

THIRD DIVISION

[A.M. No. P-95-1161, August 23, 1996]

**ATTY. JESUS N. BANDONG, CLERK OF COURT VI, REGIONAL
TRIAL COURT, BRANCH 49, CATAINGAN, MASBATE,
COMPLAINANT, VS. BELLA R. CHING, COURT, INTERPRETER,
RESPONDENT.**

DECISION

DAVIDE, JR., J.:

After noting that some of the minutes of court sessions or proceedings were not attached to the court *expediente*, Executive Judge Henry B. Basilla of Branch 49 of the Regional Trial Court of Cataingan, Masbate, issued on 13 July 1995 Memorandum No. 7, series of 1995, directing Atty. Jesus N. Bandong, Clerk of Court VI of the said court, to conduct an inventory of all cases from 1985 to 1995 and to make a report on the number and title of cases whose records do not contain minutes of the sessions or proceedings.

On 19 July 1995, Atty. Bandong submitted to Judge Basilla a letter-report wherein he listed 67 criminal cases and 11 civil and other cases where no minutes of sessions or hearings on various dates from 1985 to 1995 have been prepared and attached to the record of each case by the Court Interpreter, respondent Bella R. Ching. All in all there were 281 sessions or hearings during said period without minutes. He then recommended that the respondent's salary be withheld for her failure to do her duties as a Court Interpreter. On that same date, Judge Basilla submitted the said letter-report to the Office of the Court Administrator and recommended that Ching be fined and her salaries withheld.

On 18 October 1995, this Court approved the recommendation of the Office of the Court Administrator to treat the letter-report as a complaint against Ching; directed Ching to file her answer and show cause why she should not be disciplinary dealt with; and ordered the withholding of the payments of her salaries until she have submitted the minutes of the sessions and proceedings in the cases mentioned by Atty. Bandong.

In her answer, respondent Ching alleged that she had already prepared, submitted, and attached to the records all the minutes of the proceedings of the cases mentioned in the letter-report, as evidenced by the certification of Atty. Bandong and the 1st Indorsement of Judge Basilla of 23 October 1995 addressed to this Court. Ching further alleged that minutes of the proceedings in some of the cases at the time she was on leave should have been prepared by the interpreter-designate, and that some of the minutes of the proceedings prepared and submitted by her were discovered to have been wrongly attached by the Court Aide to the record of other cases.

In his reply, submitted in compliance with the resolution of 22 November 1995 of this Court, Atty. Bandong merely manifested that he is submitting this case for resolution on the basis of his letter-report.

This Court then required the respondent to inform it whether she would submit this case for decision on the basis of the pleadings already filed. She replied in the affirmative.

In its Memorandum, the Office of the Court Administrator stated:

We find respondent Bella R. Ching to be guilty of simple neglect of duty for her failure to prepare and attach to the records and to deliver to the Clerk of Court Minutes of the Court sessions and proceedings which dated back to year 1985. This is evident from the certification of the complainant Clerk of Court Jesus N. Bandong which shows that it was only on October 23, 1995 that respondent had duly accomplished her duty and submitted the Minutes to the Court. Respondent's claim that some of the proceedings in the cases mentioned in the letter-report were conducted while she was on leave so that it should have been the Acting Court Interpreter who should have prepared the Minutes and that some of the minutes of the proceedings prepared and submitted by her were wrongly attached to the record of other cases by the Court Aide, assuming it to be true only mitigates her liability.

Under the Civil Service Law (P.D. 807) and the Code of Ethics and Conduct (R.A. No. 6713), simple neglect of duty is classified as a less grave offense with a corresponding penalty of suspension for one month. However, considering that this is respondent's first administrative offense and that there exists a mitigating circumstance it is believed that only the penalty of FINE may be imposed on the respondent.

It then recommended that a fine of P3,000.00 be imposed upon the respondent and that the Finance Division be ordered to immediately release her withheld salaries.

The neglect of duty by the respondent is too apparent. Since it was spread over a period of ten years, it may no longer be considered simple neglect of duty, as the Office of the Court Administrator concluded. It was habitual and became more frequent from 1991 until its discovery by the Clerk of Court. In short, there was a marked retrogression in her dedication to duty or in her attitude. This nonfeasance cannot be mitigated, as suggested by the Office of the Court Administrator, by respondent's claim that she was on leave during the hearings in some of the cases mentioned in the letter-report of Atty. Bandong, and hence it was the interpreter-designate who should have prepared the minutes of the proceedings. This claim is self-serving. Nothing was offered to prove that, indeed, she was on leave during some of the questioned hearings. Besides, such a claim is belied by her assertion in the first paragraph of her answer that "all the minutes of the proceedings of the cases mentioned in the letter-report dated July 16, 1995 of Atty. Jesus N. Bandong to Judge Henry B. Basilla were duly accomplished, submitted and attached to the record." Verily, if there was at one time or another an interpreter-designate, then she should have required the former to accomplish the work or, at the very least, she should have revealed the name of said interpreter-designate. That she had to accomplish, submit and attach to the records all the questioned minutes is an