

EN BANC

[A.M. No. P-99-1348 (Formerly OCA I.P.I No. 99-696-P), October 15, 2007]

JUDGE GLORIA B. AGLUGUB, COMPLAINANT, VS. IMELDA S. PERLEZ, CLERK OF COURT I, RESPONDENT.

R E S O L U T I O N

PER CURIAM

In a letter-complaint dated August 12, 1999, Judge Gloria B. Aglugub (complainant) of the Municipal Trial Court, Branch 2 of San Pedro Laguna, charged Imelda S. Perlez (respondent), Clerk of Court I of the said branch, of infidelity in the custody of court records, insubordination, gross inefficiency, grave misconduct, falsification, misrepresentation, dishonesty and neglect of duty.^[1]

Complainant claims that respondent, on several occasions, was unable to locate missing court records in her custody; she refused to comply with orders requiring her to submit transcripts of stenographic notes causing delays in the disposition of cases; she refused to transmit records of cases for review and copies of warrants of arrests to the proper agencies; she tells practitioners that she does not know how to prepare court processes; she caused the break-open of the judge's chambers by means of picklocks to get records and caused their transfer to another branch without authority from the court; she has the propensity of putting the blame on complainant for missing records; she caused the typing of a case number in a commitment order, in addition to one already written, and certified it, making it appear that the same was intended for said case; she stated in her Personal Data Sheet (PDS) in her application with the judiciary that she graduated from college in 1981 but it was found out later that she was a candidate for graduation only in the summer of 1997; and she failed to submit monthly reports for May, June, July 1999 and report on the physical inventory of cases despite receipt of the court's memorandum dated July 13, 1999.^[2]

In her Comment dated December 3, 1999, respondent explained that while there were instances when records were misplaced, they were however easily located or reconstituted without causing damage to litigants; the complaint did not specify which orders she refused to obey and which records she refused to transmit; while there was an instance when she asked a lawyer to provide her with a sample form of a writ of demolition, it was done in the presence of and with the acquiescence of complainant; while she did break into the complainant's chamber, she did so only to get records of a detention prisoner who was suffering from illness and who, under the law, was entitled to provisional liberty; she does not put the blame on complainant regarding missing records, she just tells litigants that some records are brought home by the judge for study; it was not respondent, but Marivic Gonzales, Staff Assistant II, who typed a criminal case number on the commitment order of another case; respondent placed in her PDS that she is a college graduate under the

honest belief that she finished her Accounting Course; she finished her last semester in college not knowing that her grades in three subjects were incomplete; in any case, she was able to complete the said subjects in the summer of 1997; she always prepared her monthly reports on time until the months of May to July of 1999 when she and her staff could no longer cope with the work due to voluminous records.^[3]

The case was referred to the Office of the Court Administrator (OCA) for its evaluation, report and recommendation.^[4]

In the Report dated April 18, 2000, Court Administrator Alfredo L. Benipayo recommended that respondent be dismissed from the service for grave misconduct, gross inefficiency and misrepresentation and/or dishonesty.^[5]

The Court required both parties to manifest within ten days from notice if they were willing to submit the case for decision on the basis of the pleadings filed.^[6]

Respondent submitted her Manifestation dated July 13, 2001,^[7] expressing her willingness to undergo oral examination or further investigation if this Court would deem it necessary. Complainant filed a Manifestation with Motion dated June 17, 2002, informing the Court that respondent had left the country on February 14, 2002, for an unknown destination, and prayed that the position of Branch Clerk of Court left by respondent be declared vacant and thereafter opened to any qualified applicant.^[8]

In a Memorandum dated October 15, 2002, Deputy Court Administrator Jose P. Perez recommended that respondent be considered absent without official leave (AWOL) and that she be dropped from the rolls without prejudice to the outcome of the administrative complaint against her. DCA Perez found that while respondent's initial application for vacation leave for February 1 to April 30, 2002 had been approved, the same had been withdrawn for her violation of Memorandum Order No. 14-2000 which prohibits any employee of the judiciary from leaving the country without obtaining permission from the Supreme Court.^[9]

As recommended, the Court issued a Resolution dated December 4, 2002, dropping respondent from the service effective February 14, 2002 for being AWOL, and declaring vacant her position as Clerk of Court in said MTC, without prejudice to the outcome of the administrative case against her.^[10]

Subsequently, in a Memorandum dated March 16, 2007, the OCA, through Court Administrator Christopher O. Lock, submitted its evaluation and recommendation in the instant case, as follows:

A careful review of the records indicates that respondent is administratively liable.

While not all the accusations against respondent were substantiated, one charge, however, remained incontrovertible. Respondent having made it appear in her personal data sheet that she is a college graduate although she is not. We do not subscribe to respondent's excuse that she did it under the honest belief that she had finished the Accounting Course at Arellano University so as to exonerate herself from liability. The records

reveal that she failed to graduate because she got an incomplete grade in three (3) subjects, namely (1) Principle of Science; (2) PE 3 and (3) Accounting 8. It is a fact that an incomplete grade is given to a student who incurs deficiencies in a given subject, i.e., the student failed to take the final exam or failed to submit a required project. Since she got an incomplete grade in three (3) subjects, it is safe to assume that she must have incurred some deficiencies in those subjects. Any student in his or her right mind will not expect to pass a subject in which he or she has incurred a deficiency. Also, the records disclose that respondent completed the course in 1997, not for the purpose of meeting the qualification standard of the position she is holding, but rather to be able to study law. Respondent's flimsy excuse of good faith cannot be sustained in the light of the overwhelming facts to the contrary.

In the case of *Court Administrator vs. Judge Ricardo M. Magtibay, A.M. No. R-254-MTJ and 88-1-2807-MCTC, May 9, 1988*, for Conduct Unbecoming of a Judge and Misrepresentation in Filling Up his Personal Data Sheet for Judges, the Court found respondent guilty beyond reasonable doubt and ordered the latter's dismissal from the service with forfeiture of all salaries, benefits and leave credits to which he may be entitled.

Likewise, in *A.M. No. 2003-9-SC, Re: Adm. Case for Dishonesty and Falsification of public document, Benjamin Katly, respondent*, the Court dismissed respondent for having twice represented in his personal data sheet that he was a college graduate when in reality he was not. It was ruled therein that his making a false statement in his Personal Data Sheet constitutes an act of dishonesty.

Under the schedule of penalties adopted by the Civil Service, gross dishonesty is classified as a grave offense and the penalty imposable is dismissal even on its first offense.

In view of the foregoing, undersigned respectfully recommends that the resolution dated December 4, 2002 dropping respondent, Imelda Perlez, Clerk of Court, MTC, Branch 2, San Pedro, Laguna from the service for being absent without official leave be SET ASIDE and that she be DISMISSED from the service for gross dishonesty with consequent forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to re-employment in any branch of the government including government-owned or controlled corporation.^[11]

The recommendation of the OCA that the Resolution of the Court dated December 4, 2002 dropping respondent from the rolls be set aside is not well-taken. The Resolution itself expressly declared that the dropping of the name of respondent from service is without prejudice to the outcome of the present administrative case.

However, the Court adopts in full the findings and recommendation of the OCA that respondent is administratively liable for dishonesty.

Respondent cannot deny that she misrepresented herself as a college graduate in her PDS. Her only excuse is that when she applied as Court Interpreter and placed