Supreme Court E-Library

WHEREFORE, respondent Sheriff Sotero S. Paclibar is hereby found guilty of simple negligence and a *FINE* is hereby imposed on the respondent in the amount of Two Thousand Pesos (₱2,000.00) with a *WARNING* that a repetition of the same in the future shall be dealt with accordingly.

SO ORDERED.

Bellosillo (Chairman), Mendoza, and *Quisumbing, JJ.,* concur.

Buena, J., on official leave.

SECOND DIVISION

[A.M. No. P-01-1530. December 13, 2001]

ERIC P. BENAVIDEZ, *complainant, vs.* **ESTRELLA A. VEGA, Court Stenographer II, Metropolitan Trial Court, Branch 37, Quezon City,** *respondent.*

SYNOPSIS

Complainant hired respondent, Court Stenographer to secure the necessary license and permits and to remit payments to the SSS, Medicare and BIR with a monthly salary of ₱500. Respondent, however, failed to remit complainant's SSS and Medicare premium contributions as well as the necessary fees for the issuance of the City Mayor's permit. Thus, the present administrative complaint.

Officials and employees of the judiciary are prohibited from engaging directly in any private business, vocation or profession even outside office hours to ensure that there be no undue delay in the administration of justice and in the disposition of cases.

Supreme Court E-Library

In the case at bar, moonlighting committed by respondent during office hours constitutes gross misconduct and misappropriation of money received by her in trust for complainant borders on *estafa* and is reprehensible. However, complainant is equally deserving of censure for engaging the services of a government employee to facilitate transactions with various government offices. Respondent was suspended from the service for one (1) month without pay.

SYLLABUS

ADMINISTRATIVE LAW; JUDICIARY; EVERYONE MUST SERVE WITH THE HIGHEST DEGREE OF RESPONSIBILITY AND INTEGRITY. — To begin with, it may be argued that the charges brought against respondent are not related to the performance of official functions. However, securing a business permit, following up of SSS and BIR registration of a business, and remitting SSS contributions are not the functions of a court stenographer, and when these are done for compensation the practice can only be considered gross misconduct calling for sanctions against a court employee. The moonlighting engaged in by respondent could only have been done during office hours since it required transacting with government offices. In addition, misappropriation by respondent of money received by her in trust for complainant borders on *estafa* under Art. 315, par. 1 (b) of the Revised Penal Code and is reprehensible. Time and again we have impressed on employees of the Court to serve with the highest degree of responsibility and integrity and have enjoined them to conduct themselves with propriety even in private life. For any reproach to them is bound to reflect adversely on their office. Officials and employees of the judiciary are prohibited from engaging directly in any private business, vocation, or profession even outside office hours to ensure that full-time officers of the court render full-time service so that there may be no undue delay in the administration of justice and in the disposition of cases as required by the Rules of Court. As held in *Biyaheros Mart Livelihood Association, Inc. v. Cabusao, Jr.*: "Government service demands great sacrifice. One who cannot live with the modest salary of a public office has no business staying in the service. He is free to seek greener pastures elsewhere. The public trust character of the office proscribes him from employing its facilities or using official time for private business or purposes."

Supreme Court E-Library

APPEARANCES OF COUNSEL

Anatolio B. Cabacungan for respondent.

DECISION

MENDOZA, *J.*:

This is a complaint for gross misconduct and moonlighting filed against Estrella A. Vega, Court Stenographer II, Metropolitan Trial Court, Branch 37, Quezon City.

Complainant Eric P. Benavidez alleges that he has known respondent Estrella A. Vega since 1990. Aside from being a family friend, respondent was employed by complainant's family to secure the necessary papers for the family business then managed by his mother. In November 1996, complainant took over the family business, which he renamed "E. Benavidez General Merchandising." He engaged the services of respondent for the purpose of securing the speedy issuance of business/mayor's permit and other permits, such as Fire and Sanitary Permit and Health Certificates, from the City Government of Quezon City, registration with the Social Security System (SSS) and Bureau of Internal Revenue (BIR) under the new business name, and the remittance of complainant's SSS and Medicare Premium Contributions. For the period of November 1996 to May 1999, he gave respondent sums of money for the aforementioned transactions plus a monthly salary of five hundred pesos (₱500.00) as compensation for the services that the latter had rendered. The payments were covered by various receipts (Annexes A to M) issued by respondent or her authorized representative.

On June 5, 1999, after being hospitalized for hyperacidity at the J. P. Sioson Hospital, complainant filed an application for Medicare Benefits with the SSS main office. To his surprise, he was informed by the said office that no contributions had been made in his name. Complainant alleges he went to the office of respondent and asked her if she had remitted his contributions to the SSS and Medicare, and respondent answered

Supreme Court E-Library

in the affirmative. Complainant likewise claims that he was informed by respondent that payments were also made for the mayor's permit and other local government permits and the BIR registration. However, complainant says, he made inquiries from the BIR, the Records Section of the Quezon City Mayor's Office, the Office of the Treasurer of Quezon City, and the SSS Main Office, and he was able to secure certifications (Annexes N to P) from the said offices that no payments had been remitted on his behalf. Complainant made a four-page summary (Annex Q) of the amounts given to respondent and the purposes for which they were supposed to be used. He forwarded the summary to respondent, who signified her concurrence by affixing her signature. After a week, he made a written demand on respondent that all the documents pertinent to his business and the sums of money for the aforementioned dealings be returned to him. However, all of his demands were ignored by respondent.

According to complainant, the failure of respondent to secure the necessary license and permits and to remit the payments to the SSS and BIR meant penalties, damage to his business, and loss of privileges, prompting him to file an affidavit-complaint with the Office of the Court Administrator (OCA) on July 26, 1999.

On September 17, 1999, the Office of the Court Administrator referred the administrative complaint to respondent, who was then given 10 days within which to file her comment. Respondent's office received the first indorsement on October 5, 1999. On October 11, 1999, she filed a motion for extension of 10 days within which to file her comment, claiming that she was engaging the services of counsel to assist her in this case. On October 22, 1999, Atty. Anatolio B. Cabacungan, respondent's counsel, filed a motion for extension of time to file respondent's comment. Although the motion was granted, respondent did not file her comment even after the expiration of the 10-day extension on November 5, 1999.

On February 11, 2000, more than three months after the deadline for submitting the comment, complainant filed a motion

Supreme Court E-Library

to declare respondent to have waived her right to file the comment. Respondent's counsel was given another five days after receipt within which to file comment, with warning that the matter would be deemed submitted for decision if she failed to do so. Despite this warning, respondent did not file her comment.

Court Administrator Presbitero J. Velasco, Jr. recommends that respondent Estrella A. Vega be suspended from the service for six (6) months without pay, with warning that repetition of the same or similar offense shall be dealt with more severely.

Indeed, efforts have been made to enable respondent to present her side. However, despite two extensions of time given to her, respondent did not file her comment. We are thus constrained to decide this case on the basis of the complaint-affidavit and its annexes and on the recommendation of the Court Administrator.

To begin with, it may be argued that the charges brought against respondent are not related to the performance of official functions. However, securing a business permit, following up of SSS and BIR registration of a business, and remitting SSS contributions are not the functions of a court stenographer, and when these are done for compensation the practice can only be considered gross misconduct calling for sanctions against a court employee. The moonlighting engaged in by respondent could only have been done during office hours since it required transacting with government offices. In addition, misappropriation by respondent of money received by her in trust for complainant borders on *estafa* under Art. 315, par. 1 (b) of the Revised Penal Code and is reprehensible.

Time and again we have impressed on employees of the Court to serve with the highest degree of responsibility and integrity and have enjoined them to conduct themselves with propriety even in private life. For any reproach to them is bound to reflect adversely on their office. Officials and employees of the judiciary are prohibited from engaging directly in any private business, vocation, or profession even outside office

Supreme Court E-Library

hours[1] to ensure that full-time officers of the court render full-time service so that there may be no undue delay in the administration of justice and in the disposition of cases as required by the Rules of Court.[2] As held in *Biyaheros Mart Livelihood Association, Inc. v. Cabusao, Jr.*:[3]

> Government service demands great sacrifice. One who cannot live with the modest salary of a public office has no business staying in the service. He is free to seek greener pastures elsewhere. The public trust character of the office proscribes him from employing its facilities or using official time for private business or purposes.

We hasten to add that complainant is equally deserving of censure for engaging the services of a government employee to facilitate his transactions with various government offices.

WHEREFORE, Court Stenographer ESTRELLA A. VEGA is hereby found guilty of gross misconduct and is hereby *SUSPENDED* from the service for one (1) month without pay, effective immediately, and *WARNED* that a repetition of the same or similar offense shall be dealt with more severely. Let a copy of this decision be entered in the personal records of respondent.

SO ORDERED.

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

Buena, J., abroad on official business.

---

[1] *See* Administrative Circular No. 5, Re: Prohibition for All Officials and Employees of the Judiciary to Work as Insurance Agents, October 4, 1988.

[2] *Rañosa v. Garcia*, 62 SCRA 406 (1975).

[3] 232 SCRA 707, 713 (1994).