

## SECOND DIVISION

[ **A.M. No. P-08-2523 (Formerly OCA-I.P.I. No. 08-2872-P), April 07, 2009** ]

**ATTY. MARLYDS L. ESTARDO-TEODORO, COMPLAINANT, VS.  
CARLOS S. SEGISMUNDO, RESPONDENT.**

### D E C I S I O N

**BRION, J.:**

This resolves the administrative case - initiated through a Complaint-Memorandum dated June 21, 2007 filed by Atty. Marlyds L. Estardo-Teodoro<sup>[1]</sup> (*complainant*) with the Office of the Court Administrator-Legal Office (OCA) - against Mr. Carlos S. Segismun<sup>[2]</sup> (*respondent*) for dishonesty, violations of reasonable office rules and regulations, and the Code of Conduct for Court Personnel.

#### The ANTECEDENTS

The complaint-memorandum cites the following incidents:

*A. The Respondent's Encashment of a Postal Money Order*

It appears that the standing office procedure in the Regional Trial Court (RTC) of San Fernando City for the implementation of all summons, orders, executions and other processes accompanied by money orders from other RTCs and MTCs, is to indorse these processes to the Clerk of Court/OIC-Clerk of Court for recording; money orders must be signed by the latter prior to encashment.

Despite this standing procedure, the respondent appears to have encashed a postal money order without the requisite endorsement. When confronted by Atty. Jose Elmer Y. Teodoro, Officer in Charge of the Office of the Clerk of Court, the respondent claimed that he did so based on the endorsement of Ms. Florenda S. Ordoñez (*Ms. Ordoñez*), Administrative Officer I of the Office of the Clerk of Court. Upon learning of the respondent's representation with Atty. Teodoro, Ms. Ordoñez issued a Memorandum dated November 11, 2005 directing the respondent to explain the incident.<sup>[3]</sup> The memorandum states:

It has been our procedure that all summons, orders, executions and other proceedings coming from other RTCs and MTCs accompanied by money orders to be implemented in our office must be indorsed to the Clerk of Court/OIC-Clerk of Court for notification. Money orders must be signed by our Clerk of Court /OIC-Clerk of Court before encashment.

However, it has come to my knowledge that **you told the OIC-Clerk of Court that a certain money order** (re: Civil Case No. 05-56366) **was endorsed by me for encashment when the truth was I did not do**

**so**, aside from the fact that I do not have such authority. Your actuation may constitute misconduct which is penalized by suspension to dismissal from service.

x x x x

In his Answer/Explanation<sup>[4]</sup> the respondent said that:

- 1) Undersigned has to admit that he has knowledge of the office policy as stated in the 1<sup>st</sup> paragraph of the memorandum;
- 2) Undersigned also admits the contents of the 2<sup>nd</sup> paragraph of said memorandum.

xxx xxx xxx

Without much ado, the undersigned hereby **ADMITS having made a clear violation of the office policy** as explained in the 1<sup>st</sup> paragraph of the memorandum to him and also **OWNS UP to what was explained in paragraph two** of the same memorandum.

Undersigned pleads no contest to the charge/accusation against him with the honest belief that what he did was not to commit so grave a wrong but it was only his honest desire to expedite matters relative to the service of the processes, which had bearing in Civil Case No. 05-56366.

In his Supplement to the Answer/Explanation dated November 18, 2005,<sup>[5]</sup> the respondent admitted that the money order was endorsed and encashed in his own name, thus:

In compliance therewith, the undersigned **hereby DECLARES that the postal money order was encashed and endorsed in his own name.** This was made possible after the undersigned had inquired from the post office concerned personnel if he could endorse it with his own name and he was given the go signal. So, to expedite the service of the processes to be served, undersigned took the initiative to sign the postal money order.

*B. The Respondent's Act of Leaving the Office During Official Hours without Permission*

Without asking permission from his superiors, the respondent left the court premises during official hours on February 9, 2007, prompting Ms. Ordoñez to issue Memorandum No. 03-2007 dated February 12, 2007<sup>[6]</sup> requiring the respondent to explain the incident. In his letter-explanation dated February 13, 2007, the respondent clarified that on or about 2:00 in the afternoon of February 9, 2007, he had stomach pain subsequently coupled with loose bowel movement; he hurriedly left the office for home without asking permission from his immediate supervisor since he could no longer control his bowel movement and that he has already soiled his pants.<sup>[7]</sup>

Via Memorandum No. 05-07, Ordoñez gave the respondent a stern warning that a

repetition of the infraction would be dealt with more severely.

### *C. The May 9, 2007 Incident*

The complainant alleged in her Complaint-Memorandum that on May 9, 2007, respondent went to the Metropolitan Trial Court (MTC), Branch 15, Manila to obtain a copy of the summons in Civil Case No. 183183 (*summons*) without securing either a travel order or a directive from her to do so, in violation of the Memorandum dated June 6, 2005<sup>[8]</sup> (*the Memorandum on Travel Orders*).<sup>[9]</sup> This office memorandum requires all court personnel to secure the written approval of the Clerk of Court or OIC-Clerk of Court on travel orders.

In relation with this incident, the complainant issued Memorandum No. 13-2007 dated June 5, 2007, requiring the respondent to explain his actions, specifically, that of providing false information on the status of the summons and purported violation of office rules and regulations.<sup>[10]</sup>

The complainant noted in her memorandum that the respondent made her believe that Clerk of Court Abelardo T. Pongyan (*Clerk of Court Pongyan*), of MTC, Branch 15, Manila informed the respondent that the summons would be mailed to the RTC as soon as possible; in truth, per Clerk of Court Pongyan's Manifestation dated May 17, 2007, the respondent appeared in the MTC, Manila, and acknowledged receipt of the summons. The complainant noted, too, that the respondent notified her on May 23, 2007 that Clerk of Court Pongyan personally delivered to him a copy of the summons at the Office of the Clerk of Court of the RTC, San Fernando City, after office hours; upon verification with Clerk of Court Pongyan, the complainant was told that no one from their office travelled all the way from Manila to Pampanga to deliver the summons. On the same date, the complainant claimed that she had been informed by Deputy Sheriff Redentor Villanueva that the respondent already visited the residence of the summoned defendants in Civil Case No. 183183 in Matamo, Arayat, Pampanga, without any travel order or instructions from complainant, in violation of the Memorandum on Travel Orders.

The complainant further noted that when she confronted the respondent about the incident, the respondent replied that he failed to inform the former because he had so many things on his mind, and that a copy of the summons was personally delivered to the respondent by the driver of the plaintiff's counsel in Civil Case No. 183183.

On June 7, 2007, the respondent submitted his written Explanation<sup>[11]</sup> stating that his actions were done purely out of inadvertence and without intent to gain. He averred that when asked about the summons, it dwelt on his mind that a different summons was referred to. He explained that he made it appear that the summons was delivered to him personally by the driver of plaintiff's counsel because he feared that a greater sanction would be imposed upon him if he would insist that he forgot to inform the complainant that the summons had been with him since May 9, 2007. He further explained that due to workload and personal problems, he failed to report to the complainant that he had already visited the defendants' place in Civil Case No. 183183 for service of the summons.

Still in relation with the May 9, 2007 incident, the complainant again issued on June

8, 2007 a Memorandum directing the respondent to explain why he failed to punch out his time card in the afternoon of May 9, 2007.<sup>[12]</sup> In his response-letter dated June 12, 2007,<sup>[13]</sup> the respondent countered that he failed to punch out his time card on the aforementioned date because it was already late when he returned to Pampanga from the MTC, Branch 15, Manila; at any rate, he stated that he was more than willing to claim a half-day leave for that day.

#### *Action on the Complaint-Memorandum and the OCA Recommendation*

Acting on the complaint-memorandum, Executive Judge Adelaida Ala Medina of the RTC, Branch 45, San Fernando City, directed the respondent to file his verified answer. The respondent filed his Verified Answer<sup>[14]</sup> as directed, reiterating his previous explanations to the various memoranda issued by the complainant. He echoed that his actions were due to pure inadvertence and lapse of judgment, and that he did not intend to gain from any of his actions. He also asked the Court to consider his long (33 years) service to the judiciary.

On August 31, 2007, then Court Administrator Christopher O. Lock directed the respondent to file his comment. In his Comment dated October 5, 2007,<sup>[15]</sup> the respondent asked the Court Administrator to consider his explanations on the various memoranda previously issued against him as his comment to the complaint-memorandum. He reiterated his excuse of inadvertence and lack of intent to gain. He claimed that no malice can be inferred from his transgressions and that he had no intent of making a mockery of the office rules and regulations. He likewise claimed that he had no intention to commit so grave a wrong. He asked for forgiveness and implored the Court to take into account his thirty-three (33) years in government service.

On July 2, 2008, the OCA, through then Court Administrator Zenaida N. Elepaño, submitted a report and recommendation.<sup>[16]</sup> The OCA recommended that: (1) the case be re-docketed as a regular administrative matter; and (2) respondent be found liable for repeated Violations of Reasonable Office Rules and Regulations and the Code of Conduct for Court Personnel, and be suspended without pay for one (1) month, and warned that a repetition of the same or similar acts in the future shall be dealt with more severely. The OCA said that *respondent's admission that he committed the acts complained of, albeit inadvertently and without intent to gain, does not in any way exculpate him from administrative sanction; the mere general denial of the respondent is unavailing on the face of the categorical assertions of the complainant.* The OCA noted with significance that the respondent was duly warned by his superiors for every infraction committed, but still failed to change his ways.

On August 13, 2008, this Court issued a Resolution re-docketing the case as a regular administrative matter and requiring the parties to manifest whether they are willing to submit the matter for resolution on the basis of the pleadings filed and the records submitted, within ten (10) days from notice. On October 13, 2008, both parties submitted their respective Manifestations of their willingness to submit the matter for resolution on the basis of the pleadings filed and the records already submitted.

#### **THE COURT'S RULING**

We agree with the finding of the OCA that the respondent is guilty of repeated violations of reasonable office rules and regulations and the Code of Conduct for Court Personnel. We, however, additionally find the respondent guilty of dishonesty.

In administrative disciplinary cases, the complainant has the burden of proving by substantial evidence, the allegations in her complaint.<sup>[17]</sup> The quantum of proof necessary for a finding of guilt is substantial evidence defined as evidence that a reasonable mind may accept as adequate to support a conclusion. The complainant had successfully discharged this burden as our evaluation of the facts of the case and the pleadings submitted by the parties below will show.

The respondent never denied, and in fact admitted, that he violated standing office procedure on the encashment of money orders. The respondent's proffered excuse - that he endorsed and encashed the money order upon permission from a post office personnel in order to expedite the service of processes - does not exonerate him from liability given that he was fully aware of the standing office policy or procedure. As he was aware of the policy whose validity and lawfulness he never contested, his first instinctive reaction should be to abide by it. The policy was precisely put in place to properly account for money orders; the respondent should not therefore be allowed to simply brush it aside on mere expediency.

Also, that the respondent left the office on official hours without permission from his superiors on February 9, 2007 is clearly established by the records of the present case. The respondent though justified his act, claiming that he had stomach pain and loose bowel movement and had already soiled his pants at the time (2 P.M.) he hurriedly left the court premises.

We closely looked at the surrounding circumstances of this incident and find the respondent's act to be unjustified. The respondent timed in at 12:03 in the afternoon of February 9, 2007. If he is to be believed, *i.e.*, that he had stomach pain and loose bowel movement on or about 2:00 p.m., it is highly doubtful - under the circumstances - that he could not have had the remotest chance to ask permission from or inform his immediate supervisor of his condition and ultimately, his intention to go home. Instead, what we can reasonably infer from this situation is that the respondent really intended to leave the office without asking permission; this can easily be deduced, too, from the respondent's statement in his letter-explanation that he thought it "implied that he had a half-day leave."

We cannot agree with the respondent's theory that a half-day leave is implied from an employee's unceremonious act of leaving his post or station. Under Civil Service Rules, the taking and the approval of leaves of absence follow a formal process, *viz.*, a leave must be duly approved by the authorized officer.<sup>[18]</sup> This is true even for sick leaves (in order that an official or employee may not be considered absent without an approved leave), although a subsequent filing of an application for sick leave after the sick employee has reported for work is allowed, as sickness may suddenly occur and may not be reasonably predicted. As respondent's stomachache and loose bowel movement occurred at a time when he was already in the office, we cannot find any justification for his unceremonious departure. The respondent could have easily left word, a message perhaps, to his superior that he would be taking the rest of the day off because of his affliction (or file a leave right there and then),