

## **EN BANC**

**[ A.M. No. P-02-1629, September 11, 2002 ]**

**CONCERNED EMPLOYEE, COMPLAINANT, VS. HELEN D. NUESTRO,  
COURT STENOGRAPHER III, RTC, BRANCH 28, BAYOMBONG,  
NUEVA VIZCAYA, RESPONDENT.**

### **R E S O L U T I O N**

#### **PER CURIAM:**

The instant administrative case stemmed from the letter-complaint dated March 1, 1999 filed with the Office of the Court Administrator by a "concerned employee" against Helen D. Nuestro, Court Stenographer of the Regional Trial Court of Bayombong, Nueva Vizcaya, Branch 28 charging her with dishonesty. It is alleged therein that respondent availed of maternity leave effective October 1, 1998 to November 25, 1998<sup>[1]</sup> although she did not get pregnant nor delivered but merely adopted a child which the Nuestro couple were able to register in their name with the local civil registrar.

Acting on the letter-complaint, Deputy Court Administrator Bernardo T. Ponferrada referred the matter by way of 1st Indorsement dated April 23, 1999 to Executive Judge Jose B. Rosales of the Regional Trial Court, Branch 28, Bayombong, Nueva Viscaya and to make a discreet investigation thereon.

Based on his investigation, Executive Judge Rosales found that the Nuestro couple adopted a child whom they registered in their name; that respondent filed an application for maternity leave allegedly upon the advice of someone knowledgeable in law; that respondent subsequently tried to withdraw her application as she was bothered by her conscience but failed; and that accordingly, Executive Judge Rosales leaves the matter for appropriate action of the Court.

On September 18, 2000, respondent was required by the Office of the Court Administrator to file her comment on the letter-complaint as well as on the findings of Executive Judge Rosales in his investigation.

Respondent admits that she applied for maternity leave for a period of sixty (60) days effective September 1998 to October 1998; that she availed of the privilege after seeking the advice of someone knowledgeable in the law; that her application for the said privilege was occasioned by the overwhelming joy she experienced in having an adopted child after eleven (11) years of marriage; that she was, however, bothered by her conscience so she tried to withdraw the same but failed; and that she even filed an adoption case to correct the simulated birth of the child.

Hence, respondent begs for utmost consideration and compassion from the Court for her infraction. She also pleads to be spared the penalty of suspension or dismissal from service as she has a family who depends on her for support.

Respondent has been in the government service since November 16, 1990 and should therefore be familiar with the Civil Service Law and Rules. Sections 12, 13 and 14, Rule XVI of the Civil Service Commission Resolution No. 91-1631<sup>[2]</sup> explicitly provide that only female married employees in every instance of pregnancy and irrespective of its frequency can be granted maternity leave. Said provisions state:

*Sec. 12. Married women in the government service who have rendered two (2) years or more of continuous service, shall, in addition to the vacation and sick leave granted to them, be entitled to maternity leave of sixty (60) days with full pay.*

*For those who have rendered less than two (2) years of government service at the time of the enjoyment of maternity leave, the computation of their maternity leave pay shall be proportionate to their length of service.*

*Sec. 13. Maternity leave shall be granted to female married employees in every instance of pregnancy irrespective of its frequency.*

*Sec. 14. When an employee wants to report back to duty before the expiration of her maternity leave, she may be allowed to do so without refunding the commuted money value of the unexpired portion of her maternity leave and she shall be paid the corresponding salary for the services rendered.*

The act of filing an application for maternity leave when respondent never actually got pregnant constitutes dishonesty that deserves severe sanction from the Court. There is no need to remind respondent that she is an officer of the court and her conduct and behavior must always be beyond reproach and circumscribed with the heavy burden of responsibility.<sup>[3]</sup> A public servant must exhibit at all times the highest sense of honesty and integrity for no less than the Constitution mandates the principle that "a public office is a public trust and all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency."<sup>[4]</sup> As the administration of justice is a sacred task, the persons involved in it ought to live up to the highest standards of honesty and integrity. Their conduct must, at all times, not only be characterized by propriety and decorum but, above all, be above suspicion.<sup>[5]</sup> This Court cannot countenance any act or omission of any of its officers which diminishes or tends to diminish the faith of the people in the judiciary.

Her futile attempt to withdraw the fraudulent application for maternity leave is no point in her favor because it was obviously an afterthought and a result of her fear of getting caught. Notably respondent even bragged before this complaint was filed about being able to get around the law by successfully availing of maternity leave even without getting pregnant.<sup>[6]</sup> She must not be allowed to get away with it because of the bad example such a behavior will give to her co-employees and the bad image it will create for the judiciary.

Under the Omnibus Rules Implementing Book V of Executive Order No. 292, (Administrative Code of 1987), the penalty for dishonesty is dismissal, even for the first offense.<sup>[7]</sup> Sec. 9 of the said rule likewise provides that the penalty shall carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits