

## EN BANC

[ A.M. No. P-10-2829, June 21, 2011 ]

**JUDGE EDILBERTO G. ABSIN, COMPLAINANT, VS. EDGARDO A. MONTALLA, STENOGRAPHER, REGIONAL TRIAL COURT, BRANCH 29, SAN MIGUEL, ZAMBOANGA PROMULGATED: DEL SUR, RESPONDENT.**

### DECISION

#### PER CURIAM:

This administrative matter stemmed from a letter-complaint filed by Judge Edilberto G. Absin (Judge Absin), Presiding Judge of the Regional Trial Court, Branch 29, San Miguel, Zamboanga del Sur (RTC-Branch 29), charging respondent Edgardo A. Montalla (Montalla), stenographer of the same court, with neglect of duty in failing to submit the required transcripts of stenographic notes (TSNs) despite repeated reminders from the court.

In his letter-complaint dated 23 November 2009, Judge Absin alleged that in the Resolution dated 23 October 2009 issued by the Court of Appeals (CA) in CA-G.R. No. 01280-MIN (*Heirs of Victoriano Magallanes, et al. v. Ernesto Pono and Crispina Pono*), the CA noted that Montalla failed to submit signed copies of the TSNs taken on the following dates: (1) 13 October 2004 on the witness Maria Sabuero; (2) 11 January 2005 on the witness Rodolfo Omboy; (3) 26 April 2005 on the witness Rosalinda Magallanes; (4) 12 October 2005 on the witness Ernesto Pono; (5) 7 December 2005 on the witness Crispina Pono; and (6) 25 January 2006 and 2 March 2006 on the witness Rogelio Magallanes. Montalla allegedly asked for time to submit the required TSNs but failed to submit the same. Montalla was repeatedly reminded to comply with the CA's resolution but he still did not comply.

In his Comment dated and mailed on 10 March 2010, Montalla admitted he was the stenographer who took down the stenographic notes on the dates mentioned and both the presiding judge and the clerk of court repeatedly reminded him to transcribe the stenographic notes of the proceedings. Montalla, however, claimed he was prevented from performing his tasks due to poor health as he was diagnosed with pulmonary tuberculosis, peptic ulcer, and diabetes. Montalla now seeks the compassion of the Court as he is allegedly still recovering from his illnesses.

In the Resolution dated 2 August 2010, the parties were required to manifest if they were willing to submit the matter for resolution on the basis of the pleadings filed. We noted the letter dated 24 September 2010 of Judge Absin informing the Court that he was submitting the case for resolution on the basis of the pleadings filed without further comment. We dispensed with the manifestation of Montalla who failed to file the same within the period despite receipt of the resolution.

The Office of the Court Administrator (OCA) opined that Montalla should have been

fully aware that public officers are repositories of public trust and are under obligation to perform the duties of their office honestly, faithfully, and to the best of their ability. For failure to submit the required TSNs, Montalla is guilty of gross neglect of duty classified as a grave offense and punishable by dismissal. However, for humanitarian reasons, the OCA recommended the imposition of the penalty of suspension of six months without pay with a stern warning that a repetition of the same or similar infraction in the future shall be dealt with more severely.

On 9 February 2011, we issued a Resolution ordering Montalla to manifest whether he has submitted the required TSNs. In effect, this Resolution gave Montalla one more chance to redeem himself. However, Montalla mailed on 4 March 2011 his Comment, which was received by OCA on 2 May 2011, containing the same statements he made in his Comment dated/mailed on 10 March 2010. He admits that the Clerk of Court and Judge Absin had reminded him, repeatedly, to transcribe the stenographic notes. Montalla admits his transgressions but this time his excuse is that his failure to submit the required TSNs was due to poor health (allegedly because of "previous pulmonary tuberculosis, peptic ulcer and diabetes") that prevented him from performing simple tasks. But one thing is clear. Montalla still has not submitted the required TSNs which were taken sometime in 2004, 2005, and 2006. Verily, Montalla has been remiss in his duty as a court stenographer.

Montalla should be reminded that it is the duty of the court stenographer who has attended a session of a court to immediately deliver to the clerk of court all the notes he has taken, the same to be attached to the record of the case.<sup>[1]</sup> Precisely, Administrative Circular No. 24-90<sup>[2]</sup> was issued in order to minimize delay in the adjudication of cases as a great number of cases could not be decided or resolved promptly because of lack of TSNs. The circular required all stenographers to transcribe all stenographic notes and to attach the TSNs to the record of the case not later than 20 days from the time the notes are taken. The attaching may be done by putting all TSNs in a separate folder or envelope, which will then be joined to the record of the case.<sup>[3]</sup> The circular also provided that the stenographer concerned shall accomplish a verified monthly certification as to compliance with this duty and in the absence of such certification or for failure and/or refusal to submit it, his salary shall be withheld.<sup>[4]</sup>

The Court has ruled, in a number of cases,<sup>[5]</sup> that the failure to submit the TSNs within the period prescribed under Administrative Circular No. 24-90 constitutes gross neglect of duty. Gross neglect of duty is classified as a grave offense and punishable by dismissal even if for the first offense pursuant to Section 52(A)(2) of Rule IV of the Uniform Rules on Administrative Cases in the Civil Service.

This is not the first time that Montalla was charged with neglect of duty for delay in the submission of the TSNs. He was previously warned of a repetition of the same or similar infraction. In *Office of the Court Administrator v. Montalla*,<sup>[6]</sup> Montalla incurred a delay of more than three years in transcribing the TSNs despite constant reminders from his superiors to submit the same. In that case, Montalla admitted lapses in the performance of his function which caused a delay in the speedy disposition of cases. He invoked serious marital problems which allegedly greatly affected his work. The Court considered Montalla's "humble acknowledgment of his transgressions and his offer of sincere apology and promise to be more circumspect in the performance of his duties" and the fact that it was his first infraction. Montalla