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SECOND DIVISION

[A.M. No. P-02-1574. April 17, 2002]

ATTYS. FIDEL R. RACASA and OLIVA P. PEDERE, *complainants, vs.* **NELDA COLLADO-CALIZO, Court Stenographer III, Regional Trial Court, Branch 140, Makati City,** *respondent.*

SYNOPSIS

Complainants charged respondent for misrepresenting herself as someone from the newspaper *Pilipino Ngayon.* Respondent claimed that *Pilipino Ngayon* won in the raffle for the publication of the order of Branch 140, RTC Makati, setting the adoption case docketed as SP Proc. No. M-4871 for hearing. It turned out, however, that it was the newspaper *Kabayan* which won the raffle. Complainants also charged respondent of deliberately not transcribing her notes in one of the hearings of the case.

For taking undue interest in the publication of a court notice, respondent was held guilty of simple misconduct and fined ₱5,000. For failure to timely transcribe her stenographic notes in a hearing, respondent was found guilty of neglect of duty and fined ₱3,000. Further, respondent was warned that commission of similar acts shall be dealt with more severely.

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; COURT EMPLOYEES; REQUIRED DECORUM; VIOLATED WHEN RESPONDENT STENOGRAPHER TOOK UNDUE INTEREST IN THE PUBLICATION OF A COURT NOTICE.** — The point cannot be overemphasized that everyone in the judiciary, from the presiding judge to the lowliest clerk, bears a heavy responsibility for the proper discharge of his duty, and it behooves each one to steer clear of any situation in which the slightest suspicion might be cast on his conduct. Any misbehavior on his part, whether true or only perceived, is likely to reflect adversely on the administration of justice.

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Respondent failed to live up to this standard of ethical conduct. She took an undue interest in the publication of a court notice, when she ought to know that the publication of notices is given by raffle precisely to preclude favoritism. She went to the extent of misrepresenting herself to be a representative of the newspaper to which publication of the July 21, 1999 order of the court had been awarded. Respondent is guilty of misconduct which has been defined as a transgression of an established or definite rule of action.

2. **ID.; ID.; ID.; STENOGRAPHER; NEGLECT OF DUTY; PRESENT FOR FAILURE TO TIMELY TRANSCRIBE STENOGRAPHIC NOTES.** — The Court likewise finds respondent guilty of neglect of duty for her failure to timely transcribe her stenographic notes of the November 26, 1999 hearing. Administrative Circular No. 24-90, promulgated on July 12, 1990 by this Court, directs stenographers "to transcribe all stenographic notes and to attach the transcripts to the record of the case not later than twenty (20) days from the time the notes are taken," in effect giving stenographers twenty (20) days from the taking of the notes to deliver their transcription to the clerk of court. Respondent failed to deliver her TSN on or before December 16, 1999. Her claim that she had already finished the TSN before going on leave from January 24 to February 1, 2000 to attend to the burial of her father-in-law is belied by the affidavit, dated September 8, 2000, of Atty. Ma. Agnes Alibanto-Sadsad, Branch Clerk of Court of the RTC, Branch 140, Makati City, stating that respondent failed to submit the TSN even prior to her leave despite follow-ups from her and complainants and that, on January 24, 2000, she (Branch Clerk of Court Alibanto-Sadsad) discovered that respondent had not finished the transcription of her notes. It is noteworthy that as respondent's superior, Atty. Alibanto-Sadsad's word carries weight against respondent's self-serving claim that she finished the transcription on time. Indeed, despite receipt of a copy of Atty. Alibanta-Sadsad's affidavit and the fact there was ample time to comply, respondent made no effort to refute allegations therein against her.

3. **ID.; ID.; ID.; PROPER PENALTY FOR SIMPLE MISCONDUCT AND SIMPLE NEGLECT OF DUTY.** — In *Guillen v. Constantino*, a court employee found guilty of simple misconduct was fined ₱5,000.00. On the other hand, for failure

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to transcribe stenographic notes within the required period, the Court in two cases imposed a fine of ₱3,000.00 on a stenographer similarly found guilty of simple neglect of duty.

APPEARANCES OF COUNSEL

Pastelero Law Office for complainants.

D E C I S I O N

MENDOZA, *J.*:

This is a complaint filed against respondent Nelda Collado-Calizo, Court Stenographer III of the Regional Trial Court, Branch 140, Makati City, for conduct prejudicial to the best interest of the service and for violation of R.A. No. 6713, §7(a), which, prohibits public officials and employees from directly or indirectly having any financial or material interest in any transaction requiring the approval by their office, and §5(a), (c), and (d), which require public officials and employees to act promptly and expeditiously in the performance of their functions. The complaint was filed by Attys. Fidel R. Racasa and Oliva P. Pedere, both of the Pastelero Law Office, the counsel for the petitioners in an adoption case (SP Proc. No. M-4871) filed in the RTC, Branch 140, Makati City.

It appears that, on July 21, 1999, an order was issued setting the case for hearing on August 31, 1999 and directing publication of said order in a newspaper of general circulation. In their complaint, complainants allege: Shortly after the issuance of the July 21, 1999 order, Atty. Racasa instructed a messenger of their law firm, Hector Gedocruz, to inquire from the RTC to which newspaper the award for the publication of the order had been given. Atty. Racasa wanted to find out the publication charge so that he could file a motion for reraffle if it was higher than the charges of other newspapers. Twice Gedocruz was told that someone would be going to the complainants' law firm regarding the matter.

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On August 2, 1999, respondent Nelda Collado-Calizo went to complainants' law firm and introduced herself as someone from the newspaper *Pilipino Ngayon,* which had allegedly won in the raffle for the publication of the order of the RTC. To verify her claim, Atty. Racasa asked for a copy of the Certificate of Raffle, but respondent said she forgot to bring it with her. She promised to give it the next time she came over to the office. She told Atty. Racasa that the publication charge was ₱8,000.00. Atty. Racasa then asked, "*Bakit naman ang mahal, may tao bang humihingi ng 'cut' o komisyon sa transaksiyong ito? Alam mo, kawawa naman kayong mga taga-diyaryo dahil kayo ang nagtatrabaho samantalang ang ibang tao ay kumikita ng walang kapagod-pagod.*" ("Why is the charge for publication so expensive? Is that because there are people who want to have a commission? You know, you newspaper people are to be pitied. You earn for work you do, but there are those who make money without lifting a finger.")

Eventually, Atty. Racasa agreed to the reduced amount of ₱5,000.00. Apparently feeling uneasy about Atty. Racasa's remarks and realizing that he would eventually discover her identity, respondent revealed that she was really an employee of Branch 140 of the Makati RTC. For this purpose, she showed her Supreme Court I.D. as Atty. Racasa handed over the payment of ₱5,000,00. In return for the business given to her, respondent promised that she would help speed up the transcription of the stenographic notes she had taken of the hearings of the adoption case.

Three days later, a representative of a rival publication, Ada Abueme of *Kabayan*, went to complainants' office, claiming to have won in the raffle for the publication of the court's order. Since *Kabayan*, unlike *Pilipino Ngayon*, which was a tabloid, was a broadsheet, its publication charge was ₱7,000.00. An argument ensued between Ada Abueme and respondent, who was also in complainants' office at that time. Respondent told Abueme that she had already paid *Pilipino Ngayon* and that publication of the first of three notices was forthcoming. Atty. Racasa told respondent and Abueme to settle the matter between

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themselves because it would be awkward for him to ask the petitioners in the adoption case for an additional amount because he (Atty. Racasa) might be suspected of receiving kickbacks as he had already told petitioner Jorge Alves that he (Atty. Racasa) had already paid the charge for publication.

As Ada Abueme and respondent could not settle their differences, Atty. Racasa asked respondent to pay the ₱5,000.00 he had paid her to Ada Abueme, while he and Abueme would take care of paying the balance of ₱2,000.00. He warned respondent that if she failed to produce the money, he would file an administrative complaint against her.

The second incident between complainants and respondent occurred after the hearing on November 26, 1999 of the adoption case. A male employee of the court ran after Atty. Oliva Pedere as the latter was leaving to ask for an advance for the TSN allegedly at the instance of respondent. Remembering their unpleasant experience with respondent, Atty. Pedere refused to pay.

Complainants allege that respondent deliberately did not transcribe her notes of the November 26, 1999 hearing because of the previous incident with them. On January 24, 2000, Atty. Racasa went to the court to complain about the delay. He was told that respondent had already started typing her notes.

Commenting on the allegations against her, respondent alleges that it was actually Atty. Racasa who had been calling her for help in the publication of the RTC order of July 21, 1999 as the time for publication was running short. For this reason, she says she went to Atty. Racasa's law office after the latter's fourth call, telling her: "*Pumunta ka na dito ngayon at baka hindi na aabot ang publication bago mag-hearing.*" ("You come here now as there might not be enough time for publication before the hearing.") Respondent denies having represented to Atty. Racasa that she was a representative of *Pilipino Ngayon*, stating that she even showed to Atty. Racasa her Supreme Court I.D.

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As to complainants' claim that she had neglected to transcribe the notes she had taken on November 26, 1999, respondent claims that it was because she was on leave on January 24, 2001 when Atty. Racasa went to see her in the RTC. Respondent denies asking for an advance for the TSN, claiming that her officemate, Neil Armstrong Consuegra, mistakenly approached Atty. Oliva Pedere when the TSN she (respondent) was telling him about was the TSN in another case in which the counsel was also a lady lawyer. Consuegra's affidavit was attached to respondent's comment.[1]

Atty. Racasa filed a reply in which he denies making telephone calls to complainant. He insists he merely sent his messenger to inquire about the newspaper publication. He claims he only told respondent to go to his law office after respondent had told him that *Pilipino Ngayon* won in the raffle for the publication of the court order.

The Court Administrator finds respondent guilty and recommends that respondent be suspended for three (3) months without pay with warning that repetition of the same or similar acts shall be dealt with more severely.

Except as to the penalty, the recommendation is well taken. The Court finds respondent's administrative liability to have been established in this case.

On the parties' conflicting accounts regarding the circumstances under which respondent went to complainants' law office, the Court finds complainants' version more credible. As the Court Administrator aptly points out:

> Respondent's allegation that she went to the office of the complainants because she received telephone calls from Atty. Racasa telling her: "*Pumunta ka na dito ngayon at baka hindi na aabot ang publication bago mag-hearing*" does not inspire belief. The court employee who should be contacted regarding publication of notice in a newspaper is the Clerk of Court. The assignment to which newspaper a notice will be published is done by raffle which is conducted in the Office of the Clerk of Court. As stenographer,

[1] Comment, Annex A.

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respondent has nothing to do with [the] publication of a notice in a newspaper. Her duty is to take stenographic notes of the proceedings and transcribe them, and [the] typing of decisions, resolutions, and orders issued by the court.

Indeed, it is difficult to believe that respondent was only trying to be of assistance to complainants because the latter asked for her help. Respondent did not elaborate as to how she thought she might be of assistance to complainants. Surely, the proper thing for her to do is to refer complainants to the Clerk of Court who, after all, is the one in charge of the publication of court orders.

Respondent argues that if Atty. Racasa's claim that she had introduced herself as someone from *Pilipino Ngayon* was true, she would not have presented her Supreme Court I.D. to him. But if, as respondent claims, Atty. Racasa knew her to be a court employee from the start and in fact had made at least four phone calls to her to ask for her assistance, we are at a loss why there was a need for respondent to present her I.D. to him.

The point cannot be overemphasized that everyone in the judiciary, from the presiding judge to the lowliest clerk, bears a heavy responsibility for the proper discharge of his duty, and it behooves each one to steer clear of any situation in which the slightest suspicion might be cast on his conduct. Any misbehavior on his part, whether true or only perceived, is likely to reflect adversely on the administration of justice.

Respondent failed to live up to this standard of ethical conduct. She took an undue interest in the publication of a court notice, when she ought to know that the publication of notices is given by raffle precisely to preclude favoritism. She went to the extent of misrepresenting herself to be a representative of the newspaper to which publication of the July 21, 1999 order of the court had been awarded. Respondent is guilty of misconduct which has been defined as a transgression of an established or definite rule of action.[2]

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[2] *Office of the Court Administrator v. Bucoy*, 235 SCRA 588 (1994); *Amosco v. Magro*, 73 SCRA 107 (1976).

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The Court likewise finds respondent guilty of neglect of duty for her failure to timely transcribe her stenographic notes of the November 26, 1999 hearing. Administrative Circular No. 24-90, promulgated on July 12, 1990 by this Court, directs stenographers "to transcribe all stenographic notes and to attach the transcripts to the record of the case not later than twenty (20) days from the time the notes are taken," in effect giving stenographers twenty (20) days from the taking of the notes to deliver their transcription to the clerk of court.[3] Respondent failed to deliver her TSN on or before December 16, 1999. Her claim that she had already finished the TSN before going on leave from January 24 to February 1, 2000 to attend to the burial of her father-in-law is belied by the affidavit,[4] dated September 8, 2000, of Atty. Ma. Agnes Alibanto-Sadsad, Branch Clerk of Court of the RTC, Branch 140, Makati City, stating that respondent failed to submit the TSN even prior to her leave despite follow-ups from her and complainants and that, on January 24, 2000, she (Branch Clerk of Court Alibanto-Sadsad) discovered that respondent had not finished the transcription of her notes. It is noteworthy that as respondent's superior, Atty. Alibanto-Sadsad's word carries weight against respondent's self-serving claim that she finished the transcription on time. Indeed, despite receipt of a copy of Atty. Alibanta-Sadsad's affidavit and the fact there was ample time to comply, respondent made no effort to refute allegations therein against her.

However, the evidence is insufficient that respondent asked complainants for advance payment for her TSN of the November 26, 1999 hearing or that she delayed finishing the same because she did not get her commission for the publication of the RTC order of July 21, 1999. The fact is that as Branch Clerk of Court Alibanto-Sadsad stated in her affidavit, other lawyers had been complaining because of respondent's inaction on their

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[3] A.M. No. P-01-1474, *Reyes v. Delim,* Oct. 26, 2001; *Esmeralda-Baroy v. Cosca,* 245 SCRA 227 (1995).

[4] Reply, Annex A.

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requests for TSNs so that it is not really clear whether the delay in complainants' case was malicious.

In *Guillen v. Constantino*,[5] a court employee found guilty of simple misconduct was fined ₱5,000.00. On the other hand, for failure to transcribe stenographic notes within the required period, the Court in two cases[6] imposed a fine of ₱3,000.00 on a stenographer similarly found guilty of simple neglect of duty.

WHEREFORE, respondent Nelda Collado-Calizo, Court Stenographer III, Regional Trial Court, Branch 140, Makati City, is hereby found guilty of simple misconduct for which she is hereby fined five thousand pesos (₱5,000.00) and of neglect of duty for which a fine three thousand pesos (₱3,000.00) is imposed on her and WARNED that commission of the same or similar acts shall be dealt with more severely.

SO ORDERED.

Bellosillo (Chairman), Quisumbing, and *De Leon, Jr., JJ.,* concur.

Corona, J., took no part in the deliberation of this case.

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[5] 283 SCRA 583 (1997).

[6] *Juntilla v. Calleja*, 262 SCRA 291 (1996); *Ongkiko, Kalaw, Dizon, Panga & Velasco Law Offices v. Sangil-Makasiar*, 256 SCRA 29 (1996).