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SECOND DIVISION

[A.M. No. P-1898. April 18, 1979]

FE BRON, *complainant, vs.* **ADORACION J. DELIS,** *respondent.*

SYLLABUS

1. ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; DISHONESTY; WARRANTS DISMISSAL FROM SERVICE. — Where a public officer during his tour of duty as a stenographer of the Circuit Criminal Court accumulated unpaid hotel bills and as a security he mortgaged a typewriter of the government along with his personal belongings with the manager of the hotel, knowingly and negligently failing to return the typewriter to the court and to pay his bills, he is guilty of grave misconduct, dishonesty and conduct prejudicial to the interest of the service and his dismissal from the service will be so ordered.

2. ID.; ID.; DUTIES AND OBLIGATION. — Every public officer is bound to use reasonable skill and diligence in the performance of his official duties. He is bound, *virtuite offici*, to bring to the discharge of his duties that prudence, caution and attention which careful men usually exercise in the management of their affairs.

D E C I S I O N

ANTONIO, *J.*:

On March 30, 1978, the Office of the President referred to this Court a letter addressed to the President, dated March 15, 1978, and signed by Ms. Fe Bron of Naga City, charging respondent with having mortgaged a typewriter of the government with the management of the Fiesta Hotel, Naga City, which she was able to do because she is the "*querida*" of the present judge of the said court.

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The letter was in turn referred by this Court to the Hon. Moises Kallos, District Judge, Circuit Criminal Court, Legazpi City, on March 31, 1978, with the request that he look into the matters alleged therein and to submit a written report thereon as soon as possible. Judge Kallos has submitted the required report, the pertinent portions of which read:

"Immediately upon reading the contents of the copy of the handwritten letter of a certain Fe Bron, an Office MEMORANDUM was issued to Atty. German Mata, Clerk of Court of the Circuit Criminal Court, Legazpi City, asking an immediate explanation about the typewriter mentioned in the letter, of which the present Presiding Judge Moises C. Kallos has never had any knowledge of (Annex '1') and Mrs. Adoracion Delis was at the same time furnished copy of the letter-complaint, requiring her to file her answer *within 24 hours* and whether she would prefer a formal investigation regarding the matter. (Annex '2') At the same time, in an effort of the undersigned Presiding Judge of the CCC to clear his name from the *malicious and libelous* imputations in the said letter and vindicate his name and reputation, SUBPOENAS were issued by him personally to the following persons after docketing with the records of the CCC as Administrative Case No. 1-'78 = *Fe Bron vs. Adoracion Delis,* to wit:

(1) Mrs. Adoracion Delis, Stenographer CCC, Legazpi City (Annex '3')

(2) The manager or authorized representative of the Fiesta Hotel, Naga City (Annex '5')

(3) Fe Bron, Peñafrancia, Naga City (Annex '6')

Note: The subpoenas were served by the Deputy Sheriff of the CCC, Rodolfo M. Espartinez, in Naga City with the assistance of the Station Commander of the Naga City Integrated Police (Annex '4')

Formal investigation was set for April 24, 1978 at 9:00 A. M. Mr. German Mata rendered his report on the typewriter on April 18, 1978, which is Annex '7', which among others stated:

'Further inquiry show that a 6th typewriter Triumph Matura 30, Serial No. 8537801 for the Office is with Mrs. Adoracion J. Delis, stenographer of this Court. When, how and who issued said typewriter to Mrs. Delis is not clear to me. I did not know

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that said typewriter is with the management of Fiesta Hotel at Naga City and the cause of its being there.'

Because of this statement of the Clerk of Court, Mr. Angel Altea, retired deputy clerk of court of the CCC was cited to shed light on this typewriter. Mrs. Adoracion Delis did not submit any written explanation as of the date the case was set for investigation. Called for hearing on April 24, 1978 at 9:00 A. M., the Court found the following:

1. The subpoena issued to Fe Bron of Peñafrancia, Naga City was returned by the Station Commander's office with this information:

'OFFICER'S RETURN. (See back of Annex '6')

Respectfully return to the Court of Origin Unserved with the information that subject person FE BRON was not located at the given address. The undersigned together with Rodolfo M. Espartinez, Deputy Sheriff exerted efforts in contacting Bgy. Capt. Claveria of District II and Bgy. Capt. Fauler of District I both of Peñafrancia Avenue, this City said subject is not known to them.

FOR THE STATION COMMANDER:
S/NORBERTO S. BALLON, SR.
T/NORBERTO S. BALLON, SR.
P/Corporal, INP
Chief, Warrant Section.'

2. Mr. Antonio Concepcion, Hotel Manager & owner of the Fiesta Hotel, Naga City was served and appeared on April 24, 1978. He took the witness stand and the transcript of his testimony is found on pages 1 to 8, of Annex '12'. He admitted that the hotel has in its possession a typewriter which was retained together with other personal effects of Adoracion Delis due to her failure to settle her hotel bills amounting to *₱1,778.00* in the year 1974, when she stayed there while serving as *COURT STENOGRAPHER* of the CCC during the SPECIAL TERM of former Presiding Judge of the CCC then, Judge Ricardo Payumo. Up to the date of the investigation, April 24, 1978, the bills of Adoracion Delis have not been paid. Mr. Concepcion could not bring the typewriter with him then as he wanted to ask the Court assistance so that there should be somebody present when the cartons of Mrs. Delis would be opened, least she should claim the loss of anything inside.

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The Court entered an order directing the Deputy Sheriff of the CCC to proceed to Naga City with Mr. Antonio Concepcion the same day and get the help of a policeman of Naga City to witness the taking of the typewriter so it could be identified whether it is the one owned by the government, which order is Annex '9'. Deputy Sheriff Rodolfo M. Espartinez returned to Legazpi City bringing along a TRIUMPH (MATURA 30) typewriter, Made in Western Germany, SERIAL NOS. 8537821-A-811-43498-1 *etc.*, color GRAY, which tallied with the missing typewriter of the CCC and not in use since 1974 by the Court. A proper receipt was issued to Mr. Antonio Concepcion, Manager of Fiesta Hotel, Naga City, which is attached as Annex '11' and marked Exhibit 'A' in the investigation.

3. Mr. Angel Altea, retired deputy clerk of court, appeared on April 24, 1978 in obedience to a subpoena issued by the Court. His testimony appears on pages 8 to 12 of Annex '12'. Mr. Altea informed the Court that this TRIUMPH Typewriter was brought to Naga City in the year 1974 by the CCC, when then Judge Ricardo Payumo held special term there for more than six months. It was used by Stenographer Adoracion J. Delis, who was one of the two stenographers. Mr. Altea was sent by the Court to the Fiesta Hotel in 1974 to get the typewriter but the management did not give the machine because the hotel wanted to hold the typewriter as security for the hotel bills of Adoracion J. Delis, which she said would be settled. No further action was taken by the Court.

The following question was propounded by the present Presiding Judge of the CCC to Mr. Altea and his answer is as follows:

'Q. During the incumbency of the present Presiding Judge from the time he assumed office on March 18, 1976, would you explain to us what - why this matter was never brought to the attention of the Presiding Judge officially about the missing typewriter so that action could have been taken thereon earlier?

A. I have called the attention of my chief, Atty. German Mata about the typewriter but he told that he will try his best to let Mrs. Delis return that equipment to the office.'

4. The case was called again for summary investigation on April 25, 1978 at 9:00 A.M. Respondent Mrs. Adoracion Delis was not in Court. Deputy Sheriff Rodolfo M. Espartinez and Atty. German Mata, Clerk of Court were called to the witness stand. Their testimonies as transcribed can be found on pages 1 to 6 of Annex '13'.

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After the typewriter was brought to Court and duly identified as the property of the government, the Court entered the following order on April 25, 1978:

'The Court is satisfied from the evidence before it that the typewriter which was taken from the Fiesta Hotel yesterday pursuant to the order of this Court is the very typewriter of the CCC which in the letter-complaint sent to the President has been mortgaged by Respondent Adoracion J. Delis with the Fiesta Hotel. It turned out from the testimony of the owner of the Hotel that this typewriter was among the personal effects of the Respondent Adoracion J. Delis which was retained in the hotel in view of the failure of Mrs. Delis to settle her hotel bills amounting to ₱1,778.10 during her stay with the hotel during the period when respondent was acting as Stenographer of the CCC (1974).

ACCORDINGLY, considering that this typewriter is a government property which is among the property responsibility of the Clerk of Court to the Supreme Court, the said typewriter is hereby ordered to be kept with the CCC in Legazpi City for its use, reserving to the owner of the Hotel the right to institute the corresponding criminal charges against the Respondent Adoracion J. Delis for her failure to pay her hotel bills despite the fact that for her stay in the hotel at Naga City in 1974 she has not settled her accountability up to the present.

The case therefore is submitted for corresponding resolution and report to the Supreme Court for such administrative action that the Supreme Court may take against the Respondent Mrs. Adoracion J. Delis.'

Mr. Antonio Concepcion of the Fiesta Hotel arrived in Court about 11:00 A.M. on April 25, 1978 and he was informed that the investigation was already terminated by the Court and that the typewriter will have to be taken by the CCC as government property. He offered no objection but said that he would just press his case to recover the amount long unpaid by Adoracion J. Delis.

Respondent Adoracion J. Delis also came to Court at about the same time. She has not filed any answer to the charge, Annex '2'. It would seem that she simply does not care.

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CONCLUSION & RECOMMENDATION

The typewriter subject of the letter was with the FIESTA HOTEL since the year 1974, during the incumbency of Judge Ricardo Payumo. Judge Moises C. Kallos only became the CCC Judge the latter part of March 1976, after his transfer from the CFI, Branch III of DAET, and did not come to know about this machine except when he received the 1st Indorsement of the SC of March 31, 1978.

Mrs. Adoracion J. Delis never reported to the present Presiding Judge of the CCC the whereabouts of this typewriter since March 1976 to date. Her misfeasance has prejudiced the government. Her failure to pay her hotel bills at the Fiesta Hotel despite the fact that official records of the Supreme Court must indubitably show that she had long collected the *per diems* and allowances for her stay as Court Stenographer of the CCC in the year 1974 is clearly a *criminal act* punishable by Article 315, Par. 2(e) of the Revised Penal Code (SWINDLING). As a crime against property, it carries *moral turpitude.* The act is aggravated by the fact that she committed it as an employee of the Supreme Court, which granted her *per diems* and allowances. She has been able to get accommodation because of her known employment to the management.

She is not only an undesirable employee within the meaning of LOI 13 and 13-A, but has violated our penal law.

Mrs. Adoracion J. Delis is therefore recommended for *immediate dismissal* from the service." (*Rollo*, pp. 4-8)

As can be gathered from the foregoing report, respondent Delis, in her capacity as stenographer of the Circuit Criminal Court, Legazpi City, was issued by said court a typewriter, Matura 30 (Triumph), German make, with Serial No. 8537821. When the Circuit Criminal Court held a special term in Naga City in 1974, respondent brought with her the typewriter. While in Naga City, she was billeted in the Fiesta Hotel. For her stay in the hotel during that special term, she accumulated unpaid hotel bills totalling ₱1,778.10. As she could not pay the bills at the end of the term, she left the typewriter with the hotel management and the latter retained it together with her personal belongings as security for the payment of her hotel bills. Since

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1974 the typewriter remained in the possession of the hotel management until April 24, 1978 when it was taken therefrom by Deputy Sheriff Rodolfo M. Espartinez upon order of the court. Respondent's hotel bills, however, remained unpaid.

The foregoing facts dearly demonstrate respondent's irresponsibility and grave misconduct. Every public officer is bound to use reasonable skill and diligence in the performance of his official duties. He is bound, *virtuite offici,* to bring to the discharge of his duties that prudence, caution and attention which careful men usually exercise in the management of their affairs.[1] There is no question that the failure of a respondent to comply with the laws governing and regulating his powers and duties, may subject him to criminal and administrative sanctions. Here, respondent knowingly or negligently failed to comply with her duty of returning the typewriter to the court and to pay her bills.

WHEREFORE, respondent is found guilty of grave misconduct, dishonesty and conduct prejudicial to the best interest of the service and is hereby ordered DISMISSED from the service effective upon her receipt of a copy of this decision.

Fernando (Chairman), Aquino, Concepcion Jr., Santos, and *Abad Santos, JJ.*, concur.

Barredo, J., concurs in the result.

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[1] *Topeka v. Independence Indem Co.*, 130 Kan. 650, 287 P. 708; *State use of Overton County v. Copeland,* 96 Tenn. 296, 34 SW 427.