

VIOLETA R. VILLANUEVA, CLERK OF COURT, MTC, STO. TOMAS, LA UNION, COMPLAINANT, VS. ARMANDO T. MILAN, UTILITY WORKER, MTC, STO. TOMAS, LA UNION, RESPONDENT.*A.M. No. P-02-1642. September 27, 2002*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/6ad73f7b3177/>**PER CURIAM:**

VIOLETA R. VILLANUEVA, Clerk of Court of the Municipal Trial Court, Sto. Tomas, La Union, filed a verified Letter-Complaint dated 11 June 2001 charging respondent Armando T. Milan, Utility Worker of the same court, for immorality, insubordination, falsification of entries in the attendance logbook, habitual absenteeism, tardiness and under-time.[1]

The litany of complaints against respondent Armando T. Milan begins with his alleged insubordination arising from his refusal to dispose garbage despite this being his usual chore, and his propensity to compel others to discharge his other responsibilities. Although this uncouth practice ceased ever since he had been admonished, complainant added that whenever she endeavored to correct or direct respondent to do his assignments or tasks, he would shout foul invectives at her and display unbecoming outbursts against other court employees. Complainant also accused him of immorality which stemmed from the admitted fact that although a bachelor he sired two (2) children with his live-in partner.

Complainant Clerk of Court further alleged that respondent was guilty of notorious habitual absenteeism, tardiness or under-time as shown by the entries in their attendance logbook and the affidavit of his co-workers attached to the Letter-Complaint. Worse, according to complainant, respondent superimposed falsified entries in the attendance logbook for the months of July, August, September and October 1999, December 2000, and January to March 2001 even when she had already drawn a parallel line across the corresponding spaces in the logbook to indicate his absence on a given day. And, in the rare occasions that respondent reported for work, he did not record his tardy arrival nor his early departure in the attendance logbook. Finally, complainant averred that respondent Milan also doctored his daily time records to indicate an accomplished work schedule which did not correspond to unflattering but truthful entries in the attendance logbook nor reflect his presence in his classes at three o'clock in the afternoon at the Lyceum Northwestern University in Dagupan City, Pangasinan.

Respondent filed his verified Comment to the Letter-Complaint. He stated that the complaint was harassment on the part of the complainant whom as Clerk of Court he had previously charged before this Court with using MTC office supplies for her husband's candidacy for a local political office.[2] Moreover, while admitting the live-in relationship, respondent explained that both he and his partner are single and capacitated to marry, and that the arrangement was sought so as not to prejudice their application for immigration to the United States. He also claimed that he performed industriously his duties as Utility Worker and that he had never incurred unauthorized absences, tardiness or under-time. In truth, according to respondent, complainant as Clerk of Court II signed the daily time records corresponding to the period of his alleged absences, tardiness or under-time and certified to the accuracy of his entries therein. As regards his attendance in classes at the Lyceum Northwestern University at three o'clock in the afternoon, he averred that it was actually complainant who encouraged him to resume his

schooling and that the three o'clock schedule was not actually followed in view of his private arrangements with his teachers to accommodate him at some other classes which would not interfere with his government work.

On 13 March 2002 we referred the Letter-Complaint and the Comment to Executive Judge Clifton U. Ganay of Regional Trial Court, Agoo, La Union for investigation, report and recommendation, who promptly commenced the probe and heard the testimonies of complainant and her two (2) witnesses, namely, the Court Interpreter and the Court Stenographer of the MTC on 21 and 23 May 2002.

In the meantime, sometime in March 2002, respondent stopped reporting for work without the proper leave of absence because according to information he had already left the country for the United States, hence, despite prompt notice he was not able to adduce evidence in his behalf.

On 5 August 2002 Judge Ganay submitted his Report and Recommendation finding respondent guilty of all the charges against him and recommending his dismissal from the service with forfeiture of benefits. No less significant, Judge Ganay also deplored respondent's absence without official leave for a continuous period of five (5) months.

As a preliminary matter, we take note of the flight of respondent to the United States and his absence without official leave for more than thirty (30) days, thus causing his automatic dropping from the roll of employees under Sec. 63, Rule XVI, of the Omnibus Civil Service Rules and Regulations.[3] Nonetheless, these facts do not render the complaint against him moot and academic since our jurisdiction over him has attached at the time of the filing of the Letter-Complaint and his verified Comment thereto and is not lost by the mere fact that he had left the office during the pendency of his case. To deprive this Court of authority to pronounce his innocence or guilt of the charges is undoubtedly fraught with injustices and pregnant with dreadful and dangerous implications. For, what remedy would the people have against a civil servant who resorts to wrongful and illegal conduct during his last days in office? What would prevent a corrupt and unscrupulous government employee from committing abuses and other condemnable acts knowing fully well that he would soon be beyond the pale of the law and immune to all administrative penalties? As we held in *Perez v. Abiera*, "[i]f only for reasons of public policy, this Court must assert and maintain its jurisdiction over members of the judiciary and other officials under its supervision and control for acts performed in office which are inimical to the service and prejudicial to the interests of litigants and the general public. If innocent, respondent official merits vindication of his name and integrity as he leaves the government which he served well and faithfully; if guilty, he deserves to receive the corresponding censure and a penalty proper and imposable under the situation." [4]

After a careful and thorough examination of the records, we find respondent to be arrogantly indifferent to the demands of his employment in a manner that is notoriously undesirable and prejudicial to public service. While we cannot declare his guilt for immorality or for falsification of the attendance logbook which is an important public document,[5] there being no substantial evidence proving these charges per se, his habitual absenteeism, tardiness and under-time, along with his insubordination, brazen disregard of the rules and regulations pertaining to travel abroad or resignation for that matter, and resort to a live-in relationship only to advance a selfish and mercenary objective, are not simple confirmations of individual transgressions of ethical conduct but are, more critically, eloquent manifestations of an overall obnoxious and scheming character that is definitely unacceptable in the judiciary. In finding him unfit for service in our courts, we must stress the obvious that the administration of justice, like the navigation of a big ship, requires courageous, selfless and dedicated hands truly comfortable and astutely acquainted with steering in the vast sea of ethics.

The charge of immorality as ground for corrective measure must precede the fundamental object of administrative discipline, which is, to insure the faithful performance of official duties and the maintenance of an efficient public

service, so that in the case of immorality, removal depends upon the character and nature of the position occupied.[6] While we appreciate the concern of the Investigating Judge that respondent should have exhibited a certain degree of sensitivity to the moral standards of the community or a portion thereof since his “live-in arrangement with his partner may cause alienation from the judiciary, nonetheless, as Utility Worker in the MTC, respondent cannot be included in the class of those officials or employees who are in frequent contact with the public due to the nature of their duties or who occupy positions which directly influence the morality of the community, in view of which a high standard of decency and respectability is required of them. Hence it cannot be said that the peculiar arrangement subject of the instant complaint constitutes immorality upon which disciplinary action may be anchored.

Moreover, the efficiency of respondent in the discharge of his duties is not questioned in the instant case for having been adversely influenced by the live-in relationship he entered into nor does it appear that people who are most concerned of him voiced an objection to his relationship as it has existed for years now. It is neither alleged, and there is no evidence, that the common-law relationship between respondent and his partner has scandalized anyone, a matter quite obvious from the fact that this unusual circumstance in respondent’s life appears to have surfaced only in the instant case although it had been known for several years to his immediate superiors and office mates.

Respondent may perhaps be entitled to his alternative lifestyle but his use thereof to gain advantage in his application for immigration to the United States bares a deceptive, worldly and corrupt character that would sacrifice the sacred institution of marriage for a pound of the American Dream, and poignantly illustrates a personality that is notoriously unprincipled and undesirable. It is for this reason, not the relationship per se, that we fault him for perpetuating such kind of love affair. While we are not in a position to dictate what his life agenda should be, we can certainly prescribe the character of the personnel to man the frontlines in the dispensation of justice. As it is oft-repeated, a public office is a public trust and the conduct and behavior of all those involved in the administration of justice - from the presiding judge to the lowliest utility worker - should be circumscribed with the heavy burden of responsibility, accountability, integrity, uprightness and honesty.

The failure of complainant to prove by substantial evidence the charge of falsification of entries in the attendance logbooks for the period April 1999 to February 2001[7] is triggered by the absence of corroborative evidence supporting her allegations that entries therein were fabricated. We cannot conclude that a particular record in the logbook was intercalated simply because it was written over a space which had been crossed by parallel lines, for the reason that it is also possible that the crossing out of the space was itself an error or an indication of something other than respondent’s absence. Complainant should have submitted respondent’s daily time records to prove the variance between his entries in the attendance logbook and his real presence at or absence from work which his daily time records would have otherwise reflected. Furthermore, evidentiary offer thereof was imperative because of respondent’s allegation that complainant as Clerk of Court II signed and certified for truthfulness the daily time records corresponding to the period of his alleged absences, tardiness or under-time.

Nevertheless, the habitual absenteeism, tardiness and under-time of respondent for the months of December 2001, January and February 2002 is well-documented in a memorandum dated 4 March 2002 duly received by respondent and signed by MTC Judge Benjamin E. Almazan requiring respondent to explain his unauthorized absences in the subject months on those dates: 3, 4, 7, 10, 13, 14, 18, 19, 20 and 21 December 2001; 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 30 and 31 January 2002; and 1, 4, 5, 6, 7, 8, 12, 13, 14, 15, 18, 19, 20, 22, 26, 27 and 28 February 2002.[8] Significantly, he has not reported for work ever since he was absent without official leave nor has he bothered to comply with the judge’s memorandum to account for his unauthorized absences.

To be sure, the charge of insubordination against respondent is palpably unmistakable from his non-compliance with Judge Almazan's memorandum as much as this ground for disciplinary action is evident from the several instances when he neglected to buy lunch for Judge Almazan while the latter was busy doing his court chores, to throw the trash, to open courtroom windows, to clean the office and to sew court records. It was only because other court personnel, even employees of the municipal government of Sto. Tomas, La Union, accomplished respondent's daily tasks that court business progressed smoothly despite his dereliction of duties.

His utter defiance of rules and regulations persisted until he left the country for the United States without following procedures pertaining to travel abroad or resignation. He did not inform the MTC of his plans, much less his subsequent whereabouts, so summons for him to appear in the investigation of the instant case was not served, with the Investigating Judge unfortunately being ditched in the dark on how to proceed with the inquiry he had to conduct. Reports have it that respondent ceased working at the MTC in March 2002 although as of 4 March 2002 he was still on hand to receive the memorandum of Judge Almazan. The speed of his escape routine is disgraceful and dishonorable considering that he had more than enough time from the date of his receipt of the memorandum to inform the MTC of his plans to go abroad. Worse, with the intention of flouting precepts of ethical conduct and the thought that he could get away with his insolence, his sudden departure for the United States shows utter contempt for the authority of his immediate superiors and of this Court over the department of employees within the judiciary.

When taken collectively, respondent's individual transgressions reveal character and conduct notoriously undesirable and prejudicial to our institution. It is this chink in his personality that needs correction and requires the exercise of this Court's disciplinary jurisdiction. It has been said that "administrative laws and regulations are enforced to weed out undesirable public servants to maintain morality and harmony, as well as to achieve efficiency, in the government service in order to protect and preserve the integrity of the government to inspire public confidence therein." [9] In an administrative case, if the investigation should show that the conduct of a public servant is not beyond reproach or that he is of doubtful integrity or morality, disciplinary action against him would be more than justified.

We do not see any reason to disturb the Investigating Judge's finding that respondent, to use the graphic language of the Report and Recommendation, is a "pain in the ass to the rest of the employees of MTC, Sto. Tomas, La Union." He is a troublesome person, to say the least, and more accurately a brash and egotistical individual who has no regard for authority and the rule of law. It is an irony that he should be employed within the judiciary that prides itself with respect for one's fellowmen, fairness and equality, justice and truth. Indeed, there is merit in the recommendation for the immediate dismissal of respondent from the service for being a notoriously undesirable employee, and for displaying conduct unbecoming of his employment in the judiciary. [10]

By his acts and misdeeds, respondent has undermined the public's faith in our courts and in the administration of justice. His barefaced predisposition makes him unfit for the judiciary and his employment must therefore be terminated at once. We have always stressed time and again that a court employee being a public servant must exhibit the highest sense of honesty and integrity not only in the performance of his duties and observance of rules and regulations but also in his personal and private dealings with other people to preserve the court's honorable name and exalted standing. For everyone connected professionally with our institution, the duty is imperative and sacred to build up its eminence as a true and revered temple of justice. [11]

ACCORDINGLY, respondent ARMANDO T. MILAN, Utility Worker, Municipal Trial Court, Sto. Tomas, La Union, for being notoriously undesirable, and for conduct grossly prejudicial to the best interest of the service is **DISMISSED** from the service effective immediately with forfeiture of all benefits except his accrued leave credits, with prejudice to his re-employment in any branch or instrumentality of the Government, including

government-owned or controlled corporations and financial institutions. In any event, for having been absent without official leave for more than thirty (30) working days now, respondent is considered immediately DROPPED from the roll of employees of the Municipal Trial Court, Sto. Tomas, La Union.

Let copy of this Decision be served upon respondent at his address appearing in his 201 files and at his last known written address if any.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Morales, and Callejo, Sr., JJ., concur.

[1] The full name of respondent as culled from the record is Armando T. Milan.

[2] Verification made by the Office of the Court Administrator disclosed that the administrative complaint referred to by respondent Milan had been docketed as OCA IPI No. 01-1111-P, “Arman T. Milan v. Violeta R. Villanueva” for gross misconduct and oppression, which in a Report dated 9 October 2001 OCA recommended for dismissal for lack of merit.

[3] The rule states: “Effect of absences without approved leave. - An official or an employee who is continuously absent without approved leave for at least thirty (30) working days shall be considered on absence without official leave (AWOL) and shall be separated from the service or dropped from the rolls without prior notice. He shall, however, be informed, at his address appearing on his 201 files, or at his last known written address, of his separation from the service, not later than five (5) days from its effectivity.”

[4] A.C. No. 223, 11 June 1975, 64 SCRA 302, 307.

[5] See Silerio v. Balasula, A.M. No. P-96-1177, 30 January 1996, 252 SCRA 575.

[6] De Dios v. Alejo, A.M. No. P-137, 15 December 1975, 68 SCRA 354.

[7] Exhs. “D” - “Y.”

[8] Exh. “A.”

[9] Taga-an v. Roa, A.M. No. P-214, 31 August 1976, 72 SCRA 466, 480.

[10] Sec. 22, Rule XIV, Omnibus Civil Service Rules and Regulations

[11] Paredes v. Padua, A.M. No. CA-91-3-P, 17 May 1993, 222 SCRA 81.

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