

EN BANC

[A.M. No. 2004-17-SC, September 27, 2004]

**RE: COMPLAINT FILED BY ATTY. FRANCIS ALLAN A. RUBIO ON
THE ALLEGED FALSIFICATION OF PUBLIC DOCUMENTS AND
MALVERSATION OF PUBLIC FUNDS.**

RESOLUTION

TINGA, J.:

On 10 February 2004, Atty. Francis Allan Rubio, former Director IV, Senate Electoral Tribunal and formerly detailed to the Office of retired Senior Associate Justice Josue N. Bellosillo, filed a letter-complaint^[1] with the Office of the Chief Justice regarding what he described as "a criminal act of MALVERSATION THRU FALSIFICATION OF PUBLIC DOCUMENTS."^[2]

Atty. Rubio claimed that he was not able to collect his overtime pay worth ₱1,900.00 for work rendered from 05 to 09 November 1993 during the impeachment cases against the Chief Justice. According to him, when he tried to collect his overtime pay in January 2004, Mr. Jesus Moncayo, Cashier III, Chief of the Cash Disbursement Section, told him that the amount was already recorded as account payable and would be paid through a voucher. After some follow-ups, Atty. Rubio learned that "some unscrupulous and corrupt person/s" forged his signature in the payroll and collected his overtime pay.^[3]

However, on 11 February 2004, Atty. Rubio, through another letter submitted to the Office of the Chief Justice, sought the withdrawal of his earlier letter-complaint, considering that he received from Mr. Moncayo the amount of ₱1,900.00 covering his overtime pay which he was not able to collect earlier.^[4]

On 16 February 2004, the Office of the Chief Attorney through a Memorandum^[5] to the Chief Justice, recommended that the letter-complaint of Atty. Rubio be referred to the Complaints and Investigation Division of the Office of Administrative Services (CID-OAS) for investigation, report and recommendation for the purpose of (1) digging deeper into the incident so as to pinpoint responsibility for the alleged forgery and the erroneous delivery of overtime pay to the wrong individual, and (2) finding means that may be adopted by the Cashier Division to prevent the recurrence of the incident.^[6]

In the course of the investigation by the CID-OAS, the following persons were summoned: (1) Ms. Araceli Bayuga, SC Judicial Staff Officer, Collection and Disbursement Division, FMBO; (2) Mr. Jesus R. Moncayo, Cashier III, Collection and Disbursement Division, FMBO; (3) Ms. Ludeva Medina, former Judicial Staff Head, Office of Associate Justice Josue N. Bellosillo and now PET Supervising Judicial Staff Officer, Office of Associate Justice Dante O. Tinga; (4) Atty. Francis Allan Rubio,

former legal staff of the Office of Retired Senior Associate Justice Josue N. Bellosillo; (5) Mr. Roberto Angelias, former Court Stenographer II, Office of Associate Justice Josue N. Bellosillo and now Clerk III, Office of the Deputy Court Administrator Zenaida N. Elepaño; and (6) Mr. Romeo B. Garrovillas, Messenger, Collection and Disbursement Division, FMBO.^[7]

The Court adopts the findings of the CID-OAS, summarized as follows:

Atty. Rubio was one of the lawyers entitled to overtime pay for work rendered in November 2003 during the impeachment proceedings against the Chief Justice. Incidentally, the Office of Justice Bellosillo was busy around the same time in view of the Justice's retirement. In line with this, Atty. Rubio was working on his transfer to the Office of the Ombudsman.^[8]

Sometime in January 2004, Atty. Rubio went to the Cashier's Office to claim his overtime pay, which was supposed to be paid in cash. Mr. Moncayo of the Cash Division told him that the amount was already under "Accounts Payable" account and, hence, would be paid through a voucher. Atty. Rubio asked Mr. Roberto Angelias to follow up the voucher. When Mr. Angelias did so, he found out that there was no check available, prompting Mr. Moncayo and his staff to look for the voucher. Upon verification from the payroll, they found out that there was no voucher because the amount appeared to have been released. There appeared on the voucher a signature opposite the name of Atty. Rubio, signifying receipt of the amount.^[9]

In the early part of February 2004, Atty. Rubio tried to get his check from the Cashier's Office, only to find out that he could not get anything. When he confronted Mr. Moncayo about this, the latter was discourteous and even insinuated that Atty. Rubio should be blamed for what had happened because it took him some time to make a claim for his money.^[10] Atty. Rubio, through Mr. Angelias, was able to secure a photocopy of the payroll.^[11]

Atty. Rubio filed his letter-complaint on 10 February 2004, but withdrew the same on the next day in view of Mr. Moncayo's payment of his overtime pay.^[12]

During the investigation, Mr. Moncayo admitted to having remitted the amount of ₱1, 900.00 to Atty. Rubio, but denied responsibility for the unauthorized release of Atty. Rubio's overtime pay. He claimed that it was Mr. Garrovillas, a messenger at the FMBO, who released the amount. Moreover, Mr. Moncayo stated that he was surprised that an investigation was still conducted when in fact he had already paid with his own money the amount due Atty. Rubio. He claimed that he made the payment because Atty. Rubio got very angry and threatened to file a complaint before the Chief Justice. He maintained that he conducted his own investigation and compared available signatures to find a match with the forged signature, but to no avail.^[13]

Mrs. Araceli Bayuga, Chief of the Cash Division, FMBO claimed that she herself made a comparison of the forged signature with that of the signatures of other Court employees, but did not come up with a conclusive result. She discarded the idea that the incident was an "inside job," stating that in her long years of service with

her division, this was the first time than an incident like the subject incident occurred. She implored the Court to help them come up with a measure to deter incidents similar to this.^[14]

On the other hand, Mr. Garrovillas denied having released the money. He testified that he did not know Atty. Rubio until February 2004, when the incident broke out. He stated that if a person making a claim for payment with the Cashier's Office is not familiar with any of its staff (referring to Mrs. Julieta Jorie Alcaraz, Ms. Belen Jimenez and Mr. Garrovillas himself), and such person does not have the proper identification or a Special Power of Attorney (SPA)—should he be making the claim on behalf of another—then they refer the person to Mr. Moncayo, who by reason of his position takes charge and ultimately releases the amount.^[15]

The CID-OAS conducted its own thorough inspection of the payroll and took pains to compare the forged signature with the existing signatures in the payroll sheets, but it did not find any match. The CID surmised that no person in his right mind would perpetrate the act of forgery and at the same time would let himself be traced as a culprit. Thus, it concluded that the perpetrator's signing for and claiming the disputed overtime pay are acts which done deliberately.^[16] Nevertheless, the CID found the following facts to be undisputed: "Atty. Rubio did not receive his overtime allowance; the signature appearing on the payroll was not Atty. Rubio's; the person to whom it was released or the person [who] claimed for it remained to be unidentified, and so was the Cash Division personnel who released the said amount."^[17]

As a result of its investigation, the CID-OAS recommended the following:

- a. Mr. Jesus R. Moncayo be charged administratively for Neglect of Duty and be asked to comment on the Letter-Complaint of Atty. Rubio to accord him due process; and
- b. Mrs. Corazon M. Ordoñez, Director V, Fiscal Management and Budget Office be directed to prepare and submit policy on the guidelines on the release of cash benefits, allowances or salaries of officials and employees of the Court in coordination with the SC Chief Judicial Staff Officers of the FMBO within thirty (30) days from receipt of the Court's action.^[18]

Mr. Moncayo submitted his *Comment*,^[19] wherein he stated that as a matter of practice; they (in the Disbursement Section) initially require employees to present their IDs but dispensed with the requirement after gaining familiarity with the employees and their signatures. They likewise require SPAs when the claimants are representatives of employees.^[20] Mr. Moncayo claims that prior to the incident, he did not know Atty. Rubio personally, and that if he was the one who released Atty. Rubio's overtime pay, he would have required the latter to produce his ID.^[21] Mr. Moncayo averred that upon knowledge of the incident, he conducted his own investigation but failed to identify the perpetrator, as well as the employee who released the subject overtime pay. He claimed he had no intention to cover-up or to countenance the unauthorized release of the amount when he paid Atty. Rubio his overtime pay. He explained that it was a judgment call on his part taking into account that it was the first time that this situation happened.^[22]

Meanwhile, Mrs. Ordoñez submitted proposed guidelines on the disbursement of salaries, allowances and other monetary benefits of Court officials and employees.

[23] The same was referred to Atty. Eden Candelaria, Deputy Clerk of Court and Chief Administrative Officer for comment. On 21 July 2004, Atty. Candelaria submitted a Memorandum addressed to the Court, containing comments and recommendations on the proposed guidelines.[24] On 27 July 2004, the Court *en banc* issued Administrative Circular No. 32-2004, "PRESCRIBING THE GUIDELINES FOR THE DISTRIBUTION OF SALARIES PAID IN CASH, ALLOWANCES, OVERTIME PAY, FRINGE BENEFITS, TAX REFUNDS, BONUSES, AND ALL OTHER EMOLUMENTS PAID IN CASH TO OFFICIALS AND EMPLOYEES OF THE COURT AND THE PRESIDENTIAL ELECTORAL TRIBUNAL." [25] The circular seeks to avoid problems affecting the distribution of salaries, allowances and emoluments paid in cash to Court officials and employees, similar to the instant controversy.[26] It features new rules in the distribution of pay envelopes, to wit: i) delivery of allowances and emoluments to key officials of the Court only, while all other employees must claim the same from the counter of the Cash Division; ii) limited period for release of emoluments; iii) schedule of distribution of pay envelopes per surname; iv) presentation of identification cards to the disbursing officer, counting of the contents of the envelope, and acknowledgment of receipt thereof by signing the payroll; v) non-release of emoluments to a person other than the employee concerned, except when such person is an immediate member of the employee's family, and such person has a duly notarized Special Power of Attorney (SPA), specifying its validity date and monetary emolument for which it is issued.[27]

With the safety measures adopted and in place, the only issue remaining is the liability of Mr. Moncayo, who as Cashier III and head of the Cash Disbursement Division, had ultimate responsibility for the matter at hand.

The need to maintain the faith and confidence of the people in the government, its agencies and instrumentalities requires that proceedings in administrative cases should not be made to depend on the whims and caprices of complainants.[28] This Court cannot be bound by the unilateral act of the complainant in a matter which may involve its disciplinary power; otherwise that power may be put to naught, thereby undermining the trust character of a public office and impairing the integrity and dignity of this Court as a disciplining authority over all employees of the judiciary.[29]

The Position of Cashier III has the following job description:

Under general supervision and in his particular area of specialization, provides expert recommendatory action and assistance as required by his immediate head; provides back-up studies on matters within area of specialization; conducts necessary research and discussions on a variety of specialized subjects and submits recommendation for action; undertakes studies towards the continuing improvement of work procedures and techniques; does special assignments given by his immediate head. Prepares payroll of Supreme Court Officials and employees, Judicial and Bar Council and Judiciary Planning, Development and Implementation Office personnel, assist in the counting of monies to be placed in pay envelopes for payment of salaries, Allowances and