

FIRST DIVISION

[A.M. No. P-97-1255, October 02, 1997]

**JUDGE SIBANAH E. USMAN, PETITIONER, VS. JULIUS G. CABE,
SHERIFF IV, RESPONDENT.**

R E S O L U T I O N

HERMOSISIMA, JR., J.:

In a letter dated November 24, 1995, Judge Sibannah E. Usman, Presiding Judge of Branch 28 of the Regional Trial Court of Catbalogan, Samar, complained that one of the employees is his sala, namely, Julius Cabe, Sheriff IV, taken out the records of Civil Cases Nos. 6748 and 6781 and managed to have certain orders and other documents included in said records, photocopied at the xerox center at the Provincial Capitol. Judge Usman also disclosed that respondent Cabe had committed several other infractions and acts of misbehavior like incurring absences without securing the proper leave, coming to the office drunk, uttering insulting and unsavory words to his fellow court employees. And being involved in the loss of four (4) firearms (court exhibits) at the time he was court officer-in-charge.

In the 1st Indorsement Letter dated November 16, 1995 issued and signed by Executive Judge Sinfroniano A. Monsanto of the Regional Trial Court of Catbalogan, Samar, who conducted a Summary Investigation, Judge Monsanto, stated that he was unable to interrogate the respondent who did not report for work on the date of the hearing. Judge Monsanto, however, recommended the prosecution of the case against the respondent, because "there is more than sufficient evidence to show that Mr. Cabe was violated Section 14, Rule 136 of the Rules of Court" when he had taken out without prior permission or authority, certain records of several cases kept in the Office of the Branch Clerk of Court.

In his defense, respondent contends that he was on sick leave from November 15 to 17, 1995 when Judge Monsanto scheduled the hearing. Respondent also discounts the accusations of Martin G. Latorre, Virginia R. Nunez and Armie P. Liad who all executed affidavits alleging that respondent was drunk in the afternoon of November 14, 1995 during which time he furiously berated them about the delay in the performance of their duty as stenographers, which incident, respondent claims, is at most an isolated one. According to respondent, bases of feedback from lawyers as to the delay caused the judicial proceedings due to the slow process of transcribing stenographic notes, all that he had wanted to do was to prod the stenographers to be more efficient and prompt in performing their tasks.

As to the charge of taking out of court records and having them photocopied without the prior permission of the Branch Clerk of Court, respondent argues that on the two cited instances on October 28, 1995 and November 13, 1995, he faithfully complied with the procedures for photocopying court records.

The issues having been joined, we referred the case to Hon. Cesar R. Cinco, Executive Judge, Regional Trial Court, Branch 19, Catarman, Samar, for