

## SECOND DIVISION

**[ A.M. No. P-05-2021 (Formerly OCA I.P.I No. 05-2103-P), June 30, 2005 ]**

**JUDGE ALDEN V. CERVANTES, COMPLAINANT, VS. EDWIN D. CARDEÑO, UTILITY WORKER I, MUNICIPAL TRIAL COURT, CABUYAO, LAGUNA, RESPONDENT.**

### DECISION

**CHICO-NAZARIO, J.:**

The instant administrative case arose from a Letter-Report dated 25 November 2004 of Judge Alden V. Cervantes of the Municipal Trial Court (MTC) of Cabuyao, Laguna, to the Court Administrator, charging Edwin D. Cardeño, Utility Worker I of the same court, with Conduct Unbecoming of a Court Employee, Gross Discourtesy, Insubordination and Grave Misconduct for Interfering in the Performance of Duty of the Acting Clerk of Court.

In the Letter-Report,<sup>[1]</sup> Judge Alden V. Cervantes alleged that at around 10:55 A.M. of 24 November 2004, while he was at his chambers, he was disturbed by a commotion in the adjacent room. To satisfy his curiosity, he stepped out of the room and saw respondent Edwin Cardeño (Cardeño) and Sherwin Hermano (Hermano) engaging in a fistfight, while the Acting Clerk of Court, Arlyn Alcantara (Alcantara), was trying to pacify them.

Also present during the incident were Court Stenographer Eva Canog, Process Server Generencio O. Dapitan, Gary Delantar, and Manolo Dedicatoria, an outsider.

In the investigation later conducted by Judge Cervantes, Hermano, a municipal government employee, testified that he was in the MTC office to accompany a friend who was then applying for a clerical position. After he handed his friend's application to the Acting Clerk of Court, Cardeño snatched the same and handed it back to the applicant telling the latter not to apply as the judge had already recommended someone for the position. At this juncture, Alcantara admonished and advised Cardeño not to interfere with the official acts of the Clerk of Court. In response, respondent uttered the words "*Ang yabang mo, sinong pinagmamalaki mo, yong boyfriend mong may tai sa ulo*" and then picked up the tape dispenser and hit Hermano. The latter fought back and punched Cardeño in the mouth.

The statement of Hermano was corroborated by Alcantara and Eva Canog.

On his part, Mr. Manolo Dedicatoria, an outsider, likewise affirmed the statements of Alcantara and Eva Canog and stated that upon entering the MTC office, he saw Cardeño hit Hermano with a tape dispenser who in turn fought back and punched Cardeño in the mouth.

On the other hand, respondent Cardeño stated that Hermano punched him twice in the mouth.

After investigation, Judge Cervantes recommended<sup>[2]</sup> the dismissal of respondent, on the justification that:

. . . [T]he statements of Arlyn Alcantara, Eva Canog and Sherwin Hermano [are] believable wherein Edwin Cardeño uttered insulting words to Arlyn Alcantara and to Sherwin Hermano. Said parties spoke in clear, straightforward manner.

The statement of Manolo Dedicatoria and Generencio Lapitan are credible.

The statement of Edwin Cardeño is true he was hit in his mouth two (2) times.

The facts show that Edwin Cardeño (Utility Worker) interfered in the performance of acting Clerk of Court Arlyn Alcantara of her functions as Clerk of Court; that the acts and utterances of Edwin Cardeño are equivalent to gross discourtesy, insubordination, disrespect towards his superior, gross imprudence and arrogance towards his co-employee and superior in the Court; That Edwin Cardeño uttered insulting and sarcastic words against the guest Sherwin Hermano.

It should be mentioned that in many, many instances Edwin Cardeño as Utility Worker in the MTC, Cabuyao, Laguna is not present in the office and when is needed, he cannot be found. He hardly performs his duties as Utility Worker of the Court. He does not even dispose the garbage for the Court of offices.

Edwin Cardeño is an undesirable employee of the Court.

Considering all foresaid happenings and circumstances, the judge finds that it is not anymore advisable that Edwin Cardeño should continue working as Utility Worker in the Municipal Trial Court of Cabuyao, Laguna. It is submitted that the dismissal of Edwin Cardeño from the service is warranted.

On 27 January 2005, the Office of the Court Administrator (OCA) required<sup>[3]</sup> respondent to file his comment.

In his *Sinumpaang Salaysay*,<sup>[4]</sup> respondent admitted that a fistfight between him and Hermano ensued but alleged that the root cause of the incident arose from the alleged jealousy of Hermano against him. He claimed that he and Alcantara had a relationship. The incident was not witnessed by anyone except himself, Hermano and Alcantara. He likewise claimed that Judge Cervantes did not actually witness the incident because the latter was inside his chambers. He also claimed that Judge Cervantes resented him because the latter knew he secured a copy of the payroll from the Treasurer's Office of Cabuyao, Laguna, which he will use in lodging a complaint against him. The payroll will show that Judge Cervantes was continuously receiving/getting the salary of the driver even if the driver was no longer working for him. Judge Cervantes even threatened to file a complaint against him if he will not disclose who advised him to get a copy of the said payroll.

After evaluating the circumstances of the case, the OCA submitted its report with the following recommendations: