

EN BANC

[A.M. No. P-01-1486, February 21, 2002]

JUDGE LORETO D. DE LA VICTORIA, COMPLAINANT, VS. HON. LEOPOLDO V. CAÑETE^[*], FORMERLY BRANCH CLERK OF COURT, REGIONAL TRIAL COURT, BRANCH 6, CEBU CITY AND NOW JUDGE, REGIONAL TRIAL COURT, BRANCH 27, LAPU-LAPU CITY, AND TEOFILO M. MENDEZ, FORMERLY COURT INTERPRETER, SAME COURT, RESPONDENTS.

D E C I S I O N

MENDOZA, J.:

This is a complaint filed by Presiding Judge Loreto D. de la Victoria of the Regional Trial Court, Branch 6, Cebu City against his court interpreter, Teofilo M. Mendez, for the latter's failure to produce missing case exhibits which had been entrusted to his care and custody. The complaint stemmed from a letter dated August 22, 1996 which Judge de la Victoria wrote to this Court, stating that respondent Mendez filed a leave of absence from June to October 1994 and never returned to work afterward. Judge de la Victoria stated that he later learned that respondent Mendez had applied for disability retirement but his application had not been approved because of his failure to produce the exhibits in certain cases despite orders issued to him. Judge de la Victoria stated that respondent Mendez had been disabled on account of a stroke which impaired his memory and his speech. For this reason, Judge de la Victoria recommended that, if possible, respondent Mendez's application for retirement be approved subject to the condition that the release of his retirement benefits be withheld until he submitted the missing exhibits,

The matter was referred to then Executive Judge Priscila S. Agana of the Regional Trial Court of Cebu City for investigation, report, and recommendation.^[1] Judge Agana directed respondent Leopoldo V. Cañete, as Branch Clerk of Court of the Regional Trial Court, Branch 6, Cebu City, to submit a list of the missing exhibits within 10 days from notice.

In compliance with Judge Agana's directive, respondent Cañete said that he came to know about the missing exhibits only while in the process of transmitting the records of cases on appeal to the Court of Appeals.^[2] He identified the missing exhibits in the appealed cases as the following:

- a) PP v. Giovanni Mante Crim. Case No. CBU-1769
 For: Homicide
- Exh. 2 - medical certificate
 of Rosita Mante
- 3 - X-ray findings
- 4 - medical certificate

issued by Dr. Jesus
Rabanes
5 - sketch by
Francisco Mante, Jr.

b) PP v. Nicanor Enriquez Crim. Case No. CU-5313
For: Viol. of Art. 166, RPC

Exh. C - search warrant
C-1 - return of search
warrant
C-2 - receipt of
confiscated articles
C-3 - receipt of
confiscated printing
machine
E -statements of
Alexeber Chiong
F - picture of printing
machine
F-1 to F-9 -
photopictures
H - sworn statements
of Ignacio Carreon
K - waiver
L - waiver of
constitutional rights

c) Raul Sesbreño vs. Gov. Civ. Case No. R-19022
Eduardo Gullas For: Damages

Exh. 7-Gullas - letter of
Atty. Hermosissima dtd
2/18/80
8-Gullas - worksheet
9-Gullas -
worksheet^[3]

Respondent Cañete explained that Mendez had been interpreter for 30 years and was known to have been given the custody of exhibits even prior to his (respondent Cañete's) appointment as Branch Clerk of Court in 1988. For this reason, respondent Cañete said he did not know the whereabouts of the other exhibits because respondent Mendez did not submit an inventory of the exhibits despite a directive to that effect, nor did Mendez take the trouble of locating the missing exhibits, save in one civil case, as required by the Court of Appeals.^[4]

In her report, Executive Judge Agana recommended that Branch Clerk respondent Cañete be ordered to make an inventory of exhibits in each case and that respondent Mendez be ordered examined by physicians of the Government Service

Insurance System to determine if he could avail of disability retirement, and, if found not to be qualified for retirement, that he be administratively dealt with and his retirement benefits forfeited.^[5] Judge Agana noted, however, that some other exhibits could have been lost even after 1994 when respondent Teofilo M. Mendez stopped reporting for work.

For this reason and upon recommendation of the Court Administrator, this Court, in a resolution, dated February 4, 1997, directed (1) respondent Cañete to make an inventory of exhibits and submit a copy thereof to the Court; (2) Judge de la Victoria to issue the necessary orders for the expeditious resolution of the cases; and (3) respondent Mendez to comment within 10 days from notice on the alleged loss of exhibits which were in his custody.^[6]

As respondents Cañete and Mendez both failed to comply with the directives to them, the Court considered the letter of Judge de la Victoria as a complaint against respondent Mendez, required respondent Cañete to show cause why he should not be disciplinarily dealt with for his failure to make an inventory of the missing documents within 10 days from notice, and ordered respondent Mendez to file his answer within 10 days from notice.

Respondent Cañete filed his comment explaining that, on February 4, 1997, when the order to submit an inventory of the missing exhibits was issued by this Court to him, he was no longer the Branch Clerk of Court of the Regional Trial Court, Branch 6, Cebu City, having been appointed judge of the Metropolitan Trial Court of San Fernando, Cebu and having assumed office on February 3, 1997, per the Certification issued by Clerk of Court Lourdes R. Taping on March 19, 1997. He likewise submitted a copy of his oath of office as judge of the MeTC. He explained that he honestly thought that having ceased to be the Branch Clerk of Court, the obligation of complying with this Court's requirement to submit an inventory of the exhibits devolved upon his successor-in-office, Atty. Myrna Valderrama-Limbaga. As far as he was concerned, he had already done his part by submitting the partial inventory of exhibits in his manifestation and compliance. He further stated that he was promoted as presiding judge of the Regional Trial Court, Branch 27, Lapu-Lapu City and that he had assumed office as such on May 8, 2000, per certification of Acting Branch Clerk of Court Flordeliza G. Garcia.

Since Teofilo M. Mendez appears to have retired on October 14, 1994, before the letter of Judge de la Victoria was docketed as an administrative complaint against him, the Court Administrator recommended the dismissal of the case on the ground that this Court no longer had administrative supervision over him. With respect to respondent Cañete, the Court Administrator believes that he had the duty to comply with the resolution of this Court, which did not cease upon his appointment as Judge of the Metropolitan Trial Court of San Fernando, Cebu.

Hence, the Court Administrator recommended that (1) the case against respondent Teofilo M. Mendez be dismissed for being moot and academic; (2) respondent Leopoldo V. Cañete be reprimanded for failure to comply with the directive of the Court; and (3) Judge de la Victoria to direct his Branch Clerk of Court to make an inventory of the exhibits and submit them to the Court within 20 days from notice.

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