

**RE: AUDIT REPORT ON ATTENDANCE OF COURT PERSONNEL OF
REGIONAL TRIAL COURT, BRANCH 32, MANILA,***A.M. NO. P-04-1838 [FORMERLY A.M. NO. 03-11-641-RTC]. August 31, 2006*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-m-no-03-11-641/>**AUSTRIA-MARTINEZ, J.**

Before us is an administrative case against the following court personnel, namely: Loida Moralejo, Officer-in-Charge; Heidwig Marie O. Balicanta, Clerk III; Elma Dabbay, Court Stenographer III; Virginia Peralta, Court Stenographer; Paquito del Rosario, Court Aide; Andresito Robles, Process Server; and Guillermo dela Cruz, Court Stenographer III, all assigned in the Regional Trial Court (RTC), Branch 32, Manila presided over by Judge Juan C. Nabong, Jr. for violation in the observance of the use of the daily attendance logbook and the subsequent submission of their Daily Time Record (DTR) to the Office of the Court Administrator (OCA) Employees Leave Division (ELD).

An audit of the attendance of court personnel of RTC, Branch 32, Manila was conducted on April 23, 2002. The said audit was triggered when then Deputy Court Administrator (DCA) Christopher O. Lock called at the said court on the said day for an official business at about 9:00 a.m. and only the process server, Andresito Robles, was around. During the audit, the team got hold of the court personnel attendance logbook and observed that some of the court personnel arrived very late in the morning on the said day. The audit team found out that there was a possible violation committed by the court personnel of RTC, Branch 32, Manila of the rules pertaining to the use of the daily attendance logbook and submission of DTRs.

In the Memorandum dated September 2, 2002, then Deputy Court Administrator Christopher O. Lock found, on the bases of the confiscated logbook and the DTRs, the following:

- Loida Moralejo (Moralejo), Officer-in-Charge (OIC), NEVER logged-in or out to document her attendance. Her logbook entries since January 2001 up to date of audit on April 23, 2002 do not reflect her signature or initial. She claimed exemption from complying with the regulation upon the consent of Judge Nabong. For the Year 2002 (January-March), Ms. Moralejo submitted her DTR to OCA ELD with one hundred percent (100%) attendance and declared tardiness in a total of eighteen (18) minutes for the months of February and March.
- Heidwig Marie O. Balicanta (Balicanta), Clerk III, NEVER logged-in or out to document her attendance. She never logged-in since her employment with the court since August 2001 to the date of audit. Her signature/initial is not found in the confiscated logbook. However, she submitted DTRs showing complete attendance for CY 2002 with no late/undertime.
- Elma Dabbay (Dabbay), Court Stenographer, failed to log-in on January 2, 3 and 4 March 4, 25 and 26 and yet reported in her DTR to have been present during those times.
- Virginia Peralta (Peralta), Court Stenographer, failed to log-in on January 2, 3, 4 and 7 and yet reported in her submitted DTR to have been present in those days.
- Paquito del Rosario (del Rosario), Court Aide, failed to log-in on January 2, 3, 10, 18, 21, 24 and 25 and yet

submitted DTR showing he was present in those times.

- Andresito Robles (Andresito), Process Server, failed to log-in on January 14, February 1 and March 6 and yet reported in his DTR to having been present in those days.
- Guillermo dela Cruz, failed to log-in on January 2, 2002 but reported in his DTR to have been present on said date.
- Nenita Robles (Nenita), failed to log-in on March 5, 8, 13, 14, 15 and 22 but declared in her DTR that she was on leave with pay. [1]

In the same Memorandum, DCA Lock directed the above-mentioned court personnel to explain their failure to log-in their attendance in the attendance logbook and their subsequent reporting to OCA ELD of having been present during the days they failed to log-in. Further, DCA Lock requested Judge Nabong to submit his explanation on his failure to properly supervise the implementation of the Civil Service Rules and Regulations on attendance as implemented by Memorandum Circular (MC) No. 4 and for his inability to detect that the DTR (CS Form 48) of some of his personnel which he had signed and submitted to OCA ELD did not truthfully reflect the entries in the attendance logbook.

On June 13, 2002, respondent Guillermo dela Cruz died, thus the issue against him had become moot and academic.

Since Nenita declared in her DTR that she was on leave with pay, her explanation is no longer necessary.

On October 1, 2002, the OCA received the respective explanations[2] of Peralta, Dabbay, Andresito and del Rosario. They admitted that they did not comply with MC No. 4 implementing the Civil Service Rules on attendance but averred that the same was done in good faith and honest mistake. In like manner, Moralejo explained that her shortcomings were slip-ups and were not deliberate nor abuse of her position. She asserted that she was under the impression that as OIC, she was not subject to the same daily logging-in and out rules of other employees. She begged pardon if she had wrongly interpreted the rules and the same was not intentional. Lastly, Balicanta reasoned that she started training as Clerk III in Branch 32, Manila last May 2001, under a work-no-pay scenario and was appointed only in August 2001. Her failure to log-in was an unintentional mistake as she was used to log-in straight to her DTR.

In the Agenda Report dated March 22, 2004,[3] the OCA submitted other relevant information together with its evaluation and recommendation, to wit:

OTHER RELEVANT INFORMATION: Verification with the Docket and Clearance Division, Legal Office, OCA shows that all six (6) personnel, except for OIC Loida Moralejo, have no pending administrative cases. Ms. Moralejo was charged for Conduct Prejudicial to the Best Interest of the Service by Ms. Carmencita dela Cruz which case was docketed as OCA IPI No. 03-1787-P and filed on 7 October 2003.

EVALUATION: This Office is convinced that all of the seven (7) [sic] personnel of RTC, Branch 32 are culpable. Indeed, they admitted, in one way or another, their wrongdoing when they averred, inter alia, in their Explanation to Deputy Court Administrator Christopher O. Lock's Memorandum dated 2 September 2002 that:

Our omission or negligence to log in and out in those particular dates are inexcusable but it was not done intentionally. Our actions in filling up our Daily Time Record were done in good faith because we were really present in those questioned dates, the fact that our DTR's were initialed by our Officer-in-Charge and signed by the Presiding Judge.

x x x We respectfully pray that this Explanation be given merit and consideration and plea for Your Honor's

Compassion and Generosity in evaluating our inexcusable negligence in not complying with Memorandum Circular No. 4, dated June 15, 1973."

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As an Acting Clerk of Court, Ms. Moralejo, is presumed to know her duties, functions, and responsibilities. She could not hide under the pretext of her wrong impression that as Officer-in-Charge, she is exempt from registering her attendance in the logbook. Memorandum Circular No. 4 dated 15 June 1973 is very clear that the time appearing in Form 48 (Daily Time Records) should tally with the time recorded in the registry book. Therefore, her excuse is not valid. Being a ranking officer of the said court, she should have set good example to her co-employees and should always be abreast of recent laws and jurisprudence. Ignorance of such basic and elementary rules does not exempt her from administrative liability.

Considering the prevailing circumstances of this case vis-à-vis the submitted daily time record (DTR) not based on existing logbook/bundy clock entry, the same is without factual or legal basis, hence, as submitted, the DTR could not be considered the official report of attendance. Such a report, therefore, is a falsity. The Audit Report of Deputy Court Administrator Christopher Lock further notes that there is a great disparity between the dates the seven personnel failed to log-in during the months of January to March 2002 and the daily time record submitted to OCA, Leave Division.

Section 23, Rule XIV of the "Rules implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws" promulgated by the Civil Service [Laws' promulgated by the Civil Service] Commission on December 27, 1991, provides the following:

Sec. 23. Administrative offenses with its corresponding penalties are classified into grave, less grave, and light, depending on the gravity of its nature and effects of said acts on the government service.

The following are grave offenses with its corresponding penalties:

- (a) Dishonesty (1st Offense, Dismissal)
- (b) Falsification of official document (1st Offense Dismissal)

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Under the above-cited law, all the respondents whose daily time records are evidently unrepresentative of the truth, should be punished with dismissal, although it is their first offense.

However, as enunciated in *OCA vs. Liza Maria Sirios, et al.*, A.M. No. P-02-1659, 28 August 2003, we do not hastily inflict an extreme penalty upon an erring employee, especially so in cases where there exist mitigating circumstances which could alleviate his or her culpability. Here, we note that all the six employees readily acknowledged their offenses, sought pardon and vowed to rectify their conceived errors. They beg for the kind indulgence of the Court considering that the perceived offenses were unintentional and, therefore, done in good faith. They likewise invoked their dedication to their duty. Furthermore, a perusal of their service records shows that this is their first administrative offense. Except for Ms. Moralejo, who has a pending case for Conduct Prejudicial to the Best Interest of the Service, all of them have no record. But it bears stressing that good faith, under the case at bar, is not a valid defense.

On the other hand, this is also the first offense of Ms. Moralejo insofar as violation of Strict Observance of Working Hours is concerned. But she, in like manner, also acknowledged her offense, offered her most sincere apology and vowed to reform her ways. It is also noteworthy that she being a Clerk of Court only in an acting capacity the same extenuating factors warrant the reduction of her imposable penalty. Moreover, we cannot escape the fact that if all of these personnel would be severely penalized the official transactions of the court might be jeopardized and the administration of justice delayed. Hence, we must impose the penalty according to the corresponding degree of culpability each one has committed.

Since Ms. Moralejo is a ranking official of all the seven personnel, we are of the view that a stiffer penalty of a FINE equivalent to three (3) months salary is proper. Ms. Balicanta, on the other hand, for equally failing to log-in during the period of January to March 2002 should be FINED equivalent to one (1) month salary. While Mr. Del Rosario who failed to log-in on 2, 3, 10, 18, 21, 24 and 25 January should be FINED for P2,000.00. As to Ms. Dabbay, we find the penalty of a FINE amounting to P1,000.00 to be proper. Whereas, Ms. Peralta and Mr. Robles should be reprimanded for their failure to observe compliance with Memorandum Circular No. 4.

As regards Mr. Guillermo dela Cruz, we agree with Deputy Court Administrator Christopher Lock's observation that the issue has become moot and academic because of his death.

RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court are our recommendations that the case be RE-DOCKETED as a regular administrative case and that:

- Ms. Loida Moralejo be FINED equivalent to three (3) months salary;
- Ms. Heidwig Marie Balicanta be FINED equivalent to her one (1) month salary;
- Mr. Paquito del Rosario be FINED for P2,000.00;
- Ms. Elma Dabbay be FINED for P1,000.00;
- Mr. Andresito Robles and Ms. Virginia Peralta be ADMONISHED, with a WARNING against herein respondents that a commission of the same or similar offense shall be dealt with severely;
- All respondents are WARNED that the commission of a similar offense in the future will met heavier penalties;
- The issue against Mr. Guillermo dela Cruz be considered MOOT and ACADEMIC; and
- Judge Juan C. Nabong, Jr. be REPRIMANDED for failure to properly supervise proper implementation of the Civil Service Rules and Regulation on attendance as implemented by Memorandum Circular No. 4.

In his letter dated September 1, 2004, respondent judge requested a period of ten days from September 6, 2004 to file his comment and requested for the copy of the Memorandum of DCA Lock dated September 2, 2002.

In the Resolution of October 4, 2004, the Court granted Judge Nabong's request and required him to show cause for his failure to comply with the September 2, 2002 Memorandum of DCA Lock.

In his Explanation dated February 24, 2005[4] Judge Nabong admits his seeming obliviousness (a miserable, but not intentional honest inadvertence) in complying with the directive of DCA Lock in the Memorandum dated September 2, 2002. He reasoned that a copy of the pertinent Civil Service Rules and Regulations on Attendance, as implemented by Supreme Court MC No. 4, was not attached to the Resolution of the Court and that he was only able to locate a copy through one of his staff.

He explained that his letter-compliance was inadvertently delayed due to his failing health. He avers that he was hospitalized at the Florida Hospital in Orlando on January 7 to 9, 2004, at San Juan Medical Center on June 12 to 14, 2004 and at the Manila Doctors Hospital on February 4 to 9, 2005. That aside from attending his regular court's daily hearing, he promotes coffee conferences, conducts ocular inspections and accomplishes reports. Moreover, he claims that for nearly one-and-half years, he was the pairing judge of retired RTC Judge Leonardo P. Reyes, Branch 31, Manila, a heinous crime/drugs court, devoting three afternoons a week in said court.

Anent the failure of his staff to use the attendance logbook for logging-in their attendance, Judge Nabong acknowledges that while it is true that some of his staff overlooked or failed to time in and out in the office

logbook the same was neither intentional nor habitual. He claims that if any one of his staff will be late or absent (except on emergency reasons), he was always informed in advance. Moreover, he directs his staff to file an application for leave and/or reflect in their DTR whether they are late and/or absent. He prayed that the explanation be given due course and that the audit report be reconsidered with his commitment and that of his staff of faithful compliance with the said Circular and all Circulars/Directive(s) emanating from the OCA or the Supreme Court in the future.

The explanation of Judge Nabong was referred to OCA for evaluation, report and recommendation. Judge Nabong retired on June 1, 2005.

The OCA submitted its evaluation/recommendation in a Memorandum dated June 3, 2005, to wit:

Evaluation/Recommendation

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A resolution or directive of the Supreme Court, or in its stead the Office of the Court Administrator should not be construed as a mere request. It should be complied with promptly and completely. Judge Nabong should not have taken the directive of DCA Lock lightly and should have promptly complied therewith. His admission of his "seeming obliviousness" to comply with DCA Lock's Memorandum, is an indication that he indeed did not give much attention to DCA Lock's directive. His illness was very recent and happened almost two years later than the 2 September 2002 Memorandum of DCA Lock, hence it cannot be considered as a veritable excuse for him to overlook compliance thereto.

Likewise, his justification that his inadvertent delay in complying with DCA Lock's directive was due to his full workload and his failure to get a copy of the directive cannot be given weight. He could have easily sought for an extension of time to file his compliance or immediately asked for a copy of DCA Lock's Memorandum if he really had the intention to abide hereto. However, it took more than two (2) years and another resolution from the Court for Judge Nabong to comply with DCA Lock's directive.

If not insubordination, Judge Nabong's "seeming obliviousness" in complying with DCA Lock's directive constitutes disrespect for the Court's lawful directive bordering on willful contumacy.

Based on the foregoing, it is respectfully recommended that Judge Juan C. Nabong, Jr. be ordered to pay a FINE in the amount of One Thousand (P1,000.00) Pesos for his failure to promptly comply with the directive of the Office of the Court Administrator.[5]

In a letter dated July 26, 2005,[6] the court personnel manifest their willingness to submit the matter for resolution based on the pleadings filed and prayed that in the spirit of compassion and consideration for human fragilities, to consider their explanations sufficient.

We approve and adopt the findings of the OCA with modifications as to the recommended penalties.

Under Section 23,[7] Rule XIV of the Rules Implementing Book V of E.O. No. 292, respondents whose DTR are evidently unrepresentative of the truth, should be punished with dismissal, although it is their first offense. However, in *Office of the Court Administrator v. Sirios*,[8] we held that we do not hastily inflict such an extreme penalty of dismissal upon an erring employee, especially so in cases where there exist mitigating circumstances which could alleviate his or her culpability. Although unintentional mistake and good faith are not valid defenses, the fact that respondents readily acknowledged their transgression, sought pardon and vowed to rectify their errors, and the fact that this is their first administrative offense, militate the reduction of the imposable penalty of dismissal from the service to lighter penalties.

In *Reyes-Domingo v. Morales*,[9] the branch clerk of court who was found guilty of dishonesty in not reflecting

the correct time in his DTR was merely imposed a penalty of fine of P5,000.00. In *Office of the Court Administrator v. Villaflores*,^[10] the clerk of court who made untruthful entries in the log book was imposed a penalty of fine in the amount of P5,000.00. In *Office of the Court Administrator v. Saa*,^[11] the clerk of court of the MCTC of Camarines Norte made it appear in his DTR that he was present in office, when all the while he was attending hearings of his own case in Quezon City was fined P5,000.00. In *Re: Alleged Tampering of the Daily Time Records (DTR) of Sherry B. Cervantes, Court Stenographer III, Branch 18, Regional Trial Court, Manila*,^[12] the stenographer was found guilty of dishonesty for tampering her DTR and fined the amount of P5,000.00.

With the foregoing pronouncements, we deem the same applicable to the present case which will serve to mitigate the penalty imposable on respondents OIC Moralejo and Stenographer Dabbay who should be fined the amount of P5,000.00 each. Considering that Stenographer Peralta is likewise guilty of not logging-in, she should also be fined in the amount of P5,000.00. Clerk III Balicanta who did not log-in for eight months should also be fined the amount of P5,000.00.

For equitable reasons, by reason of the nature of their positions, Court Aide del Rosario and Process Server Robles should be fined the amount of P2,000.00 each.

Anent respondent judge's retirement on June 1, 2005, it has been settled that the Court is not ousted of its jurisdiction over an administrative matter by the mere fact that the respondent public official ceases to hold office during the pendency of respondent's case.^[13]

As to the administrative liability of Judge Nabong, he would have been admonished for not being stricter with his subordinates in the observance of the rules on the use of the logbook.

However, he cannot escape liability in making light of our directive and that of the OCA. Records show that the directive of the OCA was issued on September 2, 2002 yet. Although Judge Nabong requested for an extension of time to file his comment, it was done only on September 1, 2004, exactly 2 years after the issuance of the first directive. He actually submitted his comment on February 24, 2005 a year after the Court issued a show cause resolution on August 9, 2004. His alleged sickness occurred on January 7-9, 2004, June 12-14, 2004 and February 4-9, 2005 with an interval of five months and seven months which to our mind is more than enough time to comply with the Court directive. Further, as the OCA noted, his illness occurred almost two years after the directive was issued by it in 2002.

We find respondent's explanation unacceptable. While he may have been suffering from serious ailments, as evidenced by the medical certificates he attached to his explanation, it does not serve as a valid excuse for not giving due attention to the directives of the OCA and the Court. We agree with the OCA that respondent judge must be held administratively liable for his unjustified delay to explain his failure to properly supervise proper implementation of the Civil Service Rules and Regulations on attendance as implemented by MC No. 4.

As enunciated in *Imbang v. Del Rosario*,^[14] the office of the judge requires him to obey all the lawful orders of his superiors. It is gross misconduct, even outright disrespect for the Court, for respondent judge to exhibit indifference to the resolution requiring him to comment on the accusations in the complaint thoroughly and substantially. After all, a resolution of the Supreme Court should not be construed as a mere request, and should be complied with promptly and completely. Such failure to comply accordingly betrays not only a recalcitrant streak in character, but also disrespect for the Court's lawful order and directive.

In *Soria v. Villegas*,^[15] it was held that a judge who deliberately and continuously fails and refuses to comply with the resolution of this Court is guilty of gross misconduct and insubordination.

Judges are subject to human limitations.[16] It is not lost upon us that the respondent suffered from serious ailments and was hospitalized therefor. However, while these circumstances will not exculpate him from administrative liability, they may be considered as mitigating circumstances.[17] As recommended by the OCA, he should be fined the amount of P1,000.00.

WHEREFORE, the following respondents are found guilty of Dishonesty and they are meted the following penalties:

- Loida Moralejo is FINED in the amount of P5,000.00;
- Elma Dabbay is FINED in the amount of P5,000.00;
- Virginia Peralta is FINED in the amount of P5,000.00;
- Heidwig Marie Balicanta is FINED in the amount of P5,000.00;
- Paquito del Rosario is FINED in the amount of P2,000.00; and
- Andresito Robles is FINED in the amount of P2,000.00.

All the above respondents are STERNLY WARNED that the commission of the same or similar offense in the future shall be dealt with more severely.

For failing to promptly comply with the directives of the Office of the Court Administrator and of this Court, Judge Juan C. Nabong, Jr. is FINED in the amount of P1,000.00 to be deducted from his retirement benefits.

The cases against Nenita Robles and the deceased Guillermo dela Cruz are DISMISSED.
SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Callejo, Sr. and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 14-15.

[2] Id. at 8-13.

[3] Id. at 64-72.

[4] Id. at 78-80.

[5] Id. at 148.

[6] Id. at 153.

[7] Sec. 23. Administrative offenses with its corresponding penalties are classified into grave, less grave, and light, depending on the gravity of its nature and effects of said acts on the government service.

The following are grave offenses with its corresponding penalties:

(a) Dishonesty (1st Offense, Dismissal)

(b) Falsification of official document (1st Offense, Dismissal)

[8] 457 Phil. 42, 48 (2003).

[9] 396 Phil. 150, 165-166 (2000).

[10] A.M. No. P-05-1991, July 28, 2005, 464 SCRA 240.

[11] 457 Phil. 25 (2003).

[12] A.M. No. 03-8-463-RTC, May 20, 2004, 428 SCRA 572.

[13] Aquino, Jr. v. Miranda, A.M. No. P-01-1453, May 27, 2004, 429 SCRA 230, 239; Boiser v. Aguirre, A.M. No. RTJ-04-1886, May 16, 2005, 458 SCRA 430, 436.

[14] A.M. No. 03-1515-MTJ, November 19, 2004, 443 SCRA 79, 83; Josep v. Abarquez, A.M. No. MTJ-96-1096, September 10, 1996, 261 SCRA 629.

[15] A.M. No. RTJ-03-1812, November 19, 2003, 416 SCRA 187, 190 citing Alonto-Frayna v. Astih, A.M. No. SDC-98-3, December 16, 1998, 300 SCRA 199.

[16] Misajon v. Feranil, A.M. No. P-02-1565, October 18, 2004, 440 SCRA 315.

[17] Re: Judicial Audit Report Conducted in the Regional Trial Court, Br. 17, Kidapawan City, A.M. No. 02-8-471-RTC, March 14, 2003, 399 SCRA 55.

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