

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, ALL O...

A.M. NO. P-06-2243 (Formerly A.M. No. 05-3-74-MTC). September 26, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This case stemmed from the incident Report dated 25 October 2004 of Executive Judge Pamela Ann A. Maxino of Regional Trial Court (RTC), Guagua, Pampanga, Re: Spot Check on the Use of Logbook and Daily Time Cards at the Office of the Clerk of Court, Municipal Trial Court (MTC), Guagua, Pampanga, on 7 September 2004.

In the Incident Report,[1] Judge Maxino observed that court employees logged-in in the morning but most of them failed to log-out in the morning and log-in again in the afternoon in as much as they do not indicate their times of departure in the morning and arrival in the afternoon. She discovered Clerk of Court Raquel D.J. Razon, although had a logged-out entry of 12:00 in the morning and logged-in entry of 12:06 in the afternoon of 7 September 2004 in her Daily Time Record (DTR), was not physically present in the office since she, according to her staff, was at the Supreme Court.

This discovery prompted Judge Maxino to conduct an investigation to determine how the incident came about. Initial investigation, per testimony of Mr. Tiburcio O. Morales, Utility Worker of Guagua, Pampanga, revealed that Ms. Razon registered her time card in the morning. Before leaving, she instructed Mr. Morales to punch in her time card while she was out of the office. After having punched his own card, Mr. Morales handed the time card of Ms. Razon to Mr. Joel M. Magtuloy who was then near the bundy clock and was about to punch his own time card. Mr. Magtuloy bared that Mr. Morales told him that Ms. Razon was on official business. Thus, upon seeing that there was already an entry, he punched Ms. Razon's time card both for the log-out entry at 12:00 and log-in entry at 12:06.

To protect the integrity of the bundy clock system, Judge Maxino caused the removal of the bundy clock which was located inside the MTC-OCC premises and had it delivered to the RTC-OCC office for safekeeping. All personnel of the MTC-OCC, MTC-Branch 4 and MTC-Branch 2 were then required to use the bundy clock located in the RTC, Branch 51 area.

In her comment[2] dated 20 November 2004, Clerk of Court Raquel D.J. Razon admitted her transgression and sought this Court's acceptance of her apology with a promise not to repeat the act complained of. She averred that she instructed Mr. Tiburcio Morales, to "punch in and out" her DTR on 7 September 2004 considering that she was on official business at the Supreme Court. She added that she was unable to secure a travel authority from Presiding Judge Jesussa Mylene C. Suba-Isip who was the one who instructed her to secure needed office forms from the Employees Welfare Compensation. She likewise averred that she went to (1) the Philippine Judicial

Academy (PHILJA) to clarify the mechanics of the new Revised Rule 141 of the Rules of Court regarding the collection of PMC General Trust Fund, as evidenced by a certification[3] dated 17 November 2004 issued by Mr. Policarpio G. Felicidad, Jr., SC Chief Judicial Staff Officer and Chief of the Financial Management Office - PHILJA; (2) the Leave Section - Office of the Court Administrator to submit their Bundy cards; and (3) the Supreme Court Savings and Loans Association (SCSLA) to submit the loan applications of Messrs. Joel Magtuloy and Salvador Isip. She stressed that she had the impression that since she was in the Supreme Court, she was on official travel. She alleged that she was not yet accustomed in using the use of Bundy cards, thus, she saw no harm when she instructed Utility Worker Tiburcio Morales to punch her time card at the Bundy clock.

In his Letter-Comment[4] dated 22 November 2004, Mr. Joel M. Magtuloy, Cash Clerk II of the same court, narrated that on 7 September 2004, when he was about to punch in his Bundy card, Mr. Tiburcio Morales approached him and handed to him the Bundy card of Ms. Razon with the request to log it because he was near the Bundy clock. He disclosed that Mr. Morales informed him that he (Mr. Morales) was instructed by Ms. Razon to register her Bundy card for her because she was at the Supreme Court on official business. Having seen that there was already an entry in the morning in the Bundy card proving that Ms. Razon had, indeed, reported for work, Mr. Magtuloy registered the Bundy card of the latter, particularly for the entries of her time out at 12:00 noon and time in at 12:06. He, however, clarified that he did it without malice and with the impression that it would not do him any harm if he would grant his colleague's request and accede to his superior's instruction although the instruction was not directly given to him. He alleged that since the use of the Bundy clock was still new to them, they were neither aware nor acquainted with its attendant prohibitions.

In his Comment/Explanation[5] dated 19 November 2004, Mr. Tiburcio O. Morales, explained that he merely complied with the instruction of Ms. Razon to punch in her Bundy card for her because, as a subordinate employee, he considered her as his immediate superior believing in good faith that her instruction was in line with her functions as Clerk of Court. He averred that he had no intention of violating any rules and/or regulations set forth by the Supreme Court. In seeking this Court's compassion and forgiveness, he cited his 35 years of unblemished service as Utility Worker, his being the only breadwinner in the family, and that this was his first infraction. He also promised not to commit the same mistake again.

In a letter[6] dated 25 January 2005, Executive Judge Pamela Ann Maxino bared that she had already lost her trust and confidence on Clerk of Court Raquel D.J. Razon, the person who should be protecting the integrity of the Bundy clock system. She likewise said that having four (4) Bundy clocks in Guagua, Pampanga, was not ideal, and recommended the return of two to the Supreme Court for distribution to other courts without one. According to her, the two (2) remaining Bundy clocks should be installed side by side at the second floor lobby of the Mang Andres P. Goseco Hall, Guagua, Pampanga, to serve all RTC and MTC employees. She also requested that they be provided with a security guard who would (1) secure and protect the court's premises, (2) act as security officer during court sessions, and (3) monitor the use of Bundy cards by employees.

On 14 October 2005, the Office of the Court Administrator (OCA) submitted its report and recommended the following:

- the instant case be RE-DOCKETED as a regular administrative matter;
- Clerk of Court Raquel D. J. Razon be REPRIMANDED with a STERN WARNING that a repetition of a similar offense shall warrant a more severe penalty;
- Cash Clerk Joel M. Magtuloy and Utility Worker Tiburcio O. Morales be ADMONISHED but with a STERN WARNING that a repetition of a similar offense shall warrant a more severe penalty;
- The letter dated 25 January 2005 of Executive Judge Pamela Ann MAXINO, RTC, Guagua, Pampanga, be

REFERRED to the Office of the Administrative Services-Supreme Court for COMMENT within ten (10) days from receipt of notice.[7]

On 6 March 2006, we required the parties to manifest within ten days from notice if they are willing to submit the matter for resolution based on the pleadings filed. We also referred the letter dated 25 January 2005 of Executive Judge Pamela Ann Maxino to the Office of the Administrative Services for comment.[8]

On 12 May 2006, Raquel D.J. Razon, Joel L. Magtuloy and Tiburcio O. Morales, submitted their joint manifestation[9] stating they were submitting the case for resolution based on the pleadings filed.

On 27 June 2006, Executive Judge Pamela Ann Maxino manifested[10] that she is likewise submitting the case for resolution based on the pleadings filed.

The Court, after examining the records of the case, upholds the findings of the OCA, except for the penalty imposed.

It is clear from the records that on 7 September 2004, respondent Razon directed Mr. Tiburcio O. Morales to punch out and in her DTR. She admitted in her comment that:

- a) On September 07, 2004, the undersigned reported for work at about 7:28 A.M. , and logged in her Bundy card;
- b) At about 9:30 in the morning of the same day she left for an official business to Manila particularly at the Honorable Supreme Court. But before leaving she instructed the court Utility Worker, Mr. Tiburcio Morales, to punch in and out her Daily Time Record;
- c) The instruction was made to avoid getting absent though she is at the time personally and physically out on official business and unable to secure any travel authority from Honorable Presiding Judge Jesusa Mylene C. Suba-Isip who tasked her to go to the Employees Welfare Compensation to secure the needed office Form;[11] (Emphasis supplied.)

Mr. Tiburcio Morales also admitted that though she was instructed by Ms. Razon to punch in her card, it was Joel Magtuloy who punched it, thus:

Judge Maxino: x x x I will repeat the question. Did you, Mr. Morales personally or in any manner participate in the punching out and punching in of the card of Mrs. Razon?

Mr. Morales: I was instructed by Mrs. Razon regarding the card but I was not actually the one who punched the card, it was Joel, ma'am.

Judge Maxino: When you say Joel, who is that Joel?

Mr. Morales: He is my officemate, ma'am.

Judge Maxino: What is his family name?

Mr. Morales: Joel Magtuloy, ma'am.

Judge Maxino: What exactly were the words of Mrs. Razon this morning?

Mr. Morales: He stated this "in and out yung sa akin" bago siya umalis (before she left), ma'am.

Judge Maxino: To whom was she talking to?

Mr. Morales: She was talking to me ma'am.

Judge Maxino: So she was giving you instructions?

Mr. Morales: Yes, ma'am.

Judge Maxino: When she gave you instructions, was she instructing you only?

Mr. Morales: Yes ma'am.[12]

We find respondents' actuations violative of OCA Circular No. 7-2003,[13] which, in part, reads:

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.)

As may be gleaned from above, every official must truthfully and accurately enter his/her time of arrival and departure in office. The entry must reflect the employee's true and actual arrival and departure in office. Thus, respondent Razon violated this Circular when she instructed Mr. Morales to log-out and log-in her time card to make it appear that she was in the office, when the truth is, she was in another place. Respondent Razon's instruction to Morales to make it appear that she was religiously reporting for work during said period is an act of falsification, a gross and blatant act of dishonesty. Not only does it reveal her deplorable lack of candor, it disturbingly shows her disregard of office rules. Her duties and responsibilities required her presence at her workplace, not outside. What makes her violation more disappointing is that being the Administrative Head of the office, she should be the first advocate of fealty to established rules and regulations.

Respondent Razon's defense that she considered herself to be in office as she was on official business in the Supreme Court, is without merit. As correctly observed[14] by the OCA, she should have left the entries in her 7 September 2004 time card vacant and attach the travel authority issued by the Presiding Judge of MTC-OCC and certification issued by the Supreme Court attesting to her presence thereat. As admitted by respondent Razon, she was not able to do both.

Mr. Morales and Mr. Magtuloy are equally liable, the former for accommodating Mrs. Razon, and the latter for actually punching following the request of Mr. Morales to log-in and log-out the card of Mrs. Razon. Respondents Razon, Morales and Magtuloy should have known that punching of one's daily time record is a personal act of the holder as mandated by the word "every" in the above quoted Circular. It should not be delegated to anyone else.

Respondent Razon, as Branch Clerk of Court of a court of justice, must bear in mind that the office she holds and the duties, as well as the responsibilities appurtenant thereto, require from its holder competence, honesty, and integrity; that, in relation to the judge, she occupies a position of confidence which should not be betrayed; and that the prestige of the office goes the corresponding responsibility to safeguard the integrity of the court and its proceedings, to earn respect therefore, to maintain the authenticity and correctness of court records, and to uphold the confidence of the public in the administration of justice.[15] Respondent has failed to measure up to the standards exacted by her position. She has not been true to these lofty ideals so essential for the proper and effective administration of justice.

The Court had repeatedly 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.[16]

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." [17] 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. [18] 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. [19]

Anent the imposable penalty, it must be stressed that falsification of daily time records amounts to dishonesty. Dishonesty, being in the nature of a grave offense, carries the extreme penalty of dismissal from the service with forfeiture of retirement benefits except accrued leave credits, and perpetual disqualification for reemployment in government service. [20] Indeed, dishonesty is a malevolent act that has no place in the judiciary. [21] 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. [22]

However, in several administrative cases, the Court has refrained from imposing the actual penalties in the presence of mitigating factors. [23] Factors such as the respondent's length of service in the judiciary, the respondent's acknowledgment of his or her infractions and feeling of remorse, and family circumstances, among others things, have had varying significance in the Court's determination of the imposable penalty. [24]

In *Reyes-Domingo v. Morales*, [25] 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 P5,000.00. In this case, respondent did not indicate his absences on May 10 and 13, 1996, although he was at Katarungan Village interfering with the construction of the Sports Complex thereat and at the DENR-NCR, pursuing his personal business. In *Office of the Court Administrator v. Saa*, [26] the clerk of court of the MCTC of Camarines Norte who made it appear in his DTR that she was present in office on 5 June 1997 and 6 June 1997, when all the while he was attending hearings of his own case in Quezon City was fined P5,000.00.

As to Raquel Razon, we note that she readily acknowledged her offense, offered her sincere apologies and promised not to do it again. Also, we perused her records and noted that this is her second administrative case in her 27 years in government service. She was previously charged with discourtesy, insubordination and violation of office regulation and procedure in A.M. No. P-97-89, but the same was dismissed on 10 October 1989. With the foregoing pronouncements, we deem it proper to impose a fine of P2,000.00 on respondent Razon, considering that she made it appear that she was present in office on 7 September 2004 .

As to respondent Joel M. Magtuloy and Tiburcio Morales, the instant case being their first administrative offense in their 9 years and 37 years, respectively, in government service, a stern warning will suffice.

WHEREFORE, respondents Raquel D.J. Razon, Tiburcio O. Morales and Joel M. Magtuloy are found GUILTY of falsification of official document and dishonesty, with the following penalties:

1. Raquel D.J. Razon is FINED P2,000.00 and STERNLY WARNED that a repetition of the same or similar act shall be dealt with more severely;
2. Tiburcio O. Morales and Joel M. Magtuloy are STERNLY WARNED that a repetition of the same or similar act in the future shall merit a more severe sanction from the Court.

SO ORDERED.

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

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- [1] Rollo, pp. 4-5.
- [2] Id. at 30-32.
- [3] Id. at 72.
- [4] Id. at 35-36.
- [5] Id. at 37-38.
- [6] Id. at 39-40.
- [7] Id. at 83.
- [8] Id. at 85.
- [9] Id. at 87.
- [10] Id. at 95.
- [11] Id. at 30.
- [12] Id. at. 17-18, TSN dated 7 September 2004, pp. 5-6.
- [13] Re: Certificates of Service and Daily Time Records (DTRs)/Bundy Cards of Judges and Personnel of the Lower Courts.
- [14] Rollo, p. 82; OCA Report, p. 4.
- [15] *Rudas v. Acedo*, 317 Phil. 283, 292 (1995).
- [16] *Dipolog v. Montealto*, A.M. No. P-04-190, 23 November 2004, 443 SCRA 465, 476.
- [17] Section 1, Article XI, 1987 Constitution.
- [18] *Hernandez v. Borja*, 312 Phil. 199, 204 (1995).
- [19] *Basco v. Gregorio*, 315 Phil. 681, 688 (1995).
- [20] *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).
- [21] *Cabanatan v. Molina*, 421 Phil. 664, 674 (2001); *Lacurom v. Magbanua*, 443 Phil. 711, 718 (2003), citing *Pizarro v. Villegas*, 398 Phil. 837, 838 (2000).
- [22] 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.
- [23] In Re: Administrative Case for Dishonesty Against Elizabeth Ting, Court Sec.I & Angelita C. Esmerio, Clerk III, Off. Clerk of Court, id. In this case, Elizabeth Ting was found guilty of dishonesty but was meted only the penalty of six months after considering the following circumstances: her continued long years of service in the judiciary amounting to 21 years, her acknowledgment of her infractions and feelings of remorse, the importance and complexity of the nature of her duties (i.e. the preparation of the drafts of the Minutes of the Agenda), the fact that she stays well beyond office hours in order to finish her duties and her Performance Rating has always been "Very Satisfactory" and her total score of 42 points is the highest among the employees of the Third

Division of the Court.

In *Geocadin v. Hon. Remigio Peña* (195 Phil. 344 [1981]), a judge found guilty of knowingly rendering manifestly unjust orders, partiality, and drunkenness. The Supreme Court agreed that respondent committed acts unbefitting an occupant of a judicial office but in view of his serious illness which prevented him from presenting evidence other than his comment/answer to the complaint, the constitutional presumption of innocence in his favor and the investigator's recommendation of benignity, respondent judge was merely reprimanded and made to suffer the forfeiture of 3 months of his salary, to be deducted from whatever retirement benefits he may be entitled to under existing laws.

In *In re: Delayed Remittance of Collections of Teresita Lydia Odtuhan* (445 Phil. 220 [2003]), a court legal researcher of RTC Pasay City was found guilty of serious misconduct in office for failing to remit a P12,705 fund collection to the proper custodian until after a lapse of about three years and only after several demands or directives from the clerks of court and from the OCA. For humanitarian reasons, the Court found dismissal from the service to be too harsh considering that Odtuhan subsequently remitted the entire amount and she was afflicted with ovarian cancer, and imposed upon her a FINE of P10,000, with a stern warning that a repetition of the same or a similar act will be dealt with more severely.

In *Sarenas-Ochagabia v. Atty. Balmes Ocampos* (A.C. No. 4401, 29 January 2004, 421 SCRA 286), a lawyer failed to file an appellants' brief, and the necessary Manifestation and Motion with the Court of Appeals. The Court noted that for the said offense, it had imposed penalties ranging from reprimand, warning with fine, suspension and, in aggravated cases, disbarment. Owing to his advanced age, the Court imposed the penalty of suspension for 3 months with a warning that a repetition thereof will be dealt with more severely.

In *Re: Misappropriation of the Judiciary Fund Collections by Ms. Juliet C. Banag* (A.M. No. P-02-1641, 20 January 2004, 420 SCRA 150) the clerk of Court of MTC Plaridel, Bulacan was found to be in delay in the remittance of her cash collections in hundred of thousands of pesos constituting gross neglect of duty under the Civil Service Law and the Omnibus Rules implementing it. However, in determining the applicable penalty in this case, the Court took into consideration the lack of bad faith and the fact that she fully remitted all her collections and that she has no outstanding accountabilities. Because of these attendant circumstances, and for humanitarian considerations, the Court merely imposed a fine of P20,000.00 and a stern warning that a repetition of the same or similar acts shall be dealt with more severely.

In *Re: Imposition of Corresponding Penalties For Habitual Tardiness Committed During the First and Second Semesters of 2002 by the Following Employees of this Court: Gerardo H. Alumbro, et al.* (A.M. No. 00-06-09-SC, 16 March 2004, 425 SCRA 508), Susan Belando, Human Resource Management Assistant of the Employees Welfare and Benefit Division, Office of the Court Administrator was found to be habitually tardy for the third time. A strict application of the rules would have justified her dismissal from the service. Instead, for humanitarian reasons, she was meted the penalty of only suspension for thirty (30) days with a warning that she will be dismissed from the service if she will commit the same offense in the future. She then incurred habitual tardiness for the fourth time. However, again, for humanitarian reasons, the Court found a suspension for three (3) months without pay to be appropriate.

Renato Labay, Utility Worker II, Medical and Dental Services and Albert Semilla, Clerk III, Office of the Chief Attorney this Court, were found to be habitually tardy for the second time and were suspended and warned. In the instant case, they committed tardiness for the third time and, therefore, they should be dismissed from the service. Again, for humanitarian reasons and as recommended by Atty. Candelaria, the Court meted instead a penalty of suspension for ten (10) days without pay, with a warning that a repetition of the same or a similar offense will

warrant the imposition of a more severe penalty.

[24] Re: Employees Incurring Habitual Tardiness in the First Semester of 2005, A.M. No. 2005-25-SC, 6 July 2006.

[25] 396 Phil. 150, 165-166, (2000).

[26] 457 Phil. 25 (2003).

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