall be dealt with more severely.

A motion for reconsideration, dated August 25, 2009, was filed by the respondent praying that the Court reduce the penalty imposed upon her, because a six (6)-month suspension is too harsh considering that she is a widow and the only one supporting her five (5) children.

On September 9, 2009, in response to the motion for reconsideration, the Court issued a Resolution amending<sup>[7]</sup> its June 29, 2009 resolution to read as follows:

- 1) RE-DOCKET this case as a regular administrative matter; and,
- 2) REQUIRE the parties to MANIFEST to the Court if they are willing to submit the case for resolution based on the pleadings filed, within ten (10) days from receipt of herein resolution.<sup>[8]</sup>

In response to the latest resolution of the Court, the respondent, on October 1, 2009, filed her Manifestation and Motion informing the Court that she was willing to submit the case for resolution based on the pleadings and motions filed, and likewise, manifested that she had already commenced serving her suspension from September 2, 2009 to September 30, 2009, in view of the earlier resolution of the Court, dated June 29, 2009.

In a Resolution dated December 9, 2009, the Court referred back the case to the OCA for evaluation, report and recommendation. The OCA, in its Report dated March 30, 2010, recommended that respondent should be liable for dishonesty and suspended for six months, with a stern warning that a repetition of the same or similar acts shall be dealt with more severely, and that the period respondent did not work, pursuant to the June 29, 2009 resolution, should be deducted from the 6-month suspension, and considered as partial service of her penalty.

### **The Court's Ruling**

The Court finds the recommendation of the OCA to be well taken and, thus, holds respondent administratively liable for dishonesty.

The Code of Conduct and Ethical Standards for Public Officials and Employees enunciates the State's policy of promoting a high standard of ethics and utmost responsibility in the public service. And no other office in the government service