

EN BANC

[A.M. No. MTJ-06-1659, June 18, 2009]

**ANNA JANE D. LIHAYLIHAY, CLERK III, REGIONAL TRIAL COURT,
BRANCH 28, LILOY, ZAMBOANGA DEL NORTE, COMPLAINANT,
VS. JUDGE ALEJANDRO T. CANDA, MUNICIPAL CIRCUIT TRIAL
COURT, LILOY-TAMPILISAN, ZAMBOANGA DEL NORTE,
RESPONDENT.**

[A.M. NO. P-06-2254]

**JUDGE ALEJANDRO T. CANDA, MUNICIPAL CIRCUIT TRIAL
COURT, LILOY-TAMPILISAN, ZAMBOANGA DEL NORTE,
COMPLAINANT, VS. ANNA JANE D. LIHAYLIHAY, CLERK III,
REGIONAL TRIAL COURT, BRANCH 28, LILOY, ZAMBOANGA DEL
NORTE, RESPONDENT.**

[A.M. NO. MTJ-09-1730]

**ANNA JANE D. LIHAYLIHAY, CLERK III, REGIONAL TRIAL COURT,
BRANCH 28, LILOY, ZAMBOANGA DEL NORTE, COMPLAINANT,
VS. BERSAMIN, JJ. JUDGE ALEJANDRO T. CANDA, MUNICIPAL
CIRCUIT TRIAL COURT, LILOY-TAMPILISAN, ZAMBOANGA DEL
NORTE, RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

Before the Court are two complaints for grave misconduct filed by Anna Jane D. Lihaylihay (Lihaylihay), Clerk III, Regional Trial Court (RTC), Branch 28, Liloy, Zamboanga del Norte, against Judge Alejandro T. Canda (Judge Canda), Municipal Circuit Trial Court (MCTC), Liloy-Tampilisan, Judicial Region IX, Zamboanga del Norte.

The Facts

On 25 February 2005, Sheriff IV Camilo Bandivas (Sheriff Bandivas) of the RTC retired from the service. Lihaylihay alleged that Judge Canda asked Process Server Emmanuel Tenefrancia (Tenefrancia) of the RTC to apply for the position vacated by Sheriff Bandivas. To the dismay of Judge Canda, a certain Jesus V. Alimpolo (Alimpolo) applied for the vacated position. Judge Canda strongly opposed Alimpolo's application.

Judge Canda was of the impression that Lihaylihay was assisting Alimpolo in his

application for the position of Sheriff IV. On 5 January 2006, Judge Canda sent a text message to Lihaylihay stating, "*Maayo tingali modistansya ka anang mga tawhana kay basin masabit ka, pakiusap lang ni.*" Taking the text message as a threat, Lihaylihay reported it to the police and requested that a blotter entry be made. On 6 January 2006, Judge Canda sent another text message stating, "For maliciously causing it to appear as threatening in the police blotter of what is otherwise a very harmless text message of appeal **I consider the same as declaration of war, don't worry you will have your owned [sic] fair share of trouble in due time.**"

In a letter^[1] dated 9 January 2006 and addressed to Executive Judge Oscar D. Tomarong (Judge Tomarong) of the RTC, Judge Canda accused Lihaylihay of (1) actively supporting Alimpolo; (2) using the facilities of the RTC in preparing Alimpolo's medical certificate; (3) being at the beck and call of Alimpolo; (4) blatantly disregarding the Code of Conduct for Court Personnel; (5) fraudulently scheming against the court; (6) performing highly contemptuous acts; (7) being unworthy of her position as Clerk III; (8) failing to distance herself from Alimpolo; (9) failing to stay neutral; (10) having a distorted sense of values that deserves disciplinary action; (11) being arrogant, insolent and cocky; and (12) disrespecting him. He added that:

And speaking of Ms. Lihaylihay, it is the observation of the Court employees and the public that her personality does not speak well of her employment with the judiciary which is characterized by the inappropriateness of her attire. **She exudes herself like a GRO** or going to a party when reporting to work, **not to mention her very undignified appearance as a chain smoker which is akin to a WHORE** and who does not hesitate to smoke inside the office in the very eyes of her office mates and the public. But what is **very disgusting** in spite of her being very new to her position is her being an UPSTART who doesn't care to get involve [sic] in matters that earns the ire and contempt of the court users and her co-workers. **She is that repulsive "PAKIALAMERA" type** very few would want to associate with. (Emphasis supplied)

In another letter^[2] dated 11 January 2006 and addressed to Judge Tomarong, Judge Canda charged Lihaylihay with violation of reasonable office rules and regulations. He stated that:

On my behalf and in behalf of all the Court employees especially within the administrative area of your court, I would like to make manifest this FORMAL PROTEST against Ms. Ana [sic] Jane D. Lihaylihay, Docket Clerk III of your Court for her actuations which is [sic] **highly offensive and demeaning** not only to your Court but the entire judiciary as well, to wit:

- 1) The unmitigated inappropriateness of her attire when reporting to work which to us is very **offensive** to the taste of decency because **she exudes herself like a GRO** (Guest Relations Officer). She is supposed to be wearing uniform or decent attire instead of very tight fitting jeans and blouses with very low hemline [sic] that almost exposes [sic] her breast or cocktail dresses as if she is [sic]

- going to a party or attending high profile gatherings of elite [sic].
- 2) **her [sic] very undignified and repulsive appearance as a chain smoker with heavily made up face which reminds us of her to be like a WHORE**, and who [sic] does not hesitate to smoke inside the office in the very eyes of her office mates and the public, an act which is in gross violation of existing rules and regulations against smoking in public places and government offices. (Emphasis supplied)

In his 1st Indorsement^[3] dated 12 January 2006, Judge Tomarong directed Lihaylihay to comment on Judge Canda's 9 and 11 January 2006 letters. On 13 January 2006, before Lihaylihay could comment on the letters, Judge Canda gave a copy of the 11 January 2006 letter to the desk editor of the Mindanao Observer and asked that it be published in the newspaper. In his affidavit^[4] dated 27 February 2006, Dennis C. Baguio stated that (1) he was a reporter and photographer of the Mindanao Observer; (2) he saw Judge Canda talking with the desk editor of the Mindanao Observer; (3) he saw Judge Canda giving a copy of the letter to the desk editor; and (4) he heard Judge Canda asking the desk editor to publish the letter.

The 11 January 2006 letter was published in the 15 January 2006 issue of the Mindanao Observer. The front page headline read, "*Huwes miprotesta batok sa seksy nga docket clerk.*" The text of the letter was printed in the newspaper with the omission of words which were deemed unprintable.

In her comment^[5] dated 20 January 2006, Lihaylihay stated that (1) she did not participate in Alimpolo's application for the position of Sheriff IV; (2) Judge Canda ridiculed, humiliated, and besmirched her reputation by publishing in the newspaper the 11 January 2006 letter describing her as a GRO and a whore; (3) Judge Canda's text messages threatened her; and (4) she followed the office dress code. Lihaylihay alleged that Judge Canda wanted Tenefrancia to apply for the position of Sheriff IV so that Tenefrancia's position as process server would become vacant -- Judge Canda's son, Alejandro Canda, was qualified for the position of process server. Lihaylihay also alleged that, before the present case started, Judge Canda sent her several indecent text messages stating, "You're sexy today," "I missed your gorgeous face," and "I missed your golden voice when you sing." Lihaylihay also alleged that she was shocked and disgusted when Judge Canda invited her to go out of town with him.

Alan D. Marapao (Marapao), publisher and editor of Tingog Peninsula, contacted Lihaylihay. He asked her if he could interview her, have a copy of her 20 January 2006 comment, and take her picture. Lihaylihay agreed. Without asking for Lihaylihay's permission, Marapao published the 20 January 2006 comment in the 22 January 2006 issue of the Tingog Peninsula. Irked, Judge Canda filed a criminal case for libel against Lihaylihay.

Lihaylihay filed a complaint^[6] dated 20 January 2006 with the Office of the Court Administrator (OCA) charging Judge Canda of (1) bullying her; (2) ridiculing, humiliating, and besmirching her reputation by publishing in the newspaper the 11 January 2006 letter describing her as a GRO and a whore; (3) sending her threatening text messages; and (4) sending her indecent text messages. The case

was docketed as MTJ-06-1659.

Judge Canda filed a complaint^[7] dated 25 January 2006 with the OCA charging Lihaylihay with conduct unbecoming a court employee for publishing in the newspaper her 20 January 2006 comment. The case was docketed as A.M. No. P-06-2254.

In its 1st Indorsement^[8] dated 15 February 2006, the OCA directed Lihaylihay to comment on Judge Canda's 25 January 2006 complaint. In her comment^[9] dated 22 March 2006, Lihaylihay stated that (1) the publishing of her 20 January 2006 comment in the newspaper unlikely affected Judge Tomarong's impartiality and objectivity; (2) Judge Canda published his 11 January 2006 letter in the newspaper; (3) Tingog Peninsula published her comment without asking for her permission; and (4) Judge Canda was arrogant.

Lihaylihay filed another complaint^[10] dated 4 May 2006 with the OCA containing the same allegations as her 20 January 2006 complaint with the additional allegation that Judge Canda had several documents sworn to before MCTC Clerk of Court Rosalio M. Manigsaca without paying the required legal fees. The case was docketed as MTJ-09-1730.

In its 1st Indorsement^[11] dated 20 July 2006, the OCA directed Judge Canda to comment on the 4 May 2006 complaint. In his comment^[12] dated 16 August 2006, Judge Canda denied the allegation that he failed to pay the required legal fees.

In its Report^[13] dated 24 August 2006, the OCA found that Lihaylihay and Judge Canda failed to preserve the good image of the judiciary. The OCA stated that:

This Office is disappointed, nay, ashamed of the actuations of the complainant and respondent in this case. Their disgraceful behavior adversely affects the good image of the judiciary. Their actuations degraded the image of the courts before the eyes of the public.

In the instant case, respondent, although not directly responsible for the publication of her comment should have exercised prudence in dealing with the media considering the interest generated by the publication of the complaint against her by Judge Canda. She should have known that the media would take advantage of the opportunity to sensationalize the case considering the personalities involved.

Complainant Judge Canda, on the other hand, should not have caused the publication of his complaint against the respondent. As a judge, complainant should have known that administrative proceedings before the Court are confidential in nature in order to protect the respondent therein who may later turn out to be innocent of the charges. The public airing of his complaint unnecessarily exposed the Court to the eyes of the public. No justifiable or unselfish purpose would be served by such media exposure of the complaint already filed in Court and therefore covered by the mantle of confidentiality, except to sensationalize the same and to defile the reputation of the respondent.