

FIRST DIVISION

[A.M. No. P-07-2333 (Formerly OCA IPI No. 07-2510-P), December 19, 2007]

**ANONYMOUS, COMPLAINANT, VS. MA. VICTORIA P. RADAM,
UTILITY WORKER, OFFICE OF THE CLERK OF COURT, REGIONAL
TRIAL COURT OF ALAMINOS CITY, PANGASINAN, RESPONDENT.**

R E S O L U T I O N

CORONA, J.:

In an anonymous letter-complaint dated September 30, 2005,^[1] respondent Ma. Victoria Radam, utility worker in the Office of the Clerk of Court of the Regional Trial Court of Alaminos City in Pangasinan, was charged with immorality. The unnamed complainant alleged that respondent was unmarried but got pregnant and gave birth sometime in October 2005.^[2] The complainant claimed that respondent's behavior tainted the image of the judiciary.

In connection with the complaint, Judge Elpidio N. Abella^[3] conducted a discreet investigation to verify the allegations against respondent.

In his report dated March 8, 2006,^[4] Judge Abella made the following findings:

On March 1, 2006, respondent submitted a letter addressed to the Honorable Court Administrator, thru the undersigned, duly subscribed and sworn to before the Clerk of Court VI of the Court, alleging among others, the following:

- 1) She admitted that she is single/unmarried, and indeed she was pregnant and actually gave birth to a baby boy named Christian Jeon Radam on 03 November 2005 at the Western Pangasinan District Hospital, Alaminos City;
- 2) The reason why she did not yet marry the father of her child Christian Jeon was that she and the child's father have pending application[s] [to migrate to Canada] as in fact they have [a] mutual plan to remain unmarried [and]
- 3) Nevertheless, she expressed her remorse and promised not to commit the same mistake and indiscretion in the future.

Further investigation reveal[ed] the following:

- 1) That respondent was appointed as Utility Worker on September 4, 2000;
- 2) The father of Christian Jeon Radam is unknown, as shown

by the child's Certificate of Live Birth, hereto attached,^[5]

3) It was verbally admitted by the respondent that she had given birth to two (2) other children before Christian Jeon, but they were conceived and born while respondent was working abroad and before she was employed in the [Office of the Clerk of Court of the Regional Trial Court of] Alaminos City.^[6]

In this connection, Judge Abella made the following recommendation:

Since respondent admitted that she is single and that she got pregnant and gave birth to a baby boy without being married to the father of the child, albeit she advanced the reason for her remaining unmarried, it being that she and her boyfriend had a mutual plan to migrate to Canada, this Investigating Judge considers that such conduct of the respondent fell short of the strict standards of Court personnel and contrary to the Code of Judicial Ethics and the Civil Service Rules. A place in the judiciary demands upright men and women who must carry on with dignity, hence respondent is guilty of disgraceful and immoral conduct which cannot be countenanced by the Court. Certainly, the image of the Judiciary has been affected by such conduct of the respondent.

Premises considered, it is hereby respectfully recommended that respondent MA. VICTORIA RADAM be accordingly found GUILTY of IMMORAL CONDUCT or ACT UNBECOMING A COURT EMPLOYEE. A suspension of one (1) month or a fine of Php5,000.00 is respectfully recommended, with warning that a repetition of the same or similar act in the future will be dealt with more severely.^[7]

After reviewing the findings and recommendation of Judge Abella, the Office of the Court Administrator (OCA) recommended that, in accordance with *Villanueva v. Milan*,^[8] respondent be absolved of the charge of immorality because her alleged misconduct (that is, giving birth out of wedlock) did not affect the character and nature of her position as a utility worker.^[9] It observed:

[T]here is no indication that the relationship of respondent to her alleged boyfriend has caused prejudice to any person or has adversely affected the performance of her function as utility worker to the detriment of the public service.

However, it proposed that she be held liable for conduct unbecoming a court employee and imposed a fine of P5,000 for stating in the birth certificate of her child Christian Jeon that the father was "unknown" to her.^[10]

The OCA correctly exonerated respondent from the charge of immorality. However, its recommendation to hold her liable for a charge of which she was not previously informed was wrong.

For purposes of determining administrative responsibility, giving birth out of wedlock is not *per se* immoral under civil service laws. For such conduct to warrant disciplinary action, the same must be "grossly immoral," that is, it must be so

corrupt and false as to constitute a criminal act or so unprincipled as to be reprehensible to a high degree.^[11]

In *Estrada v. Escritor*,^[12] we emphasized that in determining whether the acts complained of constitute "disgraceful and immoral behavior" under civil service laws, the distinction between public and secular morality on the one hand, and religious morality, on the other should be kept in mind.^[13] The distinction between public and secular morality as expressed — albeit not exclusively — in the law, on the one hand, and religious morality, on the other, is important because the jurisdiction of the Court extends only to public and secular morality.^[14] Thus, government action, including its proscription of immorality as expressed in criminal law like adultery or concubinage, must have a secular purpose.^[15]

For a particular conduct to constitute "disgraceful and immoral" behavior under civil service laws, it must be regulated on account of the concerns of public and secular morality. It cannot be judged based on personal bias, specifically those colored by particular mores. Nor should it be grounded on "cultural" values not convincingly demonstrated to have been recognized in the realm of public policy expressed in the Constitution and the laws.^[16] At the same time, the constitutionally guaranteed rights (such as the right to privacy) should be observed to the extent that they protect behavior that may be frowned upon by the majority.^[17]

Under these tests, two things may be concluded from the fact that an unmarried woman gives birth out of wedlock:

- (1) if the father of the child is himself unmarried, the woman is not ordinarily administratively liable for disgraceful and immoral conduct.^[18] It may be a not-so-ideal situation and may cause complications for both mother and child but it does not give cause for administrative sanction. There is no law which penalizes an unmarried mother under those circumstances by reason of her sexual conduct or proscribes the consensual sexual activity between two unmarried persons. Neither does the situation contravene any fundamental state policy as expressed in the Constitution, a document that accommodates various belief systems irrespective of dogmatic origins.^[19]
- (2) if the father of the child born out of wedlock is himself married to a woman other than the mother, then there is a cause for administrative sanction against either the father or the mother.^[20] In such a case, the "disgraceful and immoral conduct" consists of having extramarital relations with a married person.^[21] The sanctity of marriage is constitutionally recognized^[22] and likewise affirmed by our statutes as a special contract of permanent union.^[23] Accordingly, judicial employees have been sanctioned for their dalliances with married persons or for their own betrayals of the marital vow of fidelity.

In this case, it was not disputed that, like respondent, the father of her child was unmarried. Therefore, respondent cannot be held liable for disgraceful and immoral conduct simply because she gave birth to the child Christian Jeon out of wedlock.

Respondent was indicted only for alleged immorality for giving birth out of wedlock.