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SECOND DIVISION

[A.M. SB-13-20-P. June 26, 2013]
(Formerly A.M. No. 12-29-SB-P)

RIA PAMELA B. ABULENCIA and BLESSIE M. BURGONIO, *complainants, vs.* **REGINO R. HERMOSISIMA, SECURITY GUARD II, SHERIFF AND SECURITY DIVISION, SANDIGANBAYAN,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; COURT PERSONNEL; CHARGE OF MISCONDUCT; GRAVE MISCONDUCT DISTINGUISHED FROM SIMPLE MISCONDUCT; HURLING INVECTIVES ON CO-WORKERS DURING OFFICE HOURS AND WITHIN THE COURT PREMISES, ALTHOUGH NOT WORK RELATED, CONSTITUTE CLEAR DEVIATIONS FROM THE ESTABLISHED NORMS OF CONDUCT WHICH OUGHT TO BE FOLLOWED BY PUBLIC OFFICERS, AMOUNTING TO SIMPLE MISCONDUCT.— Misconduct has been defined as an intentional wrongdoing or a deliberate violation of a rule of law or standard of behavior, especially by a government official. A misconduct is grave where the elements of corruption, a clear intent to violate the law, or a flagrant disregard of established rules are present. Otherwise, a misconduct is only simple. Accordingly, simple misconduct has been defined as an unacceptable behavior which transgresses the established rules of conduct for public officers, work-related or not. In the case at bar, respondent's act of hurling invectives on the complainants during office hours and within the court premises was correctly held to be a case of simple misconduct. Verily, respondent's foul and vulgar utterances, albeit not work related, constitute clear deviations from the established norms of conduct which ought to be followed by public officers. For such infractions, it cannot be gainsaid that respondent should be held administratively liable for the same.

2. ID.; ID.; ID.; COURT EMPLOYEES ARE SUPPOSED TO BE WELL-MANNERED, CIVIL AND CONSIDERATE IN THEIR ACTUATIONS, BOTH IN THEIR RELATIONS WITH CO-WORKERS, AND THE TRANSACTING PUBLIC FOR BOORISH, FOUL LANGUAGE, AND ANY MISBEHAVIOR IN THE COURT PREMISES DIMINISH ITS SANCTITY AND DIGNITY.— [I]t must be pointed out that respondent's justification, *i.e.*, that his outbursts were only made out of his frustration due to the delayed release of his loyalty benefit can be hardly regarded as a justifiable excuse. The Court has consistently reminded that court employees are supposed to be well-mannered, civil and considerate in their actuations, both in their relations with co-workers and the transacting public. Boorishness, foul language, and any misbehavior in the court premises diminish its sanctity and dignity. As held in *Wee v. Bunao, Jr.*: x x x The conduct and behavior of every official and employee of an agency involved in the administration of justice, from the presiding judge to the most junior clerk, should be circumscribed with the heavy burden of responsibility. Their conduct must at all times be characterized by strict propriety and decorum so as to earn and keep the public's respect for the judiciary. Any fighting or misunderstanding among court employees becomes a disgraceful sight reflecting adversely on the good image of the judiciary. Professionalism, respect for the rights of others, good manners, and right conduct are expected of all judicial officers and employees. This standard is applied with respect to a court employee's dealings not only with the public but also with his or her co-workers in the service. Conduct violative of this standard quickly and surely corrodes respect for the courts.

3. ID.; ID.; ID.; ID.; ONE MONTH SUSPENSION IMPOSED FOR SIMPLE MISCONDUCT.— Having failed to live up to the high standards of propriety and decorum expected of employees of the judiciary, the Court finds that respondent was correctly held administratively liable for simple misconduct. Under Rule 10, Section 46(D)(2) of the Uniform Rules on Administrative Cases in the Civil Service, the penalty for simple misconduct is suspension for one (1) month and one (1) day to six (6) months for the first offense. Accordingly, the penalty

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recommended by the OCA, being within the range prescribed under the aforesaid rules, is therefore deemed to be proper.

R E S O L U T I O N

PERLAS-BERNABE, *J.*:

The instant administrative case arose from the Joint Complaint-Affidavit[1] filed by complainants Ria Pamela B. Abulencia and Blessie M. Burgonio, Clerk III and HRM Assistant, respectively, of the Administrative Division of the Sandiganbayan, charging respondent Regino R. Hermosisima, Security Guard II of the Sheriff and Security Division of the same court, with grave misconduct.

The Facts

On April 25, 2012, respondent inquired from the complainants about the status of the computation of the loyalty differential of Sandiganbayan employees. The complainants replied that they were still finalizing the computation based on the new directives of the Finance Division. Respondent then said, "*Bakit nyo pinapatagal?*"[2] to which complainant Burgonio replied, "*Matalino ka naman, ikaw na gumawa nyan!*"[3] Taken aback by the latter's response, respondent in a loud angry voice uttered, "*Mga putang-ina nyo, ang bobobo nyo! Ang ta-tanga nyo, ayusin nyo yang trabaho nyo!*"[4]

In this regard, complainants filed an administrative complaint against respondent for grave misconduct. In his Counter Affidavit,[5] respondent admitted his rude behavior which he explained was but an outburst of emotion, brought about by the delayed release

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[1] *Rollo*, pp. 12-13.

[2] *Id.* at 12.

[3] *Id.* at 18.

[4] *Id.* at 12.

[5] *Id.* at 18-19.

of his loyalty benefits which he needed to sustain his five (5) children. He apologized to complainants for his conduct and pleaded for mercy and consideration.

A preliminary investigation was conducted by Atty. Mary Ruth M. Ferrer, Director III of the Legal Research and Technical Staff Division, who found a *prima facie* case against respondent for grave misconduct under Section 46(A) (3), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service or, at the very least, for simple misconduct under Section 46(D) (2), Rule 10 of the same rules.[6] The case was then assigned to Associate Justice Oscar C. Herrera, Jr. (Associate Justice Herrera, Jr.) for the conduct of a formal investigation where both parties were given the opportunity to present their respective evidence.

In a Resolution[7] dated October 22, 2012, Associate Justice Herrera, Jr. found the respondent guilty of simple misconduct only and recommended the penalty of one (1) month and one (1) day suspension from office with a warning that a repetition of the same or similar acts would warrant the imposition of a more severe penalty. The foregoing resolution was brought to the Office of the Court Administrator (OCA) for evaluation and recommendation.

The Action and Recommendation of the OCA

On April 10, 2013, the OCA submitted its Report[8] recommending that: (*a*) the administrative complaint against respondent be re-docketed as a regular administrative case; and (*b*) respondent be suspended for one (1) month and one (1) day without pay, and be sternly warned that a repetition of the same or similar acts shall be dealt with more severely.

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[6] *Id.* at 3-9.

[7] *Id.* at 46-56.

[8] Administrative Matter for Agenda dated April 10, 2013 submitted by Court Administrator Jose Midas P. Marquez, *id.* at 140-144.

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The Court's Ruling

The Court agrees with the findings and recommendations of the OCA.

Misconduct has been defined as an intentional wrongdoing or a deliberate violation of a rule of law or standard of behavior, especially by a government official. A misconduct is grave where the elements of corruption, a clear intent to violate the law, or a flagrant disregard of established rules are present. Otherwise, a misconduct is only simple.[9] Accordingly, simple misconduct has been defined as an unacceptable behavior which transgresses the established rules of conduct for public officers,[10] work-related or not.[11]

In the case at bar, respondent's act of hurling invectives on the complainants during office hours and within the court premises was correctly held to be a case of simple misconduct. Verily, respondent's foul and vulgar utterances, albeit not work related, constitute clear deviations from the established norms of conduct which ought to be followed by public officers. For such infractions, it cannot be gainsaid that respondent should be held administratively liable for the same.

In this relation, it must be pointed out that respondent's justification, *i.e.*, that his outbursts were only made out of his frustration due to the delayed release of his loyalty benefit can be hardly regarded as a justifiable excuse. The Court has consistently reminded that court employees are supposed to be well-mannered, civil and considerate in their actuations, both in their relations with co-workers and the transacting public. Boorishness, foul language, and any misbehavior in the court

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[9] *Imperial, Jr. v. Government Service Insurance System*, G.R. No. 191224, October 4, 2011, 658 SCRA 497, 506.

[10] *OCA v. Caya*, A.M. No. P-09-2632, June 18, 2010, 621 SCRA 221, 229.

[11] *Dela Cruz v. Zapico*, A.M. No. 2007-25-SC, September 18, 2008, 565 SCRA 658, 666.

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premises diminish its sanctity and dignity.[12] As held in *Wee v. Bunao, Jr.*:[13]

> x x x The conduct and behavior of every official and employee of an agency involved in the administration of justice, from the presiding judge to the most junior clerk, should be circumscribed with the heavy burden of responsibility. Their conduct must at all times be characterized by strict propriety and decorum so as to earn and keep the public's respect for the judiciary. Any fighting or misunderstanding among court employees becomes a disgraceful sight reflecting adversely on the good image of the judiciary. Professionalism, respect for the rights of others, good manners, and right conduct are expected of all judicial officers and employees. This standard is applied with respect to a court employee's dealings not only with the public but also with his or her co-workers in the service. Conduct violative of this standard quickly and surely corrodes respect for the courts.

In fine, having failed to live up to the high standards of propriety and decorum expected of employees of the judiciary, the Court finds that respondent was correctly held administratively liable for simple misconduct. Under Rule 10, Section 46(D)(2) of the Uniform Rules on Administrative Cases in the Civil Service, the penalty for simple misconduct is suspension for one (1) month and one (1) day to six (6) months for the first offense. Accordingly, the penalty recommended by the OCA, being within the range prescribed under the aforesaid rules, is therefore deemed to be proper.

WHEREFORE, respondent **REGINO R. HERMOSISIMA**, Security Guard II of the Sheriff and Security Division of the Sandiganbayan, is found **GUILTY** of **SIMPLE MISCONDUCT** and is **SUSPENDED** for a period of one (1) month and one (1) day without pay, effective immediately upon receipt of this Resolution. He is **STERNLY WARNED** that a repetition of the same or similar act in the future shall be dealt with more severely.

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[12] *Wee v. Bunao, Jr.*, A.M. No. P-08-2487, September 29, 2010, 631 SCRA 445, 453.

[13] *Id.* at 454. (Citations omitted)

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SO ORDERED.

Carpio (Chairperson), Brion, del Castillo, and *Perez, JJ.,* concur.

FIRST DIVISION

[G.R. No. 160982. June 26, 2013]

MANILA JOCKEY CLUB, INC., *petitioner, vs.* **AIMEE O. TRAJANO,** *respondent.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; TERMINATION OF EMPLOYMENT; JUST CAUSES; LOSS OF TRUST AND CONFIDENCE; TO BE A VALID GROUND FOR DISMISSAL, THE SAME MUST BE BASED ON A WILLFUL BREACH OF TRUST AND CONFIDENCE FOUNDED ON CLEARLY ESTABLISHED FACTS, AND NOT ON THE EMPLOYER'S ARBITRARINESS, WHIMS, CAPRICES OR SUSPICION, AND MUST BE RELATED TO THE EMPLOYEE'S PEFORMANCE OF DUTIES; EXPOUNDED.— The valid termination of an employee may either be for just causes under Article 282 or for authorized causes under Article 283 and Article 284, all of the *Labor Code*. Specifically, loss of the employer's trust and confidence is a just cause under Article 282 (*c*), a provision that ideally applies only to cases involving an employee occupying a position of trust and confidence, or to a situation where the employee has been routinely charged with the care and custody of the employer's money or property. But the loss of trust and confidence, to be a valid ground for dismissal, must be based on a willful breach of trust and confidence founded on clearly established facts. "A breach is willful," according to *AMA*