

HON. MOISES M. PARDO, EXECUTIVE JUDGE, REGIONAL TRIAL COURT, BRANCH 31, CABARROGUIS, QUIRINO, COMPLAINANT, VS. LUGEORGE N. DISCIPULO, ELECTRICIAN II, MAINTENANCE UNIT, HALLS OF ...

A.M. No. HOJ-07-01. June 12, 2008

Ponente: CARPIO, J.

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CARPIO, J.:

This case involves (1) a complaint for dishonesty against Lugeorge N. Discipulo (Discipulo), Electrician II, Halls of Justice, Cabarroguis, Quirino (Halls of Justice), filed by Judge Moises M. Pardo (Judge Pardo), Executive Judge, Regional Trial Court, Judicial Region II, Cabarroguis, Quirino (RTC); and (2) a counter-complaint for gross misconduct against Judge Pardo filed by Discipulo.

In his letter-complaint[1] dated 20 March 2006 and addressed to the Office of Administrative Services (OAS), Judge Pardo charged Discipulo with falsifying his February 2006 time card and the logbook of the security guards at the Halls of Justice. Judge Pardo alleged that:

On February 9, 2006, at around 8:00 a.m., Mr. Discipulo arrived at the Hall[s] of Justice and [punched] his time card [in] the bundy clock. Immediately thereafter x x x, Mr. Discipulo left the Hall[s] of Justice and never came back on that day. For this reason, Mr. Discipulo did not [punch] his time card [in] the bundy clock [after office hours] on that day. For [the same] reason, Security Guards on duty Rodel de Guzman and Prudencio Ciano did not enter the [time of departure] of Mr. Discipulo on that date.

x x x x

[O]n February 17, 2006, Mr. Discipulo [punched] his time card [in] the bundy clock at 12:30 p.m. [After punching his time card, he] immediately left the Hall[s] of Justice and never came back on that day. For this reason, Security Guards on duty Estabillo and Bartido did not indicate [Discipulo's time of departure] in the attendance logbook on that date.

On March 1, 2006, at around 8:20 in the morning, Mr. Discipulo borrowed the Attendance Logbook from Security Guards on duty Rodel De Guzman and Prudencio Ciano and brought the same to the Office of the Clerk of Court. Without asking for the permission of the security guards, or even just informing them x x x, Mr. Discipulo [wrote "12:00" and "5:00" as his time of departure on 9 and 17 February 2006, respectively]. x x x

Upon discovering what Mr. Discipulo did, the two (2) security guards [put a note and signed the pages where Discipulo made insertions]. They also issued to Judge Pardo [a] certification dated March 1, 2006 narrating the foregoing facts.

Also on March 1, 2006, at around 9:00 a.m., Mr. Discipulo [wrote on his time card "12:00" and "5:00" as his time of departure on 9 and 17 February 2006, respectively].[2]

Judge Pardo submitted a photocopy of the time card[3] and a photocopy of the certification[4] of security guards Rodel de Guzman (De Guzman) and Prudencio Ciano (Ciano). On his time card, Discipulo inserted "12:00" and "5:00" as his time of departure from the office on 9 and 17 February 2006, respectively. In their certification, De Guzman and Ciano stated that Discipulo took the logbook and inserted "12:00" and "5:00" as his time of departure from the office on 9 and 17 February 2006, respectively.

In its Memorandum[5] dated 31 May 2006, the OAS directed Discipulo to comment on Judge Pardo's letter-complaint. In his comment and counter-complaint[6] dated 13 June 2006, Discipulo denied committing falsification of official document. According to him, he made the insertions on his time card because he forgot to punch it in the bundy clock on 9 and 17 February 2006. Discipulo submitted the affidavit[7] of Atty. Jessie W. Tuldague (Tuldague), clerk of court of the RTC, and the joint affidavit[8] of other court employees Vilma Agustin (Agustin), Naty S. Fernando (Fernando), George Mateo (Mateo), and Gil Orias (Orias) to vouch that he was present on 9 and 17 February 2006.

Discipulo charged Judge Pardo with gross misconduct: (1) Judge Pardo initiated and allowed drinking of alcohol during office hours on 6 July 2004; (2) he allowed court employees Luhlu M. Bugawan (Bugawan) and Lilia Casuple (Casuple) to leave the RTC during office hours without justifiable reason; (3) he ordered the security guards to consider Bugawan as present on 16 July 2004 when in fact she was absent; (4) he ordered the security guards to punch the time card of Jaime Calpatura (Calpatura), officer-in-charge at the RTC, in the bundy clock; (5) he declared an early dismissal on 18 May and 26 August 2004 without any justifiable reason; (6) he harassed court employees who testified against him in administrative cases pending before the Court; and (7) he did not observe official working hours.

In its Memorandum[9] dated 16 June 2006, the OAS referred the matter to the Office of the Court Administrator (OCA) for appropriate action. In its 1st Indorsement[10] dated 30 June 2006, the OCA required Judge Pardo to comment on Discipulo's counter-complaint.

In his comment and reply[11] dated 9 August 2006, Judge Pardo (1) stated that Discipulo admitted in his comment and counter-complaint that he falsified the time card and the logbook; (2) stated that Discipulo falsely accused him of being motivated by bad faith in instituting the instant case; (3) questioned the credibility of Tuldague, Agustin, Fernando, Mateo, and Orias; (4) denied condoning drinking of alcohol during office hours; (5) denied allowing Bugawan and Casuple to leave the RTC during office hours without justifiable reason; (6) denied ordering the security guards to consider Bugawan as present when in fact she was not; (7) denied ordering the security guards to punch the time card of Calpatura in the bundy clock; (8) denied declaring an early dismissal on 18 May and 26 August 2004; (9) denied harassing court employees; and (10) stated that he observed official working hours.

In its Report[12] dated 17 October 2006, the OCA stated that Judge Pardo and Discipulo presented two contradicting sets of facts. It stated that liability could not be determined based on the records alone and recommended that the matter be referred to a consultant of the OCA for investigation, report, and recommendation. In its Resolution dated 13 December 2006, the Court resolved to refer the matter to a consultant of the OCA.

In his Report dated 19 March 2007, hearing officer-designate and retired Justice Narciso T. Atienza (Justice Atienza) found that Discipulo is liable for dishonesty and that Discipulo failed to prove his allegations against Judge Pardo. Justice Atienza recommended that Discipulo be suspended from office for six months and one day and that the charge against Judge Pardo be dismissed.

The Court agrees with Justice Atienza's findings and recommendations.

OCA Circular No. 7-2003 states that court personnel should indicate in their Bundy cards the truthful and accurate times of their arrival at, and departure from, the office. In *Garcia v. Bada*[13] and *Servino v. Adolfo* ,[14] the Court held that court employees must follow the clear mandate of OCA Circular No. 7-2003. Indeed, all judicial employees must devote their official time to government service and exercise a high degree of professionalism.[15]

Justice Atienza and Judge Pardo described the procedure followed in keeping time records, respectively:

In the Regional Trial Court of Cabarroguis, Quirino, a Bundy clock is used by the employees to register their time of arrival [at] the office, and [their time of departure from] the office. Complementing the Bundy clock is [the] logbook where [the security guards on duty write the names of the employees who report for work, their time of arrival, and their time of departure.] x x x The names of [the] employees[, their time of arrival, and their time of departure] are all written by the security guards on duty. x x x [Whether an employee reported for work or not can be determined -- even if that employee forgot to punch his or her time card in the Bundy clock -- by checking the records in the logbook.][16]

The Security Guards x x x make the entries in the Attendance Logbook. The Security guards on duty, two (2) at a time, are stationed at the entrance of the Hall[s] of Justice and the Attendance Logbook [is placed] on top of a table at the entrance of the Hall[s] of Justice. The Security Guards on duty make all the entries in the attendance logbook except for the signatures of the employees.[17]

The surrounding circumstances show that Discipulo is liable for dishonesty: (1) Discipulo admitted inserting "12:00" and "5:00" on his time card; (2) the security guards did not see Discipulo punch his time card in the Bundy clock at 12:00 p.m. and 5:00 p.m. on 9 and 17 February 2006, respectively; (3) the logbook did not contain Discipulo's time of departure on 9 and 17 February 2006; (4) Discipulo took the logbook and brought it to the Office of the Clerk of Court; and (5) Discipulo inserted "12:00" and "5:00" on the logbook without informing the security guards. Justice Atienza observed that:

When [Discipulo borrowed] the logbook from the security guards x x x on March 1, 2006, his intention was not just to compare [the time] appearing [on] his Bundy card x x x with [the time appearing in the logbook,] but to [insert on the logbook the time he typed on] his Bundy card. If Discipulo's intention [were] just to compare [the time appearing] in the logbook with [the time appearing in] the Bundy card x x x, he would have [checked the logbook right there] on the table of the security guards or asked the permission of the security guards before writing anything in the logbook.

x x x The testimonies of Tuldague and the other employees of the Office of the Clerk of Court are not as credible as the testimonies of security guards [D]e Guzman and Ciano who have no interest whatsoever in the outcome of the [instant] case and [whose testimonies] are supported by the entries in the logbook. The guards were in good terms with Discipulo before and after March 1, 2006. On the other hand, Tuldague was a complainant in an administrative case against Judge Pardo. He was the one who prepared all the pleadings Discipulo filed in the instant case. Tuldague showed hostility towards [J]udge Pardo.

x x x x

The security guards on duty did not see Discipulo [punch his time card in the Bundy clock at 12:00 and 5:00 p.m. on 9 and 17 February 2006, respectively]. The only plausible explanation why Discipulo's time card was [punched in the Bundy clock in the morning and at noon of 9 and 17 February 2006, respectively, and was not punched in the Bundy clock after office hours on those dates is] that he left the office surreptitiously or without the knowledge of the security guards x x x, otherwise [the time he left the office] would have been entered in the logbook.[18] (Emphasis ours)

In *Duque v. Aspiras*,[19] the Court held that employees who commit irregularities in the keeping of time records

are administratively liable. Falsification of time records constitutes dishonesty,[20] which is a disposition to lie or deceive.[21] In *Re: Failure of Jose Dante E. Guerrero to Register His Time In and Out in Chronolog Time Recorder Machine on Several Dates*,[22] the Court imposed the penalty of six months suspension to an employee found guilty of dishonesty for falsifying his time records.

"In administrative proceedings, the complainant bears the burden of proving, by substantial evidence, the allegations in the complaint. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." [23] Discipulo failed to substantiate his charge that Judge Pardo is liable for gross misconduct: (1) he did not mention the dates when Judge Pardo allegedly committed the acts complained of; (2) he did not mention the names of those who allegedly drank alcohol during office hours or the names of those whom Judge Pardo allegedly harassed; and (3) he did not present any witness or any concrete proof to support his allegations.

Judge Pardo denied committing any misconduct. Judge Pardo asserted that (1) he brought some court employees when he was out for official business; (2) Bugawan's and Casuple's time records were true and accurate; (3) court employees were present until 5:00 p.m. on 18 May and 26 August 2004; (4) he was duty-bound to inspect the logbook and to inquire if there was any irregularity; and (5) he observed the official working hours. Without any substantial evidence to prove that Judge Pardo is guilty of gross misconduct, the Court cannot hold him administratively liable.

WHEREFORE, the Court finds respondent Lugeorge N. Discipulo, Electrician II, Maintenance Unit, Halls of Justice, Cabarroguis, Quirino, GUILTY of DISHONESTY . Accordingly, the Court SUSPENDS him for six months and STERNLY WARNS him that a repetition of the same or similar offense shall be dealt with more severely.

The Court DISMISSES the charge against Judge Moises M. Pardo, Executive Judge, Regional Trial Court, Judicial Region II, Cabarroguis, Quirino, for lack of merit.

Puno, C.J., (Chairperson), Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Rollo, p. 93.

[2] OCA I.P.I. No. 06-01-HOJ, Memorandum for Complainant-Respondent Judge Moises M. Pardo, 20 March 2007, pp. 9-10.

[3] Rollo, p. 95.

[4] *Id.* at 96.

[5] *Id.* at 88.

[6] *Id.* at 7-9.

[7] *Id.* at 22-23.

[8] *Id.* at 24-25.

[9] *Id.* at 100.

[10] *Id.* at 138.

[11] *Id.* at 142-153.

[12] Id. at 1-4.

[13] A.M. No. P-07-2311, 23 August 2007, 530 SCRA 779, 783.

[14] A.M. No. P-06-2204, 30 November 2006, 509 SCRA 42, 52.

[15] *Concerned Litigants v. Araya, Jr.*, A.M. No. P-05-1960, 26 January 2007, 513 SCRA 9, 20; *Re: Findings of Irregularity on the Bundy Cards of Personnel of the RTC, Br. 26 and MTC, Medina, Misamis Oriental*, A.M. No. 04-11-671-RTC, 14 October 2005, 473 SCRA 1, 12.

[16] OCA I.P.I. No. 06-01-HOJ, Investigation Report, 19 March 2007, pp. 11-12.

[17] OCA I.P.I. No. 06-01-HOJ, Memorandum for Complainant-Respondent Judge Moises M. Pardo, 20 March 2007, p. 9.

[18] OCA I.P.I. No. 06-01-HOJ, Investigation Report, 19 March 2007, pp. 12-15.

[19] A.M. No. P-05-2036, 15 July 2005, 463 SCRA 447, 454.

[20] *Gillamac-Ortiz v. Almeida, Jr.*, A.M. No. P-07-2401, 28 November 2007; *Servino v. Adolfo*, A.M. No. P-06-2204, 30 November 2006, 509 SCRA 42, 53; *In Re: Irregularities in the Use of Logbook and Daily Time Records by Clerk of Court Raquel D.J. Razon, Cash Clerk Joel M. Magtuloy and Utility Worker Tiburcio O. Morales, MTC-OCC, Guagua, Pampanga*, A.M. No. P-06-2243, 26 September 2006, 503 SCRA 52, 61; *Re: Administrative Case for Dishonesty Against Elizabeth Ting, Court Secretary I and Angelita C. Esmerio, Clerk III, Office of the Division Clerk of Court, Third Division*, A.M. No. 2001-7-SC, 22 July 2005, 464 SCRA 1, 13.

[21] *In Re: Irregularities in the Use of Logbook and Daily Time Records by Clerk of Court Raquel D.J. Razon, Cash Clerk Joel M. Magtuloy and Utility Worker Tiburcio O. Morales, MTC-OCC, Guagua, Pampanga*, A.M. No. P-06-2243, 26 September 2006, 503 SCRA 52, 61-62.

[22] A.M. No. 2005-07-SC, 19 April 2006, 487 SCRA 352, 369.

[23] *Pan v. Salamat*, A.M. No. P-03-1678, 26 June 2006, 492 SCRA 460, 466.

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