

JUDGE JOSE C. REYES, JR. EXECUTIVE JUDGE, REGIONAL TRIAL COURT – SAN MATEO, RIZAL, COMPLAINANT, VS. RICARDO CRISTI, CASH CLERK II, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL C...

A.M. No. P-04-1801 (formerly A.M. OCA IPI No. 00-832-P). April 02, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

A Letter-Complaint dated December 23, 1999 was filed against Ricardo F. Cristi, Cash Clerk II, Office of the Clerk of Court, Regional Trial Court (RTC), San Mateo, Rizal, for habitual absenteeism and dishonesty.

The letter-complaint was written by Atty. Fermin M. Ofilas, Clerk of Court of the said RTC and addressed to Executive Judge Jose C. Reyes, Jr.[1] Atty. Ofilas averred that he purposely did not sign the daily time record (DTR) of the respondent corresponding to the period of June up to November 1999, as it might be construed as a condonation of the acts of the latter, which are valid subject of serious disciplinary action.

It appears that over the said six-month period, the respondent reported to work for only seventy-five (75) days and was absent for fifty-seven (57) days, as follows:[2]

NO. OF DAYS PRESENT NO. OF DAYS ABSENT

JUNE

9 13

JULY

15 7

AUGUST

13 9

SEPTEMBER

8 14

OCTOBER

13 8

NOVEMBER

13 6

When his attention was called to his habitual absenteeism, the respondent promised to mend his ways. But after showing up for work a few times thereafter, he reverted to his old conduct. Verification with the Leave Section of the Supreme Court revealed that as of April 1999, the respondent's leave credits had already been exhausted. Nonetheless, he continued to receive his salaries without deductions.

According to Atty. Ofilas, the respondent likewise committed acts of dishonesty when he repeatedly superimposed his signature on the lines drawn at the last column or space of the attendance sheet/logbook during certain days. The lines were drawn to indicate the close of office hours on those days. By superimposing his signature thereon, the respondent made it appear that he was present on those days when in fact he was absent. He committed this act at least four (4) times in June, four (4) times in July and once in September 1999.

In his 1[st] Indorsement dated February 7, 2000, Judge Reyes forwarded the letter-complaint to the Office of the Court Administrator (OCA). The respondent was then directed to file his comment thereon.

In his Comment dated November 30, 2002, the respondent admitted his absences during the period of June to November 1999, but averred that he filed the corresponding applications for leave. For reasons not known to the respondent, Atty. Ofilas did not act upon these applications. The respondent denied making any untruthful statements in the logbook. He pointed out that the clerk-in-charge, Ms. Aranzazu Baltazar, had affixed her initials on his DTRs indicating that the entries therein had been verified by her.

The respondent further stated that he had already resigned from his position as of March 3, 2000 and that his resignation had been duly accepted by the OCA.

In this Court's Resolution dated July 9, 2003, the matter was referred to Hon. Elizabeth Balquin-Reyes, Acting Executive Judge, RTC, San Mateo, Rizal, for investigation, report and recommendation.

After conducting the investigation, the Investigating Judge submitted her Report dated October 3, 2003 and made the following findings:

Mr. Ricardo Cristi was guilty of Habitual Absenteeism having incurred unauthorized absences exceeding the allowable days prescribed by CSC Memoranda Circular. However, as to his Dishonesty, the same was not proven by the mere allegation that he was not really present on those days he signed the logbook. It would appear that he was only late on those days. A careful scrutiny of the logbook would show that respondent signed the logbook on the day he was alleged to have been absent. The succeeding days when there are no more employees to sign, there are no spaces left, while the days when respondent was allegedly only late, there are spaces. An example is Annex "D" under date of July 22, 1999. No. 6 is a space, then a line after which Cristi signed on the line. This was followed by July 23, 1999, where the last number again was 6 and the name Ricardo Cristi was absent as indicated. There was no space after that and followed immediately by July 26 and also on July 28. This practice could be seen in the pages of the logbook.

...

- Mr. Ricardo Cristi although appointed Cash Clerk II or Clerk III was not given the duties of his office.
- The allegations that he had problems on those months he committed the unauthorized absences could be true, as there were no deficiency reports against him prior to those dates.
- The dishonesty alleged in the report was not proved but a mere allegation.[3]

The Investigating Judge opined that although the respondent was guilty of habitual absenteeism as provided for in CSC Memorandum Circular No. 4, the instant case has become moot and academic. Considering that the respondent's resignation had been accepted by the OCA before the proper charges could be filed against him, the Court no longer has jurisdiction over his person and all claims against him can no longer be enforced.[4]

On January 13, 2004, the OCA submitted to the Court its Memorandum of even date stating that while it subscribes to the factual findings of the Investigating Judge, it takes exception to her recommendation that no administrative sanction can be imposed on the respondent since he had already resigned. According to the OCA, the respondent's resignation does not render the case moot and academic, nor deprive the Court of the authority to investigate the charges against him. The OCA recommends that a fine equivalent to three (3) months salary be imposed on the respondent.[5]

The Court agrees with the recommendation of the OCA.

Indeed, the fact that the respondent had already resigned from his position does not render the complaint against him moot and academic. It must be noted that Atty. Ofilas' Letter-Complaint dated December 23, 1999 was forwarded to the OCA by way of Executive Judge Reyes' 1st Indorsement on February 7, 2000. The respondent resigned only on March 3, 2000. The jurisdiction over the respondent has already attached at the time of the filing of the letter-complaint, and was not lost by the mere fact that he resigned from his office during the pendency of the case against him.[6] As this Court has pronounced:

... 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 against 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." [7]

It cannot be gainsaid that the respondent is guilty of habitual absenteeism.[8] Civil Service Memorandum Circular No. 23, Series of 1998, provides that "[a]n officer or employee in the Civil Service shall be considered habitually absent if he incurs unauthorized absences exceeding the allowable two and one-half (2½) days monthly leave credits under the Leave Law for at least three (3) months in a semester or at least three (3) consecutive months during the year ..."

As shown earlier, the respondent incurred a total of fifty-seven (57) days unauthorized absences from the period of June up to November 1999, clearly exceeding the allowable 2.5 days monthly leave. Although, as found by the Investigating Judge, there was no evidence that he falsified his DTRs, the respondent admitted that he incurred such number of absences.

Section 52-A, Rule IV of Memorandum Circular No. 19, Series of 1999, classifies habitual absenteeism as a grave offense with the following corresponding penalties: for the first offense - suspension for six (6) months and one (1) day to one (1) year; and for the second offense – dismissal.

As pointed out by the OCA, this is the respondent's first offense and the penalty imposable on him would have been that of suspension. However, since he had already resigned and the penalty of suspension obviously can no longer be imposed on him, a fine equivalent to three (3) months salary is, thus, warranted.

Times without number, this Court has stressed that the conduct and behavior of everyone connected with an office charged with the dispensation of justice, like the courts below, from the presiding judge to the lowest clerk, should be circumscribed with the heavy burden of responsibility.[9] As enshrined in the Constitution, "[p]ublic office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency.[10] It must be emphasized that the Court cannot countenance any act or omission which diminish or tend to diminish the faith of the people in the Judiciary.[11]

WHEREFORE, respondent Ricardo F. Cristi is found guilty of habitual absenteeism and ordered to pay a FINE equivalent to three (3) months' salary, to be deducted from whatever benefits and/or leave credits may be due him.

SO ORDERED.

Quisumbing, Austria-Martinez, and Tinga, JJ., concur.
Puno, (Chairman), on official leave.

[1] Now Associate Justice of the Court of Appeals.

[2] As shown by respondent's application for leave; Rollo, pp. 12-27.

[3] Report, pp. 3-5.

[4] Id. at 5.

[5] Memorandum of the OCA, p. 4.

[6] Villanueva v. Milan, 390 SCRA 17 (2002).

[7] Ibid. (Emphases in the original.)

[8] Administrative Circular No. 2-99 reads in part:

II. Absenteeism and tardiness, even if such do not qualify as "habitual" or "frequent" under Civil Service Commission Memorandum Circular No. 04, Series of 1991, shall be dealt with severely, and any falsification of daily time records to cover-up for such absenteeism and/or tardiness shall constitute gross dishonesty or serious misconduct.

[9] Re: Absence Without Official Leave (AWOL) of Ms. Lilian B. Bantog, Court Stenographer III, RTC, Branch 168, Pasig City, 359 SCRA 20 (2001).

[10] SECTION 1, ARTICLE XI, 1987 CONSTITUTION.

[11] Supra at note 8.

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