

## EN BANC

**[ A.M. NO. P-05-1985 (FORMERLY OCA I.P.I. NO. 05-2126-P), July 26, 2007 ]**

**CIVIL SERVICE COMMISSION, COMPLAINANT, VS. SANTOS ENRIE P. PEROCHO, JR., RESPONDENT.**

### RESOLUTION

#### PER CURIAM:

On November 9, 2004,<sup>[1]</sup> the Civil Service Commission (CSC), in Administrative Case No. 96-07-82, found Santos Enrie P. Perocho, Jr. (respondent), Process Server, Regional Trial Court (RTC), Branch 161, Mandaluyong City, guilty of dishonesty and dismissed him from the service with disqualification from holding public office and from taking government examinations in the service, as well as with forfeiture of retirement benefits.

The facts, as found by the CSC, are as follows:

On May 28, 1996, Mr. Perocho, Jr., was appointed by Deputy Court Administrator Reynaldo L. Suarez as Clerk III at the RTC, Branch 161, Pasig City. In support of his appointment he submitted his Personal Data Sheet (PDS) wherein he stated that he passed the Career Service Professional Examination conducted by the Civil Service Commission in Manila on April 17, 1994 with a rating of 85.00% knowing fully well that it was not true because he did not pass the said exam.

However, upon examination of the records of the Examination and Placement Services Division (EPSD) of the Civil Service Commission it was disclosed that his name was not in the Register of Eligibles in the Career Service Professional Examination held on April 17, 1994. Later on, a formal charge for Dishonesty and Grave Misconduct was issued against Mr. Perocho after it was deduced from the fact finding investigation conducted by the Civil Service Commission that he submitted a spurious certificate of eligibility and made a false entry in his Personal Data Sheet.

A copy of the formal charge was furnished respondent requiring him to file his Answer. Respondent did not submit his Answer and as a consequence thereof he was deemed to have waived his right to submit the same. During the formal investigation the prosecution presented Rosie Perlas, CS Field Office personnel who testified to confirm the document submitted by respondent in support of his appointment and Bella A. Mitra, Officer-in-Charge, Examination and Placement Service Division (EPSD) of the Civil Service Commission who brought before the Hearing Officer the Register of Eligibles who took and passed the April 17, 1994 Career Service Professional Examination. After a judicious

scrutiny of the documentary and testimonial evidence adduced, respondent Perocho, Jr., was found guilty of the offense charged, and was meted out the penalty of dismissal from the service. In addition, the accessory penalties of disqualification from holding public office, forfeiture of retirement benefits and from taking government examination in the service was likewise imposed against the herein respondent.<sup>[2]</sup>

Upon Report dated February 21, 2005,<sup>[3]</sup> of Court Administrator Presbitero J. Velasco, Jr.,<sup>[4]</sup> the Court directed respondent to comment within 10 days from notice why no disciplinary action should be taken against him for Dishonesty and Grave Misconduct.

Respondent, through counsel, filed his Comment dated June 13, 2005<sup>[5]</sup> alleging that he verified and obtained a copy of the CSC Decision and was surprised upon knowing that a Decision was rendered against him without appropriate notice and opportunity to be heard. Respondent denied having received directly or indirectly any notice or any formal charge filed against him by the CSC, and that he never received a copy of the Decision dated November 9, 2004 except upon verification from the CSC after receipt of the Court Resolution dated April 6, 2005. Respondent left his former residence at 2325 Pasig Line St., Sta. Ana, Manila in April 1996 and transferred to Noveleta, Cavite, and there was no way by which he could have received the subpoenae and formal charge against him. Respondent denies having submitted his Personal Data Sheet (PDS) personally and having stated in the PDS that he passed the April 17, 1994 Professional Eligibility Examination of the CSC in Manila, with a rating of 85%. Respondent remembers that while still detailed at the RTC, Branch 161, Mandaluyong City, Sheriff Carlos Maog (Maog) gave respondent a PDS with instructions to submit the Personal Data Information to Maog who would take charge of whatever clerical position was available for his friend. Respondent was made to sign on the blank space provided at the lower portion of the dorsal side of his PDS. Respondent did not give any information or mislead Maog into making it appear that he took up and passed the Professional Eligibility Examination of the CSC. Upon learning from Maog that CSC eligibility was required, respondent told Maog not to proceed anymore with the filing of his application and emphasized that he was not a CSC eligible. Respondent denied receiving his appointment as Clerk III from Deputy Court Administrator Reynaldo L. Suarez and he did not assume said position. Respondent has no intent of furnishing the government or any person or entity any misinformation as to his eligibility and he has continuously discharged the functions of his office with the highest degree of responsibility, integrity, loyalty, and efficiency and has remained at all times accountable to the people as a public servant. His present position as a process server does not require any eligibility. He prays that the Decision of the CSC of November 9, 2004 be set aside and that he be absolved of the charges of dishonesty and grave misconduct.

In a Resolution dated August 31, 2005, the Court referred the administrative matter to the Office of the Court Administrator (OCA) for investigation, report and recommendation.

In a Report dated May 15, 2006<sup>[6]</sup>, the Investigating Officer Romulo S. Quimbo submitted the following observations, to wit:

Respondent admitted having accomplished Exhibit "A". He said that he had typewritten the information required by questions, except No. 18. He denied having typewritten anything in the space for Item No. 18 and he did not know who made the entries thereon. After filling out the blanks, except Item No. 18, he signed the same Exhibit "A" and gave it to Maog and forgot all about it until the present case was filed against him.

On cross-examination respondent repeatedly denied having any knowledge as to who or how the entry (Exhibit "A-1") was made in his PDS (Exhibit "A") because he did not make any such entry. Respondent also admitted that he was the one who accomplished and signed another PDS dated 27 June 1997 (Exhibit "G"). The latter PDS is the one he submitted for his present position of process server. Respondent averred that he had no knowledge that an appointment for the position of Clerk III was issued in his favor by Deputy Court Administrator Suarez which, however, was not attested to by the CSC. Respondent stated that he had not taken any civil service examination, whether Professional or Sub-professional. After he had accomplished Exhibit "A", he had given the same to Sheriff Maog without any supporting documents. He never followed his application because he learned that civil [service] eligibility was required for it and he was not an eligible.

On 8 May 2006, respondent was asked why he had placed the letters "NA", which means "not applicable" on Items Nos. 16, 19, 23, 24, 25 and 26 but had allegedly left Item No. 18 (Exhibit A-1) blank. Respondent replied that he was in a hurry typing.

Respondent's witness Joseph Pabillano declared that in March 1996, he was an "errand boy" at the Regional Trial Court [i]n Barrio Kapitolyo, Pasig City. x x x While they were eating in a "carenderia" Maog asked him if he wanted to be a regular employee. Respondent was among those present when Sheriff Maog allegedly asked Pabillano if he wanted to secure a job in the court. Sheriff Maog distributed blank PDS forms for them to accomplish but Pabillano avers that he did not return the same to Maog x x x. Upon being shown Exhibit "A", Pabillano declared that it was a similar form which Maog distributed to them. Pabillano further declared that he learned from the employees at the RTC, Pasig City that Sheriff Carlos Maog was already deceased.

It is clear from the documents submitted by the complainant that there was an attempt to pass off a non-eligible for appointment to a position which required civil service eligibility. Had the CSC been less alert, respondent's appointment as Clerk III may have been attested to. The question to be decided here is who the author of the attempt was.

The complainant claims that it was the respondent who inserted the data that he had the appropriate civil service eligibility for the position of Clerk III which he had applied for. The complainant further insists that it was respondent who submitted the spurious certificate of eligibility (Exhibit "E") to the Personnel Office of the OCA as one of the documents supporting his application for the position of Clerk III.

x x x x

The undersigned is convinced that respondent was enticed by persons unknown to apply for the position of Clerk III. He must have been assured by said persons that although he was not an eligible, a certificate could be obtained somewhere. It is entirely possible that respondent must have spent some funds to secure Exhibit "E" and perhaps the late Carlos Maog was instrumental in persuading him to take the risk of submitting an application for a position for which he was not qualified as well as procuring Exhibit "E".

Unfortunately, Sheriff Carlos Maog is dead. He can no longer take the stand to support the assertion of the respondent. But even if he were alive, it is doubtful that he would have admitted to being responsible for the procurement of a fake certificate of eligibility since he would be jeopardizing his own employment because he could be found guilty of dishonesty which merits the penalty of dismissal even if committed the first time.

x x x x

The respondent is charged with dishonesty for having submitted a spurious certificate of eligibility to support his application for the position of Clerk III. The Supreme Court has consistently held that "in the absence of satisfactory explanation, one found in possession of or who used a forged document is the forger or the one who caused the forgery". x x x

The respondent has clearly committed act of dishonesty which is defined by the CSC as "any act which shows lack of integrity or a disposition to defraud, cheat, deceive or betray. It consists of an intent to violate the truth, in a matter of fact relevant to one's office or connected with the performance of his duties x x x.

x x x x

x x x [I]t is evident that respondent has committed the grave offense of dishonesty by procuring and using a forged certificate of eligibility which he submitted with his application for the position of Clerk III. The CSC found enough evidence to hold respondent responsible for the procurement of Exhibit "E". The CSC correctly meted the penalty of "dismissal from the service" with "disqualification from holding public office, forfeiture of retirement benefits and from taking government examinations in the service" as the same is well supported by the evidence on record.<sup>[7]</sup>

and recommended that respondent be found guilty of dishonesty and grave misconduct and be dismissed from the service with forfeiture of retirement and other benefits, except earned leave credits, and with perpetual disqualification from re-employment in any government instrumentality or government-owned or controlled corporation.