

EN BANC

[A.M. NO. P-08-2519 (FORMERLY A.M. OCA IPI NO. 05-2155-P), November 19, 2008]

ANONYMOUS LETTER-COMPLAINT AGAINST ATTY. MIGUEL MORALES, CLERK OF COURT, METROPOLITAN TRIAL COURT OF MANILA

AND

A.M. NO. P-08-2520 (FORMERLY A.M. OCA IPI NO. 05-2156-P)

ANONYMOUS LETTER-COMPLAINT AGAINST CLERK OF COURT ATTY. HENRY P. FAVORITO OF THE OFFICE OF THE CLERK OF COURT, CLERK OF COURT ATTY. MIGUEL MORALES OF BRANCH 17, CLERK OF COURT AMIE GRACE ARREOLA OF BRANCH 4, ADMINISTRATIVE OFFICER III WILLIAM CALDA OF THE OFFICE OF THE CLERK OF COURT AND STENOGRAPHER ISABEL SIWA OF BRANCH 16, ALL OF THE METROPOLITAN TRIAL COURT, MANILA.

R E S O L U T I O N

AUSTRIA-MARTINEZ, J.:

Before the Court are two anonymous complaints: docketed as **A.M. No. P-08-2519** charging *Atty. Miguel Morales (Atty. Morales), Branch Clerk of Court, Branch 17, Metropolitan Trial Court (MeTC) of Manila* of misconduct; and **A.M. No. P-08-2520** charging *Atty. Morales, together with Isabel Siwa (Siwa), Court Stenographer, Branch 16; William Calda (Calda), Administrative Officer III, Office of the Clerk of Court (OCC); Amie Grace Arreola (Arreola), Branch Clerk of Court, Branch 4, and Atty. Henry P. Favorito (Atty. Favorito), Clerk of Court VI, OCC, all of the MeTC, Manila* of misconduct, graft and corruption and moonlighting.

A.M. No. P-08-2519

In an unsigned and undated letter which the Office of the Court Administrator (OCA) received on February 24, 2005, the writers, who claim to be employees of the OCC-MeTC of Manila, allege that Atty. Morales, then detailed at the OCC, was consuming his working hours filing and attending to personal cases, such as administrative cases against employees in his old *sala*, using office supplies, equipment and utilities. The writers aver that Atty. Morales's conduct has demoralized them and they resorted to filing an anonymous complaint in fear of retaliation from Atty. Morales.^[1]

Assistant Court Administrator (ACA) now Deputy Court Administrator (DCA) Reuben P. dela Cruz, conducted a discreet investigation on March 8, 2005 to verify the allegations of the complaint. However, since the office of Atty. Morales was located

at the innermost section of the Docket/Appeals Section of the OCC, DCA Dela Cruz failed to extensively make an observation of the actuations of Atty. Morales. On March 16, 2005, a spot investigation was conducted by DCA Dela Cruz together with four NBI agents, a crime photographer and a support staff. The team was able to access the personal computer of Atty. Morales and print two documents stored in its hard drive, a Petition for Relief from Judgment for the case entitled, "*Manolo N. Blanquera, et al. v. Heirs of Lamberto N. Blanquera*" in the name of Atty. Jose P. Icaonapo, Jr. (Atty. Icaonapo) filed with the Court of Appeals, and a Pre-trial Brief for the case entitled, "*Pentacapital Investment Corp. v. Toyoharu Aoki, et al.*" also in the name of Atty. Icaonapo, which was filed before Branch 1, Regional Trial Court (RTC), Manila. Atty. Morales's computer was seized and taken to the custody of the OCA.^[2] Upon Atty. Morales's motion however, the Court ordered the release of said computer with an order to the Management Information Systems Office of the Supreme Court to first retrieve the files stored therein.^[3]

Atty. Morales filed a letter-complaint addressed to then Chief Justice Hilario G. Davide, Jr. against DCA Dela Cruz and his companions for alleged conspiracy and culpable violation of Secs. 1,^[4] 2^[5] & 3^[6] of Art. III of the Constitution relative to the spot investigation. Said letter-complaint was indorsed by the Chief Justice to the Court Administrator on March 31, 2005 for appropriate action.^[7] Atty. Morales's wife, Francisca Landicho-Morales also filed a letter-complaint dated February 15, 2005 against Judge Crispin B. Bravo, Presiding Judge of MeTC Branch 16 Manila, Lenin Bravo, former Clerk of the said branch and Judge Cristina Javalera-Sulit, Presiding Judge of MeTC Branch 18, Manila for violations of the law and ethical standards which was indorsed by Chief Justice Davide to the Court Administrator for preliminary inquiry.^[8] Although diligent efforts were made to ascertain from the OCA Legal Office the current status of Atty. Morales's case against DCA Dela Cruz, the same however, could not be determined.

Parenthetically, Atty. Favorito, together with more than a hundred employees of the MeTC Manila, wrote an undated letter to Chief Justice Davide assailing the spot investigation conducted by DCA Dela Cruz.^[9] Said letter was indorsed by Chief Justice Davide to DCA Dela Cruz on March 28, 2005 for his comment.^[10] No comment can be found in the records of herein administrative cases.

In a 1st Indorsement dated April 14, 2005, then Court Administrator Presbitero J. Velasco, Jr. (now Associate Justice of the Supreme Court) directed Atty. Morales to comment on the undated anonymous letter-complaint.^[11]

In his Manifestation which the OCA received on April 27, 2005, Atty. Morales alleged that: the anonymous letter-complaint should not have been given due course as there is no truth to the allegations therein; the OCA took almost a year to act on the anonymous letter-complaint which did not have the proper indorsement from the Office of the Chief Justice; even though he brought to the OCC his personal computer, such act is not prohibited; he did not use his computer to write pleadings during office hours and neither did he use paper of the OCC; the "raid" conducted by DCA Dela Cruz without search and seizure orders violated his right to privacy and the articles seized therewith should be considered inadmissible.^[12]

In a letter dated April 12, 2005, Atty. Morales applied for optional retirement^[13]

which the Court approved in its Resolution dated October 12, 2005 subject to the withholding of his benefits pending resolution of cases against him, the instant case included.^[14]

A.M. No. P-08-2520

In another unsigned letter dated April 1, 2004, the writers who claim to be employees of the OCC-MeTC, Manila, charge Atty. Morales, Arreola, Atty. Favorito, Calda and Siwa of the following offenses: Atty. Morales and Arreola, who are both detailed in the OCC, leave the office after logging-in only to return in the afternoon, which acts are allowed by Atty. Favorito; Atty. Morales and Arreola were not given assignments and whenever they are at the office, they do nothing but play computer games; Siwa is also allowed by Atty. Favorito to lend money and rediscount checks during office hours using court premises; many people from different offices go to the OCC because of the business of Siwa; Atty. Favorito also allows two of Siwa's personal maids to use the OCC as their office in rediscounting checks; and Atty. Favorito and Calda charge P50.00 to P500.00 from sureties claiming said amounts to be processing fees without issuing receipts therefor.^[15]

In the same spot investigation conducted by DCA De La Cruz on March 16, 2005, a partly hidden plastic box was discovered containing the amount of P65,390.00 and six commercial checks, which Siwa voluntarily opened to the team. These were also confiscated and turned over to the custody of the OCA.^[16]

In a letter to then Chief Justice Davide dated April 12, 2005, Siwa requested that said money and personal belongings that were confiscated be returned to her immediately and that a formal investigation be conducted regarding DCA Dela Cruz's conduct during the spot investigation.^[17] The seized items were later returned to Siwa^[18] while her letter-complaint was indorsed by the Chief Justice to the Court Administrator on April 18, 2005 for appropriate action.^[19] As with the complaint filed by Atty. Morales, however, the status of Siwa's complaint could not be ascertained despite diligent efforts at inquiring about the matter from the OCA Legal Office.

In a 1st Indorsement dated April 14, 2005, the OCA directed Atty. Morales, Atty. Favorito, Calda, Arreola and Siwa to comment on the letter-complaint.^[20]

Atty. Morales submitted the same Manifestation he submitted in A.M. P-08-2519.

Siwa in her Comment avers that: the anonymous letter-complaint should not have been given due course as it contravened Sec. 46(c) of Executive Order No. 292 and the implementing rules; it was not subscribed and sworn to by the complainant and there is no obvious truth to the allegations therein; while she admits that she is involved in the business of rediscounting checks, such is a legitimate endeavor, in fact, there are other employees of the court engaged in the same business; she is also not aware of any rule prohibiting her from engaging in said endeavor; she does not use the OCC to conduct her business and she is mindful of her duties as a government employee; thus, she has a staff to do the encashment of the checks; there were rare occasions when her staff members were stationed at the corridors to lend cash to employees but while said occasions may have occurred during office

hours, her staff cannot be blamed for the same since the employees go to them; she has never neglected her duty as a court stenographer -- in fact, her last performance rating was "very satisfactory"; it is a known fact that because of the meager pay given to government employees, most augment their income by engaging in business; she should not be singled out for being enterprising and industrious; and it is unfair to accuse her of wrongdoing at a time when she has voluntarily retired from government service due to health reasons.^[21]

A month after the incident, Siwa filed for optional retirement^[22] which the Court approved in its Resolution^[23] dated October 12, 2005, with the proviso that the amount of P30,000.00 shall be retained from the money value of her earned leave credits pending resolution of the present case.

Calda explains in his letter dated April 25, 2005 that: the fees of P50.00 and P500.00 were charged in connection with the filing of surety and cash bonds pursuant to Rule 141 of the Revised Rules of Court and that corresponding official receipts were issued; at nighttime, he is the one authorized to approve the filing of surety bonds since he is the highest ranking officer of a skeletal force detailed for night court duty; he has been with the MeTC for 16 years, rose in rank, was never involved in any controversy and would never tarnish his reputation.^[24]

Arreola asserts that: her record of arrival and departure was always signed by her superiors without question because it reflected the correct entries; she is always in the office even when there is typhoon; and she has proven herself useful in the OCC by answering queries of litigants and verifications from other offices and attending to complaints.^[25]

In compliance, Atty. Favorito adopted the comments of Atty. Morales, Calda and Arreola and denied that he committed the acts alluded to in the anonymous letter-complaint.^[26] Atty. Favorito also incorporated in his comment a letter of the employees of the OCC-MTC Manila disowning the alleged anonymous complaint.^[27]

In a Resolution dated July 27, 2005, the Court, upon recommendation of the OCA, consolidated the two complaints and referred the same to the Executive Judge of the MeTC, Manila for investigation, report and recommendation.^[28]

Report of the Investigating Judge

In her Report dated September 1, 2006, MeTC Executive Judge Ma. Theresa Dolores C. Gomez-Estoesta states that discreet observation of the daily working activities of Atty. Morales and Siwa could no longer be done as the two had already availed themselves of their optional retirement; thus, random interviews with employees who had proximate working activities with them were resorted to, as well as perusal of court records.^[29]

The following employees were interviewed: Rueben Duque, Clerk of Court, Branch 16, MeTC; Beneluz Dumlaog, Records Officer I; Marilou Magbag, Clerk III; Estrella Rafael, Records Officer I; Lydia dela Cruz, Records Officer III; Raymundo Bilbao, Clerk III; Marie Joy Valle, Clerk IV, and Ma. Lizabeth Marcelino, Administrative Officer II, all of the OCC; Rosie Jose, freelance bondswoman, and Norberto D.

Soriano, authorized representative of the Commonwealth Insurance Company.^[30]

After conducting her investigation, Judge Estoesta found:

Insofar as Atty. Morales, Atty. Favorito, Calda and Arreola are concerned, the investigation immediately stumbled into a dead end. No one from the OCC personnel who were interviewed would give a categorical and positive statement affirming the charges against the said personnel. While almost all confirmed that Atty. Morales maintained his own computer and printer at the OCC, nobody could state for certain that what he worked on were pleadings for private cases. Rafael, who was seated right next to Atty. Morales at the OCC merely said that what preoccupied Atty. Morales were his own administrative cases. She did not notice Atty. Morales engage in private work in his computer although she saw Atty. Icaonapo drop by the office every now and then to personally see Atty. Morales. Rafael explained however that this could be because Atty. Icaonapo was the counsel of Atty. Morales in his administrative cases. While documents referring to private cases were found in the hard drive of the computer of Atty. Morales, and while the writing style is similar to that of the Manifestation he filed in this case, still no definite conclusion could be drawn that he has composed the said pleadings at the OCC during official working hours. A close examination of the Pre-Trial Brief signed by Atty. Icaonapo and filed with the RTC Branch 1, Manila also revealed that the paper and the printer used were not the same as that used in the office of Atty. Morales.^[31]

There was also no evidence to support charges of extortion against Atty. Favorito and Calda. Two bondsmen who were randomly interviewed denied that Atty. Favorito and Calda exacted illegal sums from them. The amounts they charged could actually refer to legal fees.^[32]

As to Arreola, the charge against her also has no basis. The interviewees were unanimous in saying that Arreola was always around the office, and that while she fetched her son from a nearby school, she did so during lunch or after office hours. Random checks on Arreola also revealed that she was always at the OCC and at Branch 30 where she was reassigned.^[33]

As to Siwa, she candidly admitted that she was engaged in lending and discounting activities at her station, through her own staff which she had maintained for said purpose. Because of her business, a number of employees, even those from other government agencies, usually huddled at her station to hold transactions. Branch Clerk of Court Ruben Duque relates that a number of people would often go to their office looking for Siwa for lending and rediscounting. Assuming that Siwa is not prohibited from engaging in said business, still it has distracted her from her duties as a stenographer. A random check on the court records of Branch 16 showed that Siwa had not yet submitted a complete transcription of 7 stenographic notes in 5 cases, 3 of which already had decisions rendered. In one case, the testimonies of two prosecution witnesses had to be re-taken to fill in the gap which not only wasted precious time of the court but also distressed the efforts of the prosecution in the presentation of its case.^[34]

Judge Estoesta recommended as follows: