

## **FIRST DIVISION**

**[ A.M. No. P-02-1595, April 03, 2003 ]**

**TIMOTEO M. CASANOVA, JR., COMPLAINANT, VS. FELIZARDO P. CAJAYON, CLERK III, RTC, BRANCH 45, SAN JOSE, OCCIDENTAL MINDORO, RESPONDENT.**

### ***RESOLUTION***

**YNARES-SANTIAGO, J.:**

Complainant Timoteo M. Casanova, Jr., OIC Branch Clerk of Court of the Regional Trial Court of San Jose, Occidental Mindoro, Branch 45, filed with the Office of the Court Administrator a verified letter-complaint,<sup>[1]</sup> against Felizardo P. Cajayon, Clerk III of the same court, for neglect of duty, inefficiency and incompetence in the performance of official duties, refusal to perform official duties, refusal to obey lawful orders of competent authorities and conduct prejudicial to the best interest of the service.

Complainant alleged that since 1989, when respondent was appointed as process server, and after he was promoted as Clerk III in the RTC of San Jose, Occidental Mindoro, Branch 45, respondent often reported late for work and did nothing while inside the office. Complainant first brought the matter to the Presiding Judge, Restituto Aguilar, but he was ignored. Complainant likewise reported the misconduct of respondent to Judge Fernando Caunan, who replaced Judge Aguilar after he retired from the service. However, Judge Caunan merely reprimanded respondent for not preparing the monthly report of the court's cases.

Complainant further averred that sometime in September 1997, respondent received a telegram from the Office of Administrative Services, Office of the Court Administrator (OCA) requiring him to submit his daily time records (DTR). The OCA sent another letter pertaining to respondents' DTR to Judge Ernesto Pagayatan, Executive Judge of the RTC of San Jose, Occidental Mindoro. Respondent received the letter but just kept it. After complainant discovered what respondent did, he reported the matter to Judge Pagayatan, who then instructed complainant to answer the letter. Thus, complainant wrote to the Office of Administrative Services of this Court to explain that he did not sign the DTR of respondent because he refused to prepare the monthly report of cases for the months of April to September 1997, despite repeated instructions and advice of his supervisors.

On October 6, 1998, the Court Administrator sent a telegram to the Presiding Judge of RTC, Branch 45 requiring the submission of semestral docket inventory of cases for the periods ending June 1996, December 1996, June 1997, December 1997, June 1998 and December 1998. This communication was given to respondent for compliance, but he failed to act on the matter.

In a letter to the Court Administrator dated February 1, 1999,<sup>[2]</sup> complainant

disclosed that respondent was very close to Judge Ernesto Pagayatan, the Executive Judge of Branch 46 of RTC, San Jose, Mindoro Occidental. Thus, he suggested that Judge Inocencio M. Jaurigue of RTC, Branch 44, Mamburao, Occidental Mindoro be designated to conduct the investigation of this case.

Respondent filed a Comment,<sup>[3]</sup> denying all the accusations against him. He admits that as process server, he would oftentimes go to the IBP building to serve court processes to lawyers. After serving those processes, he would immediately return to his office and wait for other court processes that may be assigned to him for service. He also claims that he was punctual in reporting for work as shown in his daily time records.

Respondent further claims that he likewise diligently discharged his duties even after he was promoted as Clerk III in 1994. In 1995, he even prepared the monthly report of cases that should have been done by the branch clerk of court. He averred that he complied with the letter of the Court Administrator requiring him to submit his DTRs. As to the inventory of cases, he claimed that he already submitted the same to the OCA per his letter-endorsement dated January 29, 1999.

On October 4, 2000, we referred the case to Executive Judge Ernesto Pagayatan of RTC, San Jose, Occidental Mindoro for investigation.<sup>[4]</sup> Judge Pagayatan recommended the dismissal of the complaint on the basis of the withdrawal of the complaint and respondent's undertaking to improve his performance.<sup>[5]</sup>

In its evaluation of the case, the Court Administrator cited the case of *Gacho v. Fuentes, Jr.*,<sup>[6]</sup> where it was held that the withdrawal of an administrative complaint does not result in its automatic dismissal. Hence, he recommended that the case be reinvestigated,<sup>[7]</sup> and designated Judge Jaurigue of RTC, Branch 44, Mamburao, Occidental Mindoro, to conduct the re-investigation.<sup>[8]</sup>

After the re-investigation, Judge Jaurigue submitted his report,<sup>[9]</sup> finding that the filing of the instant complaint was caused by a misunderstanding between the parties, as a result of which respondent's performance of duties became the subject of complainant's criticism. Judge Jaurigue recommended that both complainant and respondent be reprimanded with a stern warning that a repetition of similar acts will merit drastic action.

On April 25, 2002, after due consideration of the aforesaid finding and recommendation of the investigating judge, the Office of the Court Administrator adopted the recommendation of Judge Jaurigue.

Save for the recommended penalty on complainant, we agree with the findings and recommendations of the investigating Judge and the Office of the Court Administrator that both the complainant and respondent displayed conduct which merit the Court's wield of administrative supervision.

We note that the penalty of reprimand was imposed on complainant on the basis of a *motu proprio* finding by the investigating Judge that the instant complaint was merely a product of misunderstanding between complainant and respondent. Such imposition of reprimand on complainant cannot be done without seriously violating