

## **FIRST DIVISION**

**[ A.M. No. RTJ-08-2118, June 26, 2008 ]**

**REGIDOR GUTIERREZ, COMPLAINANT, VS. JUDGE MEDEL  
ARNALDO B. BELEN, REGIONAL TRIAL COURT, BRANCH 36,  
CALAMBA, LAGUNA, RESPONDENT.**

### **DECISION**

**AZCUNA, J.:**

Complainant Regidor A. Gutierrez filed an administrative case against Judge Medel Arnaldo B. Belen of the Regional Trial Court (RTC), Branch 36, Calamba, Laguna charging him with Unbecoming Conduct and/or Harassment.

In his Complaint dated September 11, 2006, complainant alleged that he worked as a postman for more than 30 years. He was assigned at the Post Office in Alaminos, Laguna for fifteen years and, later, he was transferred to the San Pablo City Post Office where he worked from August 1, 2004 up to the present. On August 8, 2006, State Prosecutor Ma. Victoria Suñega-Lagman requested complainant to execute an Affidavit attesting to the fact that on May 14, 2004, he delivered Registered Mail No. CP-1662 intended for respondent judge, then a private practitioner, but it was received by one Walter Maloles. The said mail matter contained a Resolution dated April 30, 2004 of State Prosecutor Suñega-Lagman in a Criminal Complaint for Estafa/Violation of B.P. Blg. 22, docketed as I.S. No. 04-313 entitled "*Medel B. Belen v. Theresa Cabahug @ Theresa Lamson*," directing the respondent judge, as therein complainant, to pay the filing fee corresponding to the amount sought to be recovered. Respondent judge failed to pay the amount of the filing fee and the case was dismissed by the Municipal Trial Court in Cities of San Pablo City. State Prosecutor Suñega-Lagman informed complainant that the Affidavit he executed could be used in the cases which respondent judge may file against the former in the Integrated Bar of the Philippines and the Office of the Ombudsman.

Upon verification with the Alaminos, Laguna Post Office that he was the one who delivered the mail matter which was the subject of the affidavit, complainant agreed to execute an Affidavit dated August 8, 2006 attesting to the fact that on May 14, 2004, he delivered Registered Mail No. CP-1662, addressed to respondent judge with postal address at Corner Francisco Fule Street and Socorro Fule Street, Alaminos, Laguna; that the mail matter was received by Walter Maloles; that he personally knew respondent judge as he had previously talked to him and that respondent judge's father was the former Postmaster in Laguna; that since he frequented Manila, respondent judge instructed him to forward all his correspondence to Walter Maloles or Walter's mother, Francisca, and in their absence, to any member of the Maloles family, as they are his relatives and they served as caretakers of his house.

At about 7:45 a.m. of August 16, 2006, Francisca Maloles and Rodel Belen, brother

of respondent judge, went to the San Pablo City Office and requested complainant to sign a prepared Clarificatory Affidavit. The proposed Clarificatory Affidavit stated that on May 14, 2004, he was supposed to deliver Registered Mail No. CP-1662, addressed to respondent judge, at corner Francisco Fule Street and Socorro Fule Street, Alaminos, Laguna, where the parents of respondent judge used to stay, but there was no occupant therein so he proceeded to the house of Walter Maloles at Bagong Silang, Alaminos, Laguna to inquire on the whereabouts of respondent judge; that upon being informed that no one was residing therein because Spouses Sofronio D. Belen, parents of respondent judge, had migrated to the United States while respondent judge was residing in Parañaque, Metro Manila and instead of having the same returned to sender, he requested Walter Maloles to receive the mail matter with the instruction to hand it to respondent judge; and that Walter Maloles told him that there was no assurance that he (Maloles) could forward the mail matter to respondent judge who rarely stayed in the house of his parents.

After consulting Postmaster Gemma Vidaleon, complainant informed Rodel Belen and Francisca Maloles that he would not sign the affidavit. At about 8:00 a.m. of that same day, complainant received a phone call from respondent judge who was in Calamba, Laguna where he was assigned as an RTC judge. According to complainant, respondent judge was very angry and uttered the invective, "*Punyeta ka*" and also threatened to file a case against him. Complainant was able to identify the voice of respondent judge as he had previously talked to him and that Postmaster Vidaleon had told him that respondent judge called for him.

As a consequence of the incident, complainant filed the present administrative complaint against respondent judge for Unbecoming Conduct and/or Harassment. Complainant averred that it was the threat of respondent judge to file a case against him that prompted him to file the complaint, not respondent judge's utterance of the invective "*Punyeta ka*" supposedly directed to him.

In his Comment dated January 8, 2007, respondent judge appended the Joint Affidavits of Sheriffs Crisenciano Rimas and Edgardo Torres. He denied having met complainant. Respondent judge admitted that he made a phone call to complainant at San Pablo City Post Office but only to explain to the latter that he did not know him and that he did not request him to deliver any mail matter to Walter Maloles and that complainant must execute an affidavit to clarify that matter; that despite his explanation, complainant arrogantly said that he cannot sign the Clarificatory Affidavit for fear that he might be subjected to administrative complaints for erroneous delivery of mails.

In his Reply dated January 22, 2007, complainant maintained that he was executing said affidavit as he did not want to be caught in the "crossfire between respondent judge and Prosecutor Ma. Victoria Lagman, together with the other personnel of the Office of the Regional State Prosecutor" and to prevent future incidents that may endanger his person, his job, or his family. He suggested that the Joint Affidavit of Deputy Sheriffs Crisenciano Rimas and Edgardo Torres was not credible as they were sheriffs assigned to the RTC of Calamba City where respondent judge was also assigned and that the two might have been constrained to execute the same so as not to antagonize respondent judge.

In his Supplemental Reply Affidavit dated October 17, 2007, complainant expressed that the insistence to make him sign the Clarificatory Affidavit amounted to coercion

on the part of respondent judge and that it was, in effect, inducing complainant to commit perjury which constitutes serious misconduct.

The Office of the Court Administrator (OCA), in a Report dated May 3, 2007, recommended that the case be referred to a Consultant in the OCA for investigation, report, and recommendation as both parties had conflicting versions. However, the Court, in its Resolution dated July 9, 2007, directed that the administrative complaint instead be referred to the Presiding Justice of the Court of Appeals for raffle to a Justice therein for investigation, report, and recommendation.

On December 10, 2007, Investigating Justice Portia Aliño-Hormachuelos submitted a Partial Report and sought extension of time of 30 days, or until January 17, 2008, within which to submit her report and recommendation due to the following reasons, to wit: the parties had yet to submit their memoranda and other papers; her official trip to Beijing, China from December 12 to 17, 2007; and the impending holidays.

In the Final Report and Recommendation dated January 17, 2008,<sup>[1]</sup> the Investigating Justice recommended that the complaint be dismissed for lack of factual or legal basis, based on the following:

#### **FINDINGS AND EVALUATION:**

It is uncontroverted that respondent judge did indeed:

1. prepare a clarificatory affidavit which he sent through his brother and Francisca Maloles for the complaint to sign, but which the latter declines;
2. that he called complainant over the phone and told him that charges would be filed against him for executing a perjurious affidavit.

The only factual issue raised is whether respondent shouted the invective "*punyeta ka*" at the complainant in an angry manner because complainant refused to sign the Clarificatory Affidavit. Complainant asseverates that by doing so, along with the above actuations not denied by respondent judge, the latter engaged in conduct unbecoming a judge and/or harassment.

On this lone factual issue, the undersigned Investigating Justice finds in favor of the respondent. Judge Belen's denial that he shouted at the complainant or that he uttered "*punyeta ka*" is credible especially since it was corroborated by Sheriff Rimas, a disinterested witness, who was seated at his desk only 1 to 2 meters away from the phone when the call was made by respondent. Rimas testified that he did not hear Judge Belen shout or say "*punyeta ka*"; that had Judge Belen shouted or uttered the invective, he (Rimas) would have heard it, being quite near. Sheriff Rimas was not shown to have any bias in favor of respondent judge as to make him testify falsely. Rimas is not assigned in the respondent's sala but in the Office of the Clerk of Court, RTC, Calamba, Laguna, hence respondent would hardly be able to exercise influence or suasion over him. Further, Sheriff Rimas testified in a brief, simple,