

EN BANC

[A.M. No. P-94-1076, November 22, 1999]

JUDGE ENRIQUE M. ALMARIO, COMPLAINANT, VS. ATTY. JAMESWELL M. RESUS, CLERK OF COURT, AND NORA SACLOLO, STENOGRAPHIC REPORTER, RTC, BRANCH 15, NAIC, CAVITE, RESPONDENTS.

R E S O L U T I O N

PER CURIAM:

In a letter-complaint^[1] filed on 25 August 1994, complainant Judge Enrique M. Almario, then Presiding Judge of Branch 15 of the Regional Trial Court (RTC) of Naic, Cavite, charged Clerk of Court Jameswell Resus and Stenographic Reporter Nora Saclolo of his court with gross misconduct in connection with LRC Cases Nos. NC-453 to 458^[2] and GLRO Case No. 8340.^[3]

After submission by the parties of their respective pleadings, this Court, in its resolution of 25 October 1995, referred this case to Executive Judge Rolando Diaz of the RTC of Cavite City, Branch 17, for investigation, report, and recommendation.

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Culled from the pleadings and evidence submitted, the following are the respective versions of the complainant and the respondents:

According to the complainant Judge, sometime on the first week of August 1994, Atty. Herminio Valerio, counsel for applicant Trinidad Enriquez in LRC Cases Nos. NC-453 to 458, approached him and manifested that he would file a motion for the taking of deposition of the said applicant. On 8 August 1994, respondent Nora Saclolo brought to him the records of the said cases. Much to his surprise, he saw a transcript of stenographic notes^[4] (hereafter TSN) of an *ex-parte* hearing held in the morning of 22 March 1994 in the office of respondent Resus wherein Mrs. Enriquez was said to have testified and later cross-examined by a representative of the Office of the Solicitor General (OSG). The said TSN was neither signed nor certified to by respondent Saclolo but was, nevertheless, attached to the *expediente*. This prompted the complainant to conduct an informal investigation at his chambers to determine what actually happened on 22 March 1994.

The TSNs^[5] of that investigation, separately prepared by two court stenographers, disclosed that respondent Saclolo admitted that an *ex-parte* reception of evidence was held on the date in question but that she committed a mistake in transcribing the venue of the hearing, which should have been Silahis Hotel, Manila, and not Naic, Cavite. Complainant Judge could not, however, believe that such a proceeding would have taken place because it was only on 15 August 1994 that the applicant moved for the taking of deposition on the ground that she was "no longer physically fit to travel long distance trips."^[6] Believing that the subject TSN is a transcript of a

"ghost proceeding," complainant Judge filed the instant complaint.

In a Supplemental Complaint, complainant Judge also charged both respondents with falsification of the TSN in GLRO Case No. 8340 by making it appear that a hearing in that case was held on 8 June 1994. The TSN was initialed in every page and certified to by respondent Saclolo; and based thereon, respondent Resus prepared a draft order to be signed by complainant Judge. According to complainant Judge, there could be no such hearing and Prosecutor Ernesto Vida could not have participated therein, as stated in the TSN, considering that the written appearance of the OSG and Vida's designation from the OSG came only on 17 June 1994.^[7]

For their part, respondents claimed that on 21 March 1994, Atty. Herminio Valerio, counsel for applicant Trinidad Enriquez in LRC Cases Nos. NC-453 to 458, handed to respondent Saclolo a "trial guide" containing questions to, and answers by, applicant Enriquez. Saclolo was supposed to use this as a guide in the *ex-parte* presentation of evidence because Mrs. Enriquez, who was old and sickly, might not be able to stay in court for a long time. However, on the date set for the *ex-parte* hearing, Atty. Valerio informed respondent Resus that he would not push through with the presentation of evidence, since Mrs. Enriquez was not disposed to testify on that date. Thus, Saclolo disregarded the unsigned TSN, which she had already prepared. The admission made by Saclolo that an *ex-parte* reception of evidence was held on 22 March 1994 in Silahis International Hotel was due to her nervousness and fear when she was interrogated by complainant to shed light on the matter.

As regards the "ghost hearing" in GLRO Case No. 8340 allegedly held on 8 June 1994, respondents explained that after the initial hearing on 2 June 1994 wherein jurisdictional facts were established, complainant Judge issued an order delegating to respondent Resus the reception of evidence. On 8 June 1994, notwithstanding the fact that Public Prosecutor Ernesto Vida had no authority yet from the OSG, respondent Resus proceeded with the *ex-parte* hearing, as agreed by the parties. It was also agreed that the case would not be submitted for resolution until after receipt by the court of the Notice of Appearance from the OSG. On 17 June 1994, the said Notice of Appearance was received by the court. Another hearing was then held, with Prosecutor Vida cross-examining the witnesses. Resus thereafter prepared a draft order and submitted it to complainant Judge on 15 December for the latter's approval.

To refute complainant's allegation that no hearing was held on 8 June 1994, respondents presented the affidavits of Court Interpreter Angelina P. Erni,^[8] Public Prosecutor Ernesto Vida,^[9] and Atty. Bernard Stuart del Rosario,^[10] counsel of the petitioner in GLRO Case No. 8340, stating that a hearing was actually conducted by Clerk of Court Resus on 8 June 1994 and that they were present therein.

In his Report dated 5 February 1997, Judge Diaz found that no falsification of TSN in LRC Cases Nos. NC-455 to 458 was committed, since respondent Saclolo neither signed the alleged falsified or ghost transcript nor certified to its truth and correctness. Anent the charge of falsification of the TSN in GLRO Case No. 8340, he found that a proceeding for the reception of evidence indeed took place on 8 June 1994. This proceeding was proper, as it was in accord with the lawful order of

complainant Judge delegating the reception of evidence to Resus. If at all, what was patently erroneous was the insertion into the 8 June 1994 TSN of Prosecutor Vida's cross-examination questions propounded during the second hearing held sometime after the receipt by the court of the Notice of Appearance of the OSG.

Judge Diaz then recommended that the charges of falsification be dismissed but that the respondents be reprimanded or admonished for making insertions in the TSN of the 8 June 1994 hearing, with a warning of a stiffer penalty in case of repetition of similar acts.

In its Memorandum of 1 July 1999, the Office of the Court Administrator (OCA) held that the advance preparation of the TSN in the LRC cases, albeit not constituting falsification, was at the very least an attempt to foist upon the court a falsified transcript of a non-existing hearing. Respondent Saclolo may be held liable for this anomalous and wrongful conduct. As to respondent Resus, even assuming that he did not have a hand in the preparation of the said TSN he, nevertheless, became an accomplice after the fact by using that TSN as basis of his draft order dated 8 August 1994^[11] and by his failure to report the anomalous deed. Both respondents may also be held answerable for the intercalation into the TSN of 8 June 1994 of the cross-examination questions propounded by Prosecutor Vida at a subsequent date. These acts put into serious doubt the integrity of court proceedings and court records of the cases involved. Thus, the OCA recommended that the respondents be suspended from office for six months without pay, with a stern warning that a repetition of similar acts would be dealt with more severely.

We find respondents Saclolo and Resus guilty of grave misconduct and conduct prejudicial to the best interest of the service.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. To warrant dismissal from the service, the misconduct must be serious, important, weighty, momentous and not trifling. It must also have direct relation to, and be connected with, the performance of official duties amounting either to maladministration or willful, intentional neglect or failure to discharge the duties of the office.^[12]

With respect to LRC Cases Nos. NC-453 to -458, it was indeed anomalous for respondent Saclolo to accept from Atty. Valerio, counsel for the applicant therein, a "trial guide" that allegedly aid her in transcribing her stenographic notes. Indeed, as opined by the OCA, court stenographers can use cassette recorders or ask the assistance of court interpreters whenever they have a hard time deciphering the testimonies of witnesses. Besides, contrary to Saclolo's claim, it would not be difficult to understand the testimony of Mrs. Enriquez because, being an old woman, she would have a tendency to speak slowly. More importantly, stenographers are supposed to take steno notes only of matters that transpire during court hearings or preliminary investigations, as well as the dictations of the judge or clerk of court,^[13] and transcribe these notes thereafter.

In his testimony before Judge Diaz, Atty. Valerio admitted having handed to respondent Saclolo a copy of his trial guide. He allegedly prepared it for his guidance in the presentation of evidence and also for Saclolo's guide in transcribing her stenographic notes. Curiously, this alleged trial guide was denominated as