



PHILJA E-Alerts

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RECORDS OFFICER

• Simple neglect of duty

In this case, respondent records officer failed to properly account for the loss of the original records under his custody. As defense, he merely surmised that the records were misplaced or possibly relocated because of inactivity or the absence of requests with respect to access over it. Aside from its trivial nature, this excuse is not compelling enough to justify failure to perform one's duties properly.

Respondent records officer, as head of the Archives Unit, was evidently remiss and negligent in the discharge of his duties. The loss of the original records reflects an inefficient and disorderly system of keeping case records and his lack of close supervision in the performance by his subordinate personnel of their duties. Worse, respondent records officer's failure to take appropriate action within a reasonable period of time after discovery of the missing records in 2016 manifests his carelessness and indifference. As head of the Archives Unit, respondent records officer should have exercised diligence, informed the head of the JRS and the *ponente* about the missing records upon knowledge thereof, and resorted to safety measures to ensure that all original records are accounted for as to avoid similar occurrences in the future.

Neither does the lack of proper orientation and training exculpate respondent records officer from liability. CA-XXX opened its office to the public in October 2004. Respondent records officer assumed office in November 2004 and conceded that he was not oriented about the duties and task of his office as head of the Archives Unit as he merely relied on AAA, who was then the JRS Head. However, it should be noted that, when respondent records officer assumed the position of Archives Unit Head, it was understood that he was willing, ready, and capable to do his job with utmost devotion, professionalism, and efficiency. Hence, his lack of proper training, orientation or the necessary manpower are unavailing defenses.

Indubitably, court records are confidential documents and respondent records officer should have adopted measures to safeguard and ensure their confidentiality and integrity. It is unfortunate that, prior to the loss of the case records and within respondent record officer's watch, the safekeeping area or bodega where the case records were kept was open and without any partition to separate it from the maintenance personnel. Its keys were merely left hanging near his table for anyone's access. Respondent records officer further detailed that a utility personnel named BBB was even allowed to hold office inside the bodega. On the basis of the foregoing circumstances, respondent records officer positively failed to meet the requirement expected of him as a custodian. The fact that he allowed and tolerated the aforementioned system, which compromised the integrity of the safekeeping area or bodega is a manifestation of his utter lack of diligence and his carelessness in performing his duty as a custodian.

Furthermore, a simple exercise of diligence should have alerted respondent records officer to inform his superiors as to the lack of the necessary personnel. Aside from his failure to acknowledge accountability as custodian of court records, the lack of system in his office was also demonstrated by the practice of allowing contractual employees, DDD and EEE, to have access to the safekeeping area as temporary record custodians who were tasked with the highly confidential and sensitive duty of monitoring the movements of the original records, including its pulling out from its assigned shelf. While the office utilizes the use of logbook and index cards to monitor the original records submitted to their office, respondent records officer acknowledged that these were not updated by his personnel. Nonetheless, respondent records officer should not be allowed to pass the blame to his subordinates. Being the administrative officer and having control and supervision over court records, he should have seen to it that his subordinates performed their functions well.

Verily, the transgression committed herein by respondent records officer exhibited a clear disregard of his duty as custodian of the original records of cases transferred to his unit and his indifference in failing to implement an effective and efficient system in monitoring the movement of original records and *rollos* under his custody. Being the custodian of court records, respondent records officer is expected to discharge his duty of safekeeping them with diligence, efficiency, and professionalism. Consonant to this duty of safekeeping the records of cases is his bounden duty to see to it that these are kept in a secure place. It is his task to plan, coordinate and evaluate work programs for a systematic management of judicial records placed under his custody in the Archives unit. His indifference therefore demonstrates a lack of any sense of accountability in performing the tasks assigned to him.

Indeed, respondent records officer should be held liable for simple neglect of duty which is defined as “the failure to give attention to a task or the disregard of a duty due to carelessness or indifference.” Section 46(D)(1), Rule 10 of Civil Service Commission (CSC) Resolution No. 1101502 dated November 8, 2011, otherwise known as the Revised Uniform Rules on Administrative Cases in the Civil Service, classifies simple neglect of duty as a less grave offense punishable by one month and one day to six months suspension, for the first offense.

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There is no doubt that the loss of the records in this case is by reason of respondent records officer’s lack of diligence in the discharge of his tasks. Although respondent records officer is guilty of neglect in the performance of his official duties, he could only be held liable for simple neglect of duty since his omission is not as repulsive or of such nature to be considered brazen, flagrant, and palpable as would amount to a gross neglect of duty. It must be considered that he assumed office as head of the Archives Unit in November 2004, merely a month after the CA-XXX opened its office to the public, and that, since then, this was his first reported offense which involved only one civil case with missing records. There was no indication that respondent records officer’s transgression showcased a flagrant disregard of established rule nor was it shown that he had the propensity to ignore the rules. There is also absence of proof that it was motivated by corruption or that respondent records officer intentionally and deliberately caused the loss of the records to secure benefits for himself or for some other person.

Accordingly, the Court holds that respondent records officer’s disregard of his duty as Head of the Archives Unit in CA-XXX and his carelessness or indifference to his task which resulted in the loss of the subject records herein, merits the imposition of the penalty of suspension from office for three months, without pay, as commensurate thereto. Pursuant to Section 47(1) of the Revised Rules on Administrative Cases in the Civil Service and the submission of Atty. FFF that respondent records officer is actually discharging frontline

functions and that the personnel complement of the office is insufficient to perform such function, the alternative penalty of fine equivalent to his salary for three months shall be imposed instead.

The Court found respondent records officer guilty of simple neglect of duty and was meted out the penalty of fine equivalent to his salary for three months, with a stern warning that a repetition of the same or similar acts would warrant a more severe penalty. **[A.M. No. 19-08-19-CA, October 15, 2019]**

PROCESS SERVER

- **Grave misconduct**

Misconduct is defined as a transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, unlawful behavior, willful in character, improper or wrong behavior. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law, or to disregard established rules, which must be established by substantial evidence. As distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in a charge of grave misconduct.

The actions of the respondent process server, being tainted with a corrupt design, willful intent to violate the law, and disregard of established rules, constituted grave misconduct.

Firstly, the respondent process server misrepresented himself as a sheriff of the RTC in XXX City in order to enable himself to collect unpaid debts of the complainant's clients. His misrepresentation amounted to blatant dishonesty and deception because he was by no means a sheriff assigned in the court. His dishonesty and deception were designed to achieve a corrupt purpose considering that he had absolutely no reason or justification to introduce himself as a sheriff unless it was to ensure the collection from the complainant's delinquent debtors. Moreover, his dishonesty and deception contravened his oath of office as a process server, for he then knew that he had no capacity whatsoever to act as a sheriff. He complicated his deception by issuing acknowledgment receipts purportedly as such sheriff.

And, secondly, the respondent process server's dishonesty and deception were for the purpose of obtaining personal gain. Such actuation was strictly prohibited under the *Code of Conduct for Court Personnel*. Indeed, Section 1 of Canon 1 prohibited court personnel from using their official positions "to secure unwarranted benefits, privileges or exemptions for themselves or for others." In delivering the demand letters to the complainant's clients, the respondent process server unquestionably abused his position as a court personnel to intimidate the complainant's clients just to force them to pay to him. We should point out that his mere act of receiving money from the complainant's clients when he had no right to do so was the antithesis to his being a court employee.

The respondent process server's grave misconduct, being a serious offense, deserves the ultimate penalty of dismissal from the service pursuant to Section 50(A)(3), Rule 10 of the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS).

The recommendation of the OCA that the respondent process server be suspended instead of dismissed because of mitigating circumstances in his favor is not well taken. The cited circumstances could not be considered mitigating circumstances because they would lessen the impact of his liability for which the penalty of dismissal even for the first offense was imposable. Neither should his service of over 20 years be a factor to lighten his penalty, for,

truly, his long service in the Judiciary did not prevent him from so brazenly committing the acts of dishonesty and deception.

Moreover, the respondent process server's presumptuousness and casualness about the discharge of court duties were too patent to be ignored. He showed no compunction or hesitancy in assuming functions that did not pertain to his office. Such attitude on his part did not merit the mitigation of the penalty. x x x

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Accordingly, the respondent process server should be removed from the service for having given to himself undue financial gain and benefit at the expense of the good name of the court that he served, and for taking advantage of his employment in the Judiciary at the expense of the unwary public.

Respondent process server was found guilty of grave misconduct and was dismissed from the service with forfeiture of all benefits, except accrued leave credits, and with prejudice to reemployment in any branch or instrumentality of the Government, including government-owned and controlled corporations and financial institutions. ***[A.M. No. P-17-3773, October 1, 2019]***