

EN BANC

[A.M. No. P-98-1284, March 30, 2000]

JUDGE ABRAHAM D. CAÑA, COMPLAINANT, VS. ROBERTO B. GEBUSION, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 58, SAN CARLOS CITY, NEGROS OCCIDENTAL, RESPONDENT.

DECISION

PER CURIAM:

This is a complaint filed by Judge Abraham D. Caña of the Regional Trial Court, Branch 58, San Carlos City, charging Roberto B. Gebusion, Sheriff IV of the same court, with violation of the Civil Service Law (P.D. No. 807), the Firearms Law (P.D. No. 1866), and the Omnibus Election Code (B.P. Blg. 881), as amended. More specifically, respondent sheriff is accused of the following:

1. Habitual drunkenness (No. 15)
2. Misconduct (No. 5)
3. Going on indefinite leave of absence without prior approval of the immediate chief in violation of existing Civil Service Law and Rules (No. 12)
4. Conduct prejudicial to the best interest of the service (No. 27)
5. Loafing or frequent or unauthorized absences during office hours, (in connection with his compulsive drinking habit) (No. 14)
6. Mental incapacity due to vicious (drinking) habit (No. 19)
7. Being notoriously undesirable (No. 6), by Scmis
 - a. his habitual drunkenness which has become [worse] in the course of time, which is of common and public knowledge;
 - b. his picking needless quarrel with his co-employees when he is drunk;
 - c. by his not honoring his word:
 - he tendered his irrevocable resignation in a letter dated February 16, 1996, effective said date according to him in said letter but he did not actually resign,
 - he requested in a letter dated August 05, 1996

- addressed to the undersigned complainant, to be allowed to complete twenty (20) years of service as he told the undersigned that he would retire upon having rendered 20 years of service to the government to which the undersigned acceded but after having completed his 20 years of service, he did not retire;
- In a letter, dated August 18, 1996 addressed to the undersigned complainant, he requested to be allowed to reconstruct his life by giving him his Christian blessing to pick up his broken pieces and form into one Bebot Gebusion. The undersigned granted his request by not pressing his administrative charge against him but he did not do what he requested to be allowed to do, instead his drinking habit became [worse] so much so that his health even deteriorated where he became very thin and emaciated as of this time;
 - In a letter, dated November 27, 1995, written by respondent, with the written conformity of his sisters Remia and Rafaelita Gebusion, he apologized for his having been drunk on November 7, 1995. The undersigned pardoned him but he kept on repeating the shameful habit again and again.
 - All under Sec. 46(b), Civil Service Law.^[1]

In addition, respondent is accused of carrying a cal. .357 revolver without a license and of threatening to kill complainant for having filed the above charges. Complainant prays that respondent be placed under preventive suspension considering his violent nature and the grave danger he posed to the safety of other employees of the court, most of whom were women.^[2]

Complainant, through his Clerk of Court, Atty. Mila D. Yap, submitted (a) certified true copies of two informations,^[3] docketed as Criminal Case Nos. 1596 and 1597, against respondent Roberto Gebusion for violation of sec. 261(q) of the Omnibus Election Code and for Illegal Possession of Firearms under Presidential Decree No. 1866, respectively; (b) the affidavit^[4] of Police Officer III Benedicto P. Fajardo who arrested respondent for possession of a firearm without the requisite permit; (c) affidavit^[5] of Neil Escala, driver of a PNP Patrol Vehicle, who accompanied PO3 Fajardo in arresting respondent; and (d) the warrants of arrest^[6] issued against respondent as accused in Criminal Case Nos. 1596 and 1597. Spdex

In its resolution, dated November 16, 1998, the Court referred this case to the Hon. Roberto S.A. Javellana, Executive Judge, Regional Trial Court, San Carlos City, for investigation, report, and recommendation, and ordered the immediate suspension of respondent pending the investigation of his case.^[7] However, on January 5, 1999, Judge Javellana inhibited himself from conducting an investigation due to close association with the complainant and personal knowledge of the facts of the case.^[8] Hence, the matter was referred to Executive Judge Edgar V. Garvilles of the Regional Trial Court of Bacolod City. An investigation was thereafter held, and, on July 12,

1999, Executive Judge Garvilles submitted his report stating:

It appears from the copious evidence presented by complainant that since before 1994, respondent was already overly indulged in alcohol which resulted in some form of trouble involving him in RTC-Branch 58 of San Carlos City, Negros Occidental. For causing such trouble, respondent submitted a handwritten letter of apology dated November 16, 1994 (Exh. "A-10") duly signed by him (Exh. "A-10-A") to Judge Caña saying "I have examined myself and my conscience thoroughly and I admit (underlined) that I have offended you & members of Branch 58, Judiciary Family of what I have done in the past few weeks and also other people in the Hall of Justice." He attributed his "faux pas", among others, to "my drinking habit, & etc." (Exh. "A-10-B").

Notwithstanding his repentance for the incident aforesated, respondent seemed not to have detached himself from his drinking habit for he often reported to his office at Branch 58 "with the smell of liquor in his breath and a good number of times literally drunk" and would easily "pick trouble with anybody." (Affidavit, Exh. "A-3" [direct testimony of Atty. Mila D. Yap]; see also Affidavit, Exh. "A-4" [direct testimony of Atty. Titania A. Leduna]). At about 3:45 in the afternoon of November 7, 1995, respondent entered the Hall of Justice drunk and even proudly exposed his drunken state and shouted at and argued with Julieta C. Moreno of Branch 57 over balloons distributed during a fluvial parade. (Affidavit, Exh. "A-5" and testimony of Julieta Moreno). A commotion thus ensued, prompting Judge Caña to summon respondent to his office (chambers) because of the disturbance respondent was making. It took Executive Judge Roberto S. Javellana, who was caused to be called by Judge Caña to his chambers, a hard time, together with complainant, to convince respondent to admit he was drunk and to go home. (Affidavit of Atty. Yap, Exh. "A-3"; testimony of Judge Caña). Josped

A day after the November 7, 1995 incident, or on November 8, respondent filed an application for indefinite leave of absence in a half-size yellow pad, with an unrespectful addendum "I hope we understand each other on our office" (Exh. "A-11 ") which was disapproved by Atty, Mila D. Yap, Clerk of Court of Branch 58 for the following reasons: "(1) Not in an official Civil Service Form No. 6, Series of 1968; (2) For having taken the leave of absence even before the supposed effective date and before my approval; (3) No definite date of return to service stated on this unauthorized form; (4) There are pending works you left behind undone." (Exh. "A-12"). Notwithstanding such disapproval, respondent did not report to the office just the same (Testimony, Judge Caña).

On the foregoing commissions and omissions, plus respondent's loafing or leaving without permission the office during office hours to drink liquor in the make-shift store, under the santol tree at Corner Azcona and Azucena streets, San Julio Subdivision, near the San Carlos City Hall of Justice (testimony of Judge Caña), complainant, on November 14, 1995 initiated and filed an Administrative Complaint for (1) Habitual Drunkenness, (2) Misconduct, (3) Indefinite [L]eave of Absence without

Prior Approval of his Immediate Chief, (4) Conduct Prejudicial to the Best Interest of Service, (5) Loafing or Frequent Unauthorized Absences During Office Hours, (6) Mental Incapacity Due to Vicious (drinking) Habit, and (7) Being Notoriously Undesirable (by your habitual drunkenness and your picking needless quarrels with your co-employees when you are drunk), and required respondent to Answer in writing and under oath the administrative complaint within seventy-two (72) hours (Exh. "A").

Respondent, in answer to the foregoing administrative charges, wrote a letter dated November 27, 1995 (Exh. "A-9") with the conformity of his sisters Remia B. Gebusion (Exh. "A-9-B") and Rafaelita G. Joven (Exh. "A-9-C") to Judge Caña, stating "Summing up all the charges you filed against me boils down all to my drinking habit which you thought I am only good in promising but proved nothing." He went on to explain: "The incident that occurred last November 7 arose out of the fact that I was under the influence of alcohol for which reason I sincerely apologize." Concluding, respondent said: "Thank you for pardoning me and giving me a chance for the second time and I am looking forward to a more harmonious working relation with you and the rest of the staff."

Regarding respondent's application for indefinite leave of absence on November 8, 1995 (Exh. "A-11") which was disapproved by the Branch Clerk of Court Atty. Yap, aforestated, respondent disregarded the disapproval and went on five (5) months leave without pay. On August 18, 1996, respondent wrote a letter to Judge Caña to again apologize (Exh. "A-8"). Acknowledging having offended and hurt complainant's feelings, respondent claimed "I have realized it when I am on leave without pay for five (5) months." Misspped

According to complainant, he acceded to the request of respondent to be given a second chance, hence, he did not pursue the administrative complaint anymore. But, the promised reform was elusive since respondent persisted in his old ways.

Earlier, or on February 16, 1996, respondent wrote the Honorable Chief Justice of the Supreme Court, thru Hon. Judge Abraham C. Caña, copy furnished Hon. Roberto S. Javellana, RTC-San Carlos, Executive Judge (Exh. "A-21"), tendering his "irrevocable resignation effective today, February 16, 1996." The irrevocable resignation letter was forwarded by Judge Caña to the [O]ffice of the Court Administrator of the Supreme Court thru [Atty.] Zenaida N. Elepaño, Deputy Court Administrator, 6th Judicial Region, in the 1st Indorsement dated February 27, 1996 (Exh. "A-22"), recommending immediate acceptance thereof. Consequently, in a [series] of communication to the Check Disbursement Section and Atty. Corazon M. Ordoñez, Director IV, FMBO, Finance Department, Supreme Court (Exhs. "A-23", "A-24", "A-25", "A-26" and "A-27"[]), Atty. Mila D. Yap returned the pay and other checks of respondent for March 15, 1996 to April 15, 1996.

On August 21, 1996, however, complainant wrote [Atty.] Zenaida N. Elepano a letter (Exh. "A-32"), attaching thereto the letter of respondent

dated November 27, 1995 (Exh. "A-9"), agreeing to respondent's request "that he be allowed to continue his service as Sheriff in Branch 41 or some other branches of the Regional Trial Court in Bacolod City, upon the condition that he will sincerely have himself rehabilitated of his drinking problem for his own good and that of his family and his service to the government. I, therefore, withdraw for the time being the administrative charges that I filed against him."

In his previous letter of August 5, 1996, (Exh. "A-33") to Judge Caña, respondent requested, for retirement purposes, to be allowed to continue his "government service (notwithstanding his resignation letter) with another sala stationed at San Carlos City, Negros Occidental or with the Regional Trial Court, Branch 41, Bacolod City." Respondent's request to be detailed to RTC-Branch 41, Bacolod City, was approved by Deputy Court Administrator Zenaida N. Elepano on December 5, 1996 upon recommendation of Judge Caña, effective September 1, 1996 until March 31, 1997 unless sooner revoked (Exh. "A-35"). Respondent's letter-request dated February 28, 1997 for extension of his detail at the Office of the Clerk of Court, RTC-Bacolod City was favorably indorsed by Judge Caña in the 1st Indorsement dated March 4, 1997 (Exh. "A-34"). Considering that the detail of respondent to the Office of the Clerk of Court, RTC-Bacolod City "expired on 01 September 1997 pursuant to the letter of Hon. Deputy Court Administrator Zenaida N. Elepaño dated 07 March 1997," RTC-Bacolod Executive Judge Anastacio I. Lobaton issued Administrative Order No. 5-97 dated October 1, 1997 directing respondent Gebusion to immediately report to his mother agency, RTC-Branch 58, San Carlos City, Negros [O]ccidental (Exh. "A-29"). Manikx

The detail of respondent to RTC-Bacolod City supposedly for treatment of his "drinking habit" and other ailments had not resulted in bringing a promised reform in respondent. In a report dated December 17, 1997 (Exh. "A-2"), San Carlos Hall of Justice Head (Security) Guard Manuel L. Leonor enumerated the dates and time when respondent reported to office "drunk": "September 22, 1997 at 2:15 P.M., noted by SG (Security Guard) Manuel L. Leonor; October 10, 1997 at 9:00 A.M., noted by SG Dionisio S. Roma; October 28, 1997 at 2:45 P.M., noted by SG Joel S. Puncion; October 29, 1997 at 3:00 P.M., noted by Joel S. Puncion." At about 9:30 o'clock in the morning of December 19, 1997, respondent came in blue shorts to RTC-Branch 58 "very drunk" and talked in a loud voice with his co-employees in an incoherent manner in the presence of people having official business dealings with the court personnel. This prompted Judge Caña to go out of his chambers and summon a security guard to get respondent out of the office and prevent him from creating further trouble and disturbance. The security guard had a difficult time getting respondent out since the latter was resisting. It took Clerk of Court Atty. Mila D. Yap's gentle persuasion to accompany him out of the office. There was a number of times in the past when respondent came to the office drunk. (Joint Affidavit [Exh. "A-1"], composing the direct testimony of Atty. Yap).

At about 1:00 o'clock in the afternoon of May 25, 1998, while Judge Cana was about to go back to his court in the San Carlos City Hall of Justice,