

THIRD DIVISION

[A.M. No. RTJ-07-2053 (Formerly OCA IPI No. 05-2171-RTJ), November 27, 2008]

**LILIA C. RAGA, COMPLAINANT, VS. JUDGE SIBANAH E. USMAN,
REGIONAL TRIAL COURT, BRANCH 28, CATBALOGAN, SAMAR,
RESPONDENT.**

R E S O L U T I O N

AUSTRIA-MARTINEZ, J.:

Lilia C. Raga, (complainant) a Court Process Server of the Regional Trial Court (RTC), Branch 28, Catbalogan, Samar, is charging Judge Sibannah E. Usman, of the same court, with dishonesty, violation of Republic Act (R.A.) No. 3019, gross misconduct, violation of the Code of Judicial Conduct, unjustified absences without leave, untruthful statements in the certificate of service, and violation of Rule 139-B of the Rules of Court.

In her letter-complaint dated December 28, 2004, complainant avers: Respondent was absent on September 7 and 21, 2001 but he indicated in his certificate of service for September 2001 that he rendered complete attendance for the said month. The 1st Indorsement dated September 7, 2001 signed by the Branch Clerk of Court of RTC Branch 28, Atty. Ireneo A. Escobar, Jr. (Atty. Escobar) states that the records in Crim. Case Nos. 5199 and 5200 were being forwarded to Judge Cesar R. Cinco of Branch 29 for the disposition of the accused's application for bailbond, in view of the absence of respondent. *Constancias* dated September 21, 2001 which rescheduled cases for other dates were signed by Atty. Escobar, with one *constancia* specifically stating that Crim. Case No. 3618 had to be reset due to the absence of respondent.^[1]

The Office of the Court Administrator (OCA) referred the complaint to respondent for his Comment, through a 1st Indorsement dated February 17, 2005.^[2]

Respondent filed an Answer dated March 11, 2007 denying that he was absent on September 7, 2001. He said that he was just inside his office on said date and complainant deliberately bypassed him and personally assisted the accused in Crim Case. No. 5199 and 5200 in posting his bail before Judge Monsanto, through the help of complainant's husband, Eustacio C. Raga, Officer-In-Charge (OIC) of Branch 27. He further claims that: it was complainant's duty to prepare his certificates of service and submit the same to him for his signature on time; to hold him administratively liable for acts or omissions primarily caused by the obvious negligence of complainant would be giving license to other like-minded subordinates to charge him for their faults; his signature on the certificate of service which complainant presented as evidence was forged; and complainant just wants to get back at him, as she has in fact filed several administrative cases against him, after he indorsed the complaint of Maribel Velarde against complainant before the OCA.^[3]

In its report dated April 20, 2007, the OCA found the complaint to be meritorious. It held that: complainant was able to prove by substantial evidence the absence of respondent on September 7, 2001; the 1st Indorsement of Atty. Escobar dated September 7, 2001 clearly stated that respondent was absent that day; the *constancias* submitted also show that respondent was absent on September 21, 2001 because if he were really present on said date, it should have been him and not Atty. Escobar who signed the *constancias*; the *constancia* in Crim. Case No. 5035 also expressly stated that respondent was absent on said date; respondent did not disclaim the authenticity of the *constancia*; and while respondent claimed that his signature was forged in the certificate of service which complainant submitted to the Court, respondent did not present a copy of his certificate of service with his authentic signature.^[4]

The OCA recommended that respondent be fined P11,000.00 for making untruthful statements in his certificate of service with a warning against its repetition.^[5]

The OCA also noted that complainant was dismissed from the service for grave misconduct in *Mabini v. Raga*,^[6] dated June 21, 2006.

In a Resolution dated June 20, 2007, the Court required the parties to manifest whether they were willing to submit the case for decision based on the pleadings/records already filed.^[7]

In her Manifestation dated August 2, 2007, complainant expressed her desire for a reception of evidence.

Accordingly, per Resolution dated March 3, 2008, the Court referred the instant case to Court of Appeals Justice Celia C. Leagogo for investigation, report and recommendation.^[8]

A hearing was conducted on May 15, 2008 and complainant presented the 1st Indorsement dated September 7, 2001 signed by Atty. Escobar; respondent's certificate of service for September 1 to 30, 2001; and *constancias* dated September 21, 2007 issued by Atty. Escobar in Crim. Case Nos. 5035, 3618, 4619, 4859, 4653, 5012 and 4909.^[9] Complainant also filed her Memorandum and respondent filed his own Memorandum and Addendum, reiterating their respective arguments.^[10]

Justice Leagogo, agreeing with the OCA, found that complainant was able to prove by substantial evidence that respondent made untruthful statements in his certificate of service for September 2001;^[11] the certificate states that respondent did not incur any absence for September 2001; the 1st Indorsement dated September 7, 2001 signed by Atty. Escobar clearly states however that the application for bailbond in Crim. Case Nos. 5199 and 5200 were being forwarded to Judge Cinco of Branch 29 in view of the absence of herein respondent that day; the *constancia* dated September 21, 2001 in Crim. Case No. 5035, signed by Atty. Escobar also explicitly stated that respondent was absent on said date; Atty. Escobar would not have issued the seven *constancias* on September 21, 2001 if respondent were actually present, because he would then have been the one to sign the order; respondent admitted the existence of complainant's exhibits and failed to adduce