

## EN BANC

**[ A.M. No. P-93-960, November 18, 2002 ]**

**TERESITA ROMERO, COMPLAINANT, VS. ENRIQUETA CASTELLANO, COURT STENOGRAPHER, RESPONDENT.**

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

#### **Per Curiam:**

Before the Court is the recommended dismissal<sup>[1]</sup> of respondent Enriqueta Castellano, Court Stenographer of Branch 41, Regional Trial Court, Bacolod City, for grave dishonesty and gross misconduct.

The facts of the case are succinctly summarized by investigating judge, then Executive judge, and, former Deputy Court Administrator, Bernardo T. Ponferrada in his Report<sup>[2]</sup> dated 31 October 1995:

“The complainant went on official leave of absence beginning September 23, 1991 up to April 23, 1993. This official leave was on the basis of her accumulated leave credits as follows:

Vacation Leave - 41 days

Sick Leave - 93 days

(As of August 31, 1991)

as attested to by Atty. Adelaida Cabe-Baumann, Director IV of the Office of Administrative Services. Upon the exhaustion of her leave credits with pay, the complainant commenced to be on official leave of absence without pay on April 6, 1992.

“Before going on her leave of absence, the complainant had already prepared beforehand her duly accomplished Daily Time Records for the vacation leave period ‘with pay’ and her leave applications for the period ‘without pay.’ These she requested her then very dear friend, Enriqueta V. Castellano (herein respondent) to submit as they individually fall at the end of every month.

“Upon reporting back for duty on April 26, 1993, the complainant applied for GSIS Salary/Policy Loan. But considering that she has been on ‘indefinite leave without pay’ she inquired with the Leave Section of the Supreme Court as to how much she had to pay for her unpaid premiums so that she can apply for a loan. She was surprised, however, to know that per the records of the Leave Section there never was a time that she has ever been on leave for the above period. As a matter of fact, her salaries for the same period were all released. Moreover, the complainant was even more surprised to receive her pay slips for the period

September 1991 up to February 1992 when she was supposed to have been on leave.

"Probing deeper into the matter, the complainant found out from Norberto Montalbo (Utility Worker II assigned to the General Services Unit of the Supreme Court), a mutual friend of hers and the respondent, that sometime in 1992 he was requested by the respondent to get the salary checks of the complainant. As a matter of fact, he was given by the respondent a Special Power of Attorney purportedly signed by the complainant designating him as her attorney-in-fact. And by virtue thereto, Mr. Montalbo was able to get complainant's salary checks from July 1992 to December 1992 and kept sending them to the respondent. Considering that the first SPA expired by December 1992, the respondent sent him a second SPA so that he might be able to get the subsequent checks of the complainant for January 1993 to April 1993. Moreover he was able to get the other checks of the complainant such as bonus, JDF, fringe benefits, clothing allowance, additional compensation allowance.

"All along Norberto Montalbo was not aware that the SPAs sent to him by the respondent were forgeries. It was only until after the complainant told him that she never sent him any SPA did he come to know the perfidious scheme perpetrated by the respondent. When he confronted the respondent about the matter sometime in July 1993, the latter only cried.

"It then became clear to the complainant that instead of sending the aforementioned DTRs the respondent falsified a different set of DTRs covering the same period to make it appear that the complainant reported for duty, sent the same to the Supreme Court and received the salary checks of the latter and converted the same for her (respondent) own benefit.

"When confronted about the matter on May 26, 1993, the respondent could not give an explanation but merely cried. On June 9, 1993, she however sent a letter addressed to Atty. Corazon P. Romero, Clerk of Court V of RTC Branch 41, admitting having committed all the acts complained of and taking full responsibility thereof. The matter was eventually brought to the attention of Presiding Judge Lolita Contreras-Besana who directed the complainant to file the appropriate complaint against the respondent."

After conducting hearings on the matter, investigating judge Ponferrada recommended respondent's dismissal on the ground of gross dishonesty and grave misconduct, both grave offenses punishable by dismissal under Rule XIV, Section 23, Omnibus Rules Implementing Executive Order 292.

[3]

In her memorandum to the Court dated 8 May 2002, Deputy Court Administrator Zenaida N. Elepaño also recommended the dismissal of the respondent.

While the matter was pending before the Office of the Court Administrator, respondent was dropped from the service<sup>[4]</sup> effective 1 March 1999 for absence without official leave (AWOL) for more than one year. However, as pointed out by Deputy Court Administrator Zenaida N. Elepaño in her memorandum, being dropped

from the service as a mode of separation is non-disciplinary in nature and does not result in neither the forfeiture of any benefits nor the disqualification from re-employment in the government. Thus, the culpability of respondent for grave dishonesty and gross misconduct still has to be determined inasmuch as, if found guilty, she stands to be penalized with dismissal and its attendant consequences of cancellation of eligibility, forfeiture of leave credits and retirement benefits, and disqualification from re-employment in the government service, without prejudice to the criminal or civil liability that may be imposed.<sup>[5]</sup>

We agree with the recommendations of both the investigating judge and deputy court administrator. Based on the records of the case, we find respondent guilty of gross dishonesty and grave misconduct which warrant her dismissal from the service. The testimonies<sup>[6]</sup> of complainant and Mr. Montalbo establishing how respondent facilitated her misdeed, the letter<sup>[7]</sup> of respondent to Atty. Corazon P. Romero, Clerk of Court V, Regional Trial Court, Branch 41, admitting her misconduct, and respondent's numerous motions for postponement and eventual failure to present evidence<sup>[8]</sup> lead to no other conclusion than that respondent is indeed guilty of the charge against her. Respondent's acts of appropriating for her benefit complainant's salaries by falsifying complainant's daily time records and special power of attorney constitute gross dishonesty and grave misconduct. She should be disqualified from the judiciary whose employees are expected to possess integrity, uprightness, and honesty.<sup>[9]</sup>

This Court has ruled time and again that, by the very nature of their tasks and responsibilities, all those involved in the administration of justice, from the highest official to the lowliest clerk, must faithfully adhere to, hold inviolate and invigorate the principle solemnly enshrined in Section 1 of Article XI of the 1987 Philippine Constitution that "public office is a public trust. All public officers and employees must at all times be accountable to the people; serve them with utmost responsibility, integrity, loyalty and efficiency; act with patriotism and justice; and lead modest lives." The Court condemns any conduct, act or omission on the part of all those involved in the administration of justice which will violate the norm of public accountability and will diminish or tend to diminish the faith of the people in the judiciary.<sup>[10]</sup> Respondent's betrayal of the trust and confidence reposed in her by complainant who was her very dear friend indicates a serious character flaw which makes her unfit to serve the judiciary. As keenly observed by the investigating judge:

"[Respondent] miserably failed to keep up the strictest standards of conduct required of court personnel who, upon assumption (of) duty, must have to live up to the demands of honesty and integrity not only in public service but also in the conduct of their public lives as well."<sup>[11]</sup>

We also agree with the recommendation that complainant herself should also be severely reprimanded for her failure to strictly observe the administrative rules and procedures in filing an application for leave of absence. We agree with the findings of the investigating judge, quoted as follows:<sup>[12]</sup>

"While it may appear true that respondent Castellano, alone, stands to bear the brunt of the penalties for her misdeeds, yet, the investigator finds it in point to look into the possible administrative responsibility of the complainant.