

EN BANC

[A.M. NO. P-04-1833, July 03, 2007]

ATTY. CESAR A. ENRIQUEZ, COMPLAINANT, VS. LUCILA M. DE CASTRO, COURT INTERPRETER II, MUNICIPAL TRIAL COURT IN CITIES, CALAPAN CITY, ORIENTAL MINDORO, RESPONDENT.

DECISION

PER CURIAM:

In a Sworn Statement^[1] dated 8 April 2003, Atty. Cesar A. Enriquez (complainant) charged Lucila De Castro (respondent), Court Interpreter II of the Municipal Trial Court in Cities, Calapan City, Oriental Mindoro (trial court), with grave misconduct and extortion.

According to complainant, respondent extorted money from persons who have cases with the trial court on the pretext that she would give complainant the money as attorney's fees. Complainant stated that one such person was Ernesto De Ala (De Ala), the accused in Criminal Case No. 13006. Complainant stated that De Ala was charged with violation of Republic Act No. 6425 before the trial court on 21 March 2002.

Complainant stated that in De Ala's Sworn Statement dated 26 March 2003, De Ala asserted that:

1. Respondent solicited and received P15,000 from his wife, Sonia De Ala, on the pretext that the money would be given to complainant as attorney's fees and that complainant would be De Ala's defense counsel in the criminal case.
2. During De Ala's arraignment in the Regional Trial Court, Branch 40, De Ala learned that respondent did not give the P15,000 to complainant but pocketed it for her own personal use.

Complainant asserted that respondent personally admitted to him that she received the P15,000. Complainant asserted that respondent asked for his indulgence and assured him that she would give him the money in "staggered amount." Complainant stated that he did not authorize respondent to solicit cases for him and to collect money for his attorney's fees.

On 8 April 2003, Judge Manolo A. Brotonel (Judge Brotonel) issued a Memorandum to respondent informing her of the complaint for grave misconduct and extortion that complainant had filed against her. Judge Brotonel directed her to file her answer and comment on the complaint within five days from notice.^[2]

In his 1st Indorsement dated 13 May 2003, Judge Brotonel forwarded to Executive Judge Manuel C. Luna, Jr. (Judge Luna) of the Regional Trial Court of Calapan City,

Branch 39 the Memorandum on the complaint which complainant filed against respondent. Judge Brotonel stated that despite the long period of time afforded respondent, she failed to controvert the charges against her.^[3]

In his 2nd Indorsement dated 23 June 2003, Judge Luna forwarded to the Office of the Court Administrator (OCA) the Memorandum issued to respondent for appropriate action.^[4]

The OCA, in its 1st Indorsement dated 2 July 2003, required respondent to file her Comment within 10 days from notice.^[5] However, since respondent still failed to file her comment, the OCA sent her its 1st Tracer on 7 November 2003 reiterating its directive for her to submit her comment within five days from receipt of the 1st Tracer; otherwise, it would submit the case to the Court without her comment.^[6]

On 1 March 2004, the OCA submitted its Evaluation Report. The OCA stated:

The essence of due process is simply to afford the respondent the opportunity to be heard or as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling taken. A formal trial or hearing is not always the earmark of due process. The requirements of due process are satisfied when the parties are afforded a fair and reasonable opportunity to explain and air their side (*Villareal vs. CA*, 219 SCRA 293).

Respondent's failure to file comment despite her being given the opportunity twice, indicates her waiver of her right to be heard. The records show that besides the two opportunities given her by the OCA, she received the Memorandum of Judge Manolo Brotonel dated 3 April 2003, directing her to submit her formal answer within five (5) days. Respondent likewise failed to do so.

RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court is our recommendation that this case be REDOCKETED as a regular administrative matter and that respondent be SUSPENDED for six (6) months without benefits and SEVERELY WARNED that commission of any infraction will be dealt with most severely.^[7]

On 14 June 2006, the Court issued a resolution requiring the parties to manifest within 10 days from notice whether they were willing to submit the case for decision on the basis of the pleadings submitted.^[8]

In its resolution dated 15 January 2007, the Court resolved to consider the parties to have waived their compliance with the resolution dated 14 June 2006 because of their failure to manifest their willingness to submit the case for decision based on the pleadings filed.^[9]

The findings and recommendations of the OCA are well-taken, except for the penalty.

The charges against respondent relate to her act of soliciting from De Ala's wife the sum of P15,000 on the pretext that the money would be given to complainant as