

## EN BANC

[ A.M. NO. P-04-1921, October 20, 2005 ]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.  
FELY C. CARRIEDO, BRANCH CLERK OF COURT, RTC, BR. 24,  
IPIL, ZAMBOANGA DEL SUR, RESPONDENT.**

### RESOLUTION

**AUSTRIA-MARTINEZ, J.:**

In a Resolution dated November 10, 2004, the Court dismissed for insufficiency of evidence the administrative complaint for Grave Misconduct against respondent Virgilio Cañete.<sup>[1]</sup> Respondent Cañete was charged for the loss of a Colt Commander 9 mm., which was then in the custody of the First Municipal Circuit Trial Court of Ipil, Zamboanga del Sur. The Court, however, ordered Branch Clerk of Court Fely C. Carriedo to show cause why she should not be disciplinarily dealt with for such loss. The dispositive portion of the Resolution reads:

WHEREFORE, the administrative complaint against respondent Virgilio Cañete is DISMISSED for insufficiency of evidence.

Branch Clerk of Court Fely C. Carriedo of the First Municipal [Circuit] Trial Court of Ipil, Zamboanga del Sur, is hereby ORDERED to show cause within ten (10) days from notice hereof why she should not be disciplinarily dealt with for the loss of the Colt Commander 9 mm. Let this particular matter be docketed as another administrative matter and assigned to a justice of the Court by raffle.

SO ORDERED.

In her Comment, respondent Carriedo maintains that she was not remiss in her duties as official custodian of court properties. According to her, she was constrained to keep the court records, exhibits, office supplies, and other properties in a wooden cabinet because of limited resources. Carriedo explained that access to the cabinet was limited to accountable court personnel, and the subject firearm was not recklessly exposed to thievery, damage to third persons, or to others who have nothing to do with the contents of the cabinet. She also surmised that while the Court exonerated Cañete from the administrative charges, it is still possible that an "insider" took the firearm. As basis, Carriedo attached a letter she received from a certain "Myrna Buenviaje" who, in turn, attached a note allegedly made by Cañete showing that the latter was indeed in possession of the missing Colt Commander 9 mm.<sup>[2]</sup>

In compliance with the Court's Resolution dated June 7, 2005, respondent filed her Manifestation that she is willing to submit the case for decision on the basis of the pleadings filed.

In a Memorandum issued by the Office of the Court Administrator (OCA), it is recommended that Carriedo be reprimanded for the loss of a court exhibit. The OCA reasoned:

In the instant case, respondent explained that she exercised due diligence in the safekeeping of court properties and exhibits in light of the limited resources available to the court. **In this context, the undersigned understands the predicament of respondent, as it is a fact that many courts in the Philippines are saddled by logistic problems. In the case of RE: Liberato C. Cortes. 242 SCRA 167, the Supreme Court declared that "lack of stenographer and a courtroom, inadequacy of reference materials and small office may only serve to mitigate not completely absolve respondent from any liability."**

Given the limitations in the court's facility, it is incumbent upon respondent as the administrative head thereof and as the officer accountable to the court's properties to devise a more secure method to safeguard court records, properties and exhibits. In the first place, she should not have allowed respondent Cañete access to the cabinet on Saturdays when she was not in court especially that it contains important court exhibits. Worthy of note is her admission that there were times when respondent Cañete would request that she leave the door of the cabinet open on Friday so that he will have access thereto on Saturday when he transcribes some of the notes he had taken (Annex "1", page 2).

Respondent was previously suspended for infidelity in the Custody of court Exhibits after Judge Marcelo Rabosa was able to have a .45 pistol, a court exhibit, registered in his name. Such incident should have been a lesson to her and should have compelled her to impose a stricter measure to safeguard the exhibits submitted to the court.

Finally, in her comment, herein respondent continues to attribute to respondent Cañete the loss of the subject firearm but the fact is, respondent Cañete was already acquitted in the criminal case and the administrative case against him was likewise dismissed.<sup>[3]</sup> (Emphasis supplied)

The Court adopts the findings of the OCA, although the Court finds the recommended penalty to be too light considering that this is not the first time that Carriedo has been administratively charged and disciplinarily dealt with by the Court for her negligence in the safekeeping of court exhibits.

Carriedo's accountability for the loss of the Colt Commander 9 mm. is not without basis. Rule 136, Section 7 of the Rules of Court provides:

*SEC. 7. Safekeeping of property.* - The clerk shall safely keep all records, papers, files, exhibits and public property committed to his charge, including the library of the court, and the seals and furniture belonging to his office.