

**RE: REPORT ON THE IRREGULARITY IN THE USE OF BUNDY CLOCK  
BY ALBERTO SALAMAT, SHERIFF IV, RTC-BR.80, MALOLOS CITY,***A.M. No. P-08-2494 (Formerly OCA IPI No. 06-2399-P). November 27, 2008*

Ponente: CHICO-NAZARIO, J.

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Before this Court is an administrative charge against Sheriff IV Alberto Salamat (respondent) of the Regional Trial Court (RTC) of Malolos City, Branch 80, accusing him of punching in the daily time cards for his co-employees.

Black Tiger Security Services, Inc. (Black Tiger) provides security services by assigning security guards to the Bulacan Halls of Justice. One of the security guards of Black Tiger, Glicerio Magbanua (Magbanua), was assigned to the lobby of the Bulacan Halls of Justice from 6:00 a.m. to 2:00 p.m. on 22 April 2005. At 7:40 a.m. and 7:45 a.m., Magbanua saw respondent punch in more than five daily time cards.[1] Magbanua initially reminded respondent about the prohibition on punching in a multiple number of daily time cards but the latter answered, "Isa isa lang naman ang punch ko." [2] When respondent persisted in punching in more daily time cards, Magbanua merely observed him and recorded the incident in the logbook.[3]

Thereafter, Magbanua reported the matter to his superiors at Black Tiger. The report was passed on from Deputy Detachment Commander Eduardo de Guzman (DDC De Guzman) to Detachment Commander Lino Quitoriano (DC Quitoriano). Finally, President/General Manager Dr. Celso B. Songcuya, Jr. (Dr. Songcuya) and Executive Vice President/Managing Director Rolando G. Macaoay (EVP/MD Macaoay) sent their letter-report dated 18 May 2005 to Atty. Peter John U. Javier (Atty. Javier), Officer-in-Charge of the Bulacan Halls of Justice-Secretariat. In said letter report, however, respondent was charged with punching in the daily time cards of his co-employees on 5 May 2005, instead of 22 April 2005.

On 15 July 2005, Court Administrator now Associate Justice Presbitero J. Velasco, Jr., required[4] respondent to submit his comment within 10 days from receipt.

In his Comment[5] dated 18 August 2005 submitted to the Office of the Court Administrator (OCA), respondent denied the allegations against him. He argued that, as shown in the logbook of the daily time of arrival and departure kept by their office, he punched in his daily time card on 5 May 2005 at 8:01 a.m. and not 7:45 a.m. as claimed by Dr. Songcuya. Hence, it would be illogical and unlikely for him to punch in the daily time cards of his co-employees since some of them arrived at the office earlier than he.

On 6 March 2006, the First Division of this Court issued a Resolution[6] referring the administrative matter to the Executive Judge of the RTC of Malolos City, Bulacan, for investigation, report, and recommendation within 60 days from receipt of record. In a letter[7] dated 6 June 2006, then Executive Judge Petrita Braga Dime[8] of the Malolos City RTC informed this Court that the administrative matter was raffled to First Vice Executive Judge Herminia V. Pasamba (Judge Pasamba).

Investigation of the aforementioned administrative matter ensued.

On 23 June 2006, Judge Pasamba submitted a Final Report[9] finding that, based on the facts established and evidence adduced, the act complained of actually took place on 22 April 2005, not on 5 May 2005, the date stated in the letter-report charging respondent. Believing that any sanction on the respondent based on the standing charge would be violative of his procedural right to due process, Judge Pasamba recommended that the administrative matter be dismissed, but without prejudice to any further proper action against the respondent.

On 19 February 2007, the Third Division of this Court issued a Resolution[10] resolving, inter alia, to require respondent to submit his Comment on the charge that he punched in the daily time cards of his co-employees on 22 April 2005; and Judge Pasamba to undertake another investigation, report, and recommendation on this matter.

In his Comment[11] dated 9 April 2007, respondent argued that no irregular punching in of time cards occurred on 22 April 2005, and if it so happened, then the Bi-Monthly/Semi-Monthly Report of Black Tiger covering the period of 16 to 30 April 2005 should have reflected an entry on the same. Respondent concludes that the Black Tiger officers and personnel must have doctored, falsified, or irregularly inserted an entry in their logbook to support their belated claim that the correct and actual date of his commission of the offense charged took place on 22 April 2005 and not on 5 May 2005.

The administrative matter was again set for hearing by Judge Pasamba.

Subsequently, on 31 October 2007, Judge Pasamba rendered her Final Report,[12] the pertinent portions of which state:

"DISCUSSION

Respondent sheriff IV has been placed twice under investigation on the irregularity in the use of the Bundy clock. The first administrative matter under AM No. 05-7-416 RTC was resolved on 19 February 2007. A correct date of the actual commission of the incident from May 5, 2005 to April 22, 2005, as a consequence, is now the subject of the present administrative charge. The officers of the Black Tiger Security Services Inc. EVP/Managing Director Rolando G. Macaoay and Detachment Commander Lino Quitoriano based here in the Halls of Justice, RTC Malolos City explained where the error lied. The erroneous entry appeared on the Report submitted by DC Lino Quitoriano to EVP/Managing Director Rolando G. Macaoay. The report on the incident is rooted and sourced to the entry in the log book of Security Guard Eduardo de Guzman then on duty on Bldg. 3, Hall of Justice housing Branch 80 RTC where respondent Alberto Salamat was seen punching in on two occasions, around 7:40 and 7:45 am the time cards of his co-office mates. An examination of the blotter and record book under the custody of the security guard presented and marked as exhibit in this case showed that indeed the incident took place on April 22, 2005 not on May 5, 2005. Involved in the incident was Sheriff IV respondent Alberto Salamat. Respondent's offered defense is DENIAL and that the records on the charge were "doctored etc. (sic) by the people concerned in the Black Tiger Security Services Inc., who filed the present administrative matter upon insistence of Assistant Clerk of Court Atty. Geronimo Santos. Detachment Commander Lino Quitoriano cleared the issue and explained that such was not the case. They were merely acting on the instruction of the Asst. Clerk of Court to report to the Executive Judge through Atty. Santos those court personnel who punched in the time cards of others and proper action was taken because of their contractual obligation with the Supreme court (sic) to bring to its attention those who breached the said canon. The undersigned finds the explanation of DC Lino Quitoriano credible. And while the common stand and testimonies of three of the co employees of the respondent cannot be undermined, the undersigned cannot reconcile it with the fact that there appears no ulterior motive on the part of the witnesses Security Guards and the Detachment Commander of the Black Tiger Security Services Inc. to file a trumped up charge against the respondent. They have no ax to grind against him for them to fabricate the case. In a numberless of cases, the Highest Court has held that everyone in the judiciary, from the presiding judge to the clerk, must always be

beyond reproach and must be circumscribed with the heavy burden of responsibility as to let them free of any suspicion that may taint the judiciary. As the administration of justice is a sacred task, the persons involved in it ought to live up to the strictest standard of honesty and integrity. Their conduct, at all times, must not only be characterized by propriety and decorum but, above all else, must be above suspicion. Every employee must accurately enter his/her time of arrival and departure in the office. Punching of one's daily time record is a personal act of the holder. It should not be delegated to anyone else.

#### RECOMMENDATION

Given the foregoing, there is the likelihood that respondent Alberto Salamat [Sheriff IV] committed the complained irregularity. A strong admonition, as a sanction, is meted upon respondent with a stern warning that a repetition of a similar act will call for a more severe disciplinary action.

On 29 April 2008, the OCA submitted its report and recommendation to this Court, concurring in and adopting the factual findings of Judge Pasamba with modification of the recommended sanction, thus:

IN VIEW OF THE FOREGOING, the undersigned respectfully recommend (sic) that:

- the instant administrative case be RE-DOCKETED as a regular administrative matter;
- respondent Alberto Salamat, Sheriff IV, Regional Trial Court, Branch 80, Malolos City be found GUILTY of Dishonesty for his act of punching in the time cards of his co-employees; and
- the said respondent be meted the penalty of DISMISSAL with forfeiture of all his retirement benefits, except his accrued leave credits, and with perpetual disqualification from re-employment in any government agency, including government owned and controlled corporation.[13]

On 9 July 2008, the Court required[14] the parties to manifest within 10 days from notice if they were willing to submit the matter for resolution based on the pleadings filed. Respondent submitted such a manifestation[15] on 10 September 2008. Resultantly, the case was already submitted for decision.

After a thorough review of the records of this case, the Court agrees in the finding of the OCA that respondent is guilty of dishonesty, but diverges from the recommended penalty.

This Court held in *Office of the Court Administrator v. Judge Bautista*,[16] citing *Mamba v. Garcia*,[17] that in administrative proceedings, only substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to support a conviction, is required. In the case at bar, substantial evidence exists to hold respondent liable for the offense charged, particularly: (1) Black Tiger Security Guard Magbanua's testimony; (2) the Information Report filed by DCC De Guzman to his superiors at Black Tiger; (3) the letter report[18] dated 18 May 2005 of Black Tiger President/GM Dr. Songcuya and EVP/MD Macaoay to Atty. Javier charging respondent with punching in the daily time cards for his co-employees.

On the other hand, respondent merely denies the allegations against him. Instead, he alleges that it would be illogical and unlikely for him to punch in the daily time cards of his co-employees on 5 May 2005 since some of them arrived at the office much earlier than he; and the Black Tiger officers and personnel merely doctored, falsified, or irregularly inserted an entry in their logbook to make it appear that he committed the offense charged not on 5 May 2005, but on 22 April 2005.

It is settled that denial is inherently a weak defense. To be believed, it must be buttressed by strong evidence of non-culpability; otherwise, such denial is purely self-serving and is with nil evidentiary value. Like the defense of alibi, a denial crumbles in the light of positive declarations.[19]

Respondent undeniably failed to substantiate the allegations in his comment. He could have submitted evidence to

substantiate his allegations, other than his mere denials, but respondent failed to submit any supporting proof. The basic rule is that mere allegation is not evidence and is not equivalent to proof.[20]

As to the alleged discrepancy on the date the incident happened, the Court notes that this was already clarified by Black Tiger DC Quitoriano, who admitted that he inadvertently and honestly committed the mistake by stating the date 5 May 2005 in his Information Report, since he prepared the report already late at night.[21] The wrong date was eventually corrected[22] by changing it to 22 April 2005. Both Judge Pasamba and the OCA found DC Quitoriano's explanation to be credible, and there is no reason for this Court to rule otherwise.

Respondent's assertion that the Black Tiger officers and personnel only doctored, falsified, or irregularly inserted an entry on the incident in their logbook deserves scant consideration. It is purely speculation on his part. As pointed out by Judge Pasamba in her 31 October 2007 Final Report, no ulterior motive can be attributed to Black Tiger officers and personnel for them to file a trumped up charge against the respondent. They have no ax to grind against him to spur them to fabricate the present administrative charge.

There being substantive proof that respondent punched in the daily time cards for his co-employees on 22 April 2007, the Court finds respondent's actuations to be in violation of OCA Circular No. 7-2003, which reads in part that:

In the submission of Certificates of Service and Daily Time Records (DTRs)/Bundy Cards by Judges and court personnel, the following guidelines shall be observed:

- After the end of each month, every official and employee of each court shall accomplish the Daily Time Record (Civil Service Form No. 48)/Bundy Card, indicating therein truthfully and accurately the time of arrival in and departure from the office x x x. (Emphasis supplied.)

The foregoing Circular clearly provides that every court official and employee must truthfully and accurately indicate the time of his or her arrival at and departure from the office. Equally important is the fact that this Court has already held that the punching in of one's daily time record is a personal act of the holder. It cannot and should not be delegated to anyone else. This is mandated by the word "every" in the above-quoted circular.[23]

Respondent's act of punching in another employee's daily time card falls within the ambit of falsification. Worse, he did not do it for only one co-employee, but for at least five others. He made it appear as though his co-employees personally punched in their respective daily time cards and, at the same time, made the card reflect a log-in time different from their actual times of arrival. It is patent dishonesty, reflective of respondent's fitness as an employee to continue in office and of the level of discipline and morale in the service.[24] Falsification of daily time records is an act of dishonesty. For this, respondent must be held administratively liable. Rule XVII, Section 4 of the Omnibus Civil Service Rules and Regulations (Civil Service Rules) provides:

Section 4. Falsification or irregularities in the keeping of time records will render the guilty officer or employee administratively liable x x x.

The Court has repeatedly emphasized that everyone in the judiciary, from the presiding judge to the clerk, must always be beyond reproach and must be circumscribed with the heavy burden of responsibility as to let them free of any suspicion that may taint the judiciary.[25] Public service requires utmost integrity and discipline. A public servant must exhibit at all times the highest sense of honesty and integrity, for no less than the Constitution mandates the principle that "a public office is a public trust and all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency." [26] As the administration of justice is a sacred task, the persons involved in it ought to live up to the strictest standard of honesty and integrity.[27] Their conduct, at all times, must not only be characterized by propriety and decorum

but, above all else, must be above suspicion. Thus, every employee of the judiciary should be an example of integrity, uprightness and honesty.[28]

Respondent, by his actions, violated his sacred trust as a public servant and judicial officer. Indeed, dishonesty is a malevolent act that has no place in the judiciary.[29] This Court has defined dishonesty as the "(d)isposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray."[30]

Under Rule XIV, Section 21 of the Civil Service Rules, falsification of official documents (such as daily time records) and dishonesty are both grave offenses. As such, they carry the penalty of dismissal from the service with forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification from reemployment in government service.[31]

However, there have been several other administrative cases[32] involving dishonesty, in which the Court meted out a penalty lower than dismissal. In these cases, mitigating circumstances existed which merited the leniency of the Court.

In Re: Ting and Esmerio, the Court did not impose the severe penalty of dismissal on the basis of the acknowledgment by respondents therein of their infractions, and also their remorse and long years of service. The Court imposed, instead, the penalty of suspension for six months on Ting; and the penalty of forfeiture of six months' salary on Esmerio, on account of the latter's retirement.

In Re: Failure of Jose Dante E. Guerrero to Register His Time In and Out in Chronolog Time Recorder Machine [for] Several Times,[33] the Court imposed the penalty of six-month suspension on Guerrero, who was found guilty of dishonesty for falsifying his time record. The Court considers as mitigating circumstances Guerrero's good performance rating, his 13 years of satisfactory service in the judiciary, and his acknowledgment of and remorse for his infractions.

The compassion extended by the Court in these cases was not without legal basis. Section 53, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service,[34] grants the disciplining authority the discretion to consider mitigating circumstances in the imposition of the proper penalty.

In the case at bar, respondent was previously charged with grave misconduct, dishonesty, and acts prejudicial to the interest of the service, as a result of which he was suspended for one month.[35] Three other cases[36] against him were dismissed. This is the second administrative case against him given due course in his 18 years in government service. With the foregoing pronouncements, the Court deems it proper to impose a suspension of ten months.

The Court, though, could not rule on the supposed culpability of respondent's co-employees whose time cards he punched in, as Judge Pasamba, the investigating judge, failed to make any factual findings thereon.

WHEREFORE, Alberto Salamat is found GUILTY of dishonesty and is hereby SUSPENDED for TEN (10) MONTHS, effective immediately, with a stern WARNING that a repetition of the same or similar acts shall be dealt with more severely.

### **SO ORDERED.**

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ., concur.

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[1] TSN, 7 September 2007, p. 24; rollo, p. 260.

- [2] TSN, 16 June 2006, p. 36; id. at 73.
- [3] TSN, 7 September 2007; id. at 261.
- [4] Rollo, p. 8.
- [5] Id. at 9-11.
- [6] Id. at 20.
- [7] Id. at 24.
- [8] Now deceased.
- [9] Rollo, pp. 35-38.
- [10] Id. at 127.
- [11] Id. at 129-131.
- [12] Id. at 156-160.
- [13] Id. at 476-477.
- [14] Id. at 478.
- [15] Id. at 480.
- [16] 456 Phil. 193, 207 (2003).
- [17] 412 Phil. 1, 10 (2001).
- [18] Rollo, p. 3.
- [19] *Jugueta v. Estacio*, A.M. No. CA-04-17-P, 25 November 2004, 444 SCRA 10, 16.
- [20] *Navarro v. Cerezo*, A.M. No. P-05-1962, 17 February 2005, 451 SCRA 626, 629.
- [21] TSN, 7 September 2007, p. 41-44; rollo, pp. 277-280.
- [22] Rollo, ; Annex A.
- [23] 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.
- [24] *Alabastro v. Moncada, Sr.*, A.M. No. P-04-1887, 16 December 2004, 447 SCRA 42, 59; *Nera v. Garcia and Elicaño*, 106 Phil. 1031, 1036 (1960).
- [25] *Dipolog v. Montealto*, A.M. No. P-04-190, 23 November 2004, 443 SCRA 465, 476.
- [26] Section 1, Article XI, 1987 Constitution.
- [27] *Hernandez v. Borja*, 312 Phil. 199, 204 (1995).
- [28] *Basco v. Gregorio*, 315 Phil. 681, 688 (1995).
- [29] *Office of the Court Administrator v. Magno*, 419 Phil. 593, 602 (2001); Sec. 22(a), Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 ( Administrative Code of 1987), as amended by CSC

Memorandum Circular No. 19, s. 1999(a).

[30] Re: Administrative Case for Dishonesty Against Elizabeth Ting, Court Sec. I & Angelita C. Esmerio, Clerk III, Off. Clerk of Court, A.M. No. 2001-7-SC & No. 2001-8-SC, 22 July 2005, 464 SCRA 1, 15.

[31] Office of the Court Administrator v. Magno, *supra* note 29; Sec. 22(a), Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 (Administrative Code of 1987), as amended by CSC Memorandum Circular No. 19, s. 1999(a).

[32] Concerned Employee v. Valentin, A.M. No. 2005-01-SC, 8 June 2005, 459 SCRA 307, 311; Dipolog v. Montealto, A.M. No. P-04-190, 23 November 2004, 443 SCRA 465, 478; Re: Alleged Tampering of the Daily Time Records (DTR) of Sherry B. Cervantes, Court Stenographer III, Branch 18, Regional Trial Court, Manila, A.M. No. 03-8-463-RTC, 20 May 2004, 428 SCRA 572, 576; Office of the Court Administrator v. Sirios, 457 Phil. 42, 48-49 (2003); Atty. Reyes-Domingo v. Morales, 396 Phil. 150, 164 (2000).

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

[34] CSC Memorandum Circular No. 19-99, 14 September 1999.

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

[36] A.M. OCA IPI No. 01-1239-P (Sarmiento v. Salamat) - for abuse of authority-dismissed on 13 January 2003; A.M. No. P-01-1501 (Sarmiento v. Salamat, 416 Phil. 685 [2001]) - for dereliction of duty - was dismissed on 4 September 2001; A.M. OCA IPI No. 00-881-MTJ (Joaquin-Agregado v. Presiding Judge Ronquillo) - for grave abuse of authority and willful violation of Republic Act No. 3019 - was dismissed on 3 December 2001

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