

RE: HABITUAL TARDINESS FIRST SEMESTER 2002*A.M. No. 2002-15-SC. November 15, 2002*

Ponente: CARPIO, J.

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CARPIO, J.:**The Case**

For resolution is the Memorandum dated August 28, 2002 of Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer of this Court, recommending the imposition of administrative penalties on employees who committed habitual tardiness during the first semester of 2002. Her recommendation is based on Civil Service Commission Memorandum Circular No. 4, Series of 1991 (Policy on Absenteeism and Tardiness) and Memorandum Circular No. 19, Series of 1999 (Revised Uniform Rules on Administrative Cases in Civil Service).

The Facts

The Leave Division of the Office of the Administrative Services of this Court submitted a list of employees who incurred habitual tardiness for the first semester of 2002, namely: (1) Ms. Lutgarda E. De Leon (“De Leon” for brevity) from the Office of the Court En Banc; (2) Ms. Susan L. Belando (“Belando” for brevity) from the Office of the Court Administrator; (3) Mr. Almario Medina (“Medina” for brevity) from the Library Services; (4) Ms. Lolita Quinto (“Quinto” for brevity) from the Judicial and Bar Council; and (5) Atty. Perpetua Socorro Jocelyn Guerrero (“Guerrero” for brevity) from the Office of the Court Administrator.

In a Memorandum dated July 24, 2002, Deputy Clerk of Court Atty. Eden T. Candelaria directed the subject employees to submit an explanation, within five days from receipt of the Memorandum, why no disciplinary action should be taken against them for habitual tardiness. Guerrero, Belando, Quinto and De Leon received separately the Memorandum on July 26, 2002, while Medina received the Memorandum on July 29, 2002.

De Leon was tardy 10 times for the month of March and 11 times for the month of May. She claims she tried her best to avoid being tardy. She asks for leniency and humanitarian consideration because she is attending to the needs of her 92-year old blind mother.

Belando incurred habitual tardiness for the months of February (10 times), April (14 times), May (20 times) and June (12 times). She says she is a single parent with five children, four of whom attend school and the youngest is still a toddler. She has no house-help because she cannot afford one. Before she leaves for work, she cooks their food for a whole day-consumption and she also prepares the children’s “baon”. She bathes the toddler first before she leaves her under the care of a kind neighbor.

Medina was late for work 11 times each for the months of February and March and 10 times for the month of April. He lives with his mother who is old and weak. Before he leaves for work, he waits for his sister to arrive at their house and to take over the care of their mother. He cannot leave his mother alone in the house. It is only when his sister arrives at their house that he can depart for work. Hence, if her sister goes to his house late, he will

in turn arrive late in the office.

Quinto incurred habitual tardiness 10 times for the month of April and 12 times for the month of May. She claims that she is a single parent. During the months of April and May when she was late for work, she had no house-help. She alone attended to the needs of her children especially her youngest child who is undergoing special speech lesson as a form of therapy (the child has undergone surgery for a cleft palate). She claims she usually leaves the office after 5:00 o'clock in the afternoon to compensate for her tardiness during these months.

Guerrero admits that she was tardy during the first semester of year 2002. In February, she was late 13 times, 11 times in April and 10 times in June. On January 23, 2002, her obstetrician-gynecologist informed her that she was one month pregnant with her third child. Like her first and second pregnancies, she was advised not to stress herself during the first trimester until the baby is fully developed. She claims she experienced terrible morning sickness that lasted until her fourth month of pregnancy.

Deputy Clerk of Court's Recommendation

In her Memorandum, Deputy Clerk of Court and Chief, Administrative Officer Eden T. Candelaria recommended that:

- "a) Ms. Lutgarda E. De Leon be suspended for two months without pay for committing habitual tardiness for the third time;
- b) Ms. Susan Belando and Mr. Almario Medina be severely reprimanded for committing habitual tardiness for the second time;
- c) Ms. Lolita A. Quinto and Atty. Perpetua Socorro Jocelyn S. Guerrero be sternly warned, this being their first offense of habitual tardiness."

The Court's Ruling

Civil Service Commission Memorandum ("CSC" for brevity) Circular No. 4, Series of 1991, defines "habitual tardiness" as:

"An employee shall be considered habitually tardy if he incurs tardiness, regardless of the number of minutes, ten (10) times a month for at least two (2) months in a semester or at least two (2) consecutive months during the year."

Civil Service Commission Memorandum Circular No. 19, Series of 1999 amended the Memorandum and provided for the following penalties for habitual tardiness:

"First Offense - Reprimand

Second Offense - Suspension for 1 to 30 days

Third Offense - Dismissal."

There is no question that the subject employees were habitually tardy, as defined in CSC Memorandum Circular No. 4. We have read and examined carefully the explanation given by the subject employees. De Leon attends to the needs of her 92-year old blind mother. Belando is a single parent with five children. Medina attends to an old and weak mother. Quinto is likewise a single parent and attends to the needs of her children especially the youngest who is undergoing speech therapy. Guerrero is on her third pregnancy.

Moral obligations, humanitarian considerations, performance of household chores and pregnancy are not sufficient reasons to exempt an employee from being habitually tardy. These reasons are not sufficient to justify

exemption from the imposition of the penalty although these may be considered to mitigate their liability.

By their habitual tardiness which prejudiced public service, the subject employees have failed to live up to the standards of conduct set by this Court. In the case of De Leon, she has been reprimanded for her first offense of habitual tardiness in 1999 per SC En Banc Resolution dated August 8, 2000. She was suspended for twenty days for her habitual tardiness in the first semester of 2000 in the SC En Banc Resolution dated April 17, 2001. This is her third offense which would now warrant the penalty of dismissal under CSC Memorandum Circular No. 19. We understand her moral obligation to attend to her 92-year old blind mother. Thus, for humanitarian consideration, the penalty of suspension for two months without pay, as recommended by Atty. Candelaria, is in order. De Leon, however, is warned that this Court will not hesitate to impose the extreme penalty of dismissal in case of a repetition of the same or similar act in the future.

As for Belando, she was sternly warned for incurring habitual tardiness in the first semester of 2001 per SC En Banc Resolution of October 23, 2001. This is her second offense. She was tardy for four months in the first semester of 2002 and is willing to accept the appropriate penalty that may be meted on her. She, however, begs for understanding and compassion as she is a single parent with five children.

Like Belando, Medina was also sternly warned in SC En Banc Resolution dated August 8, 2002 for his habitual tardiness in 1999. This is also his second offense. Thus, for Belando and Medina, they are both severely reprimanded for habitual tardiness.

Finally, Quinto and Guerrero have incurred habitual tardiness for the first time. Quinto and Guerrero are sternly warned that a repetition of the same or similar act in the future shall be dealt with more severely by this Court.

Let it be stressed here that this Court has reiterated the need for strict observance of official time. Supreme Court Administrative Circular No. 1-99 (Enhancing the Dignity of Courts as Temples of Justice and Promoting Respect for their Officials and Employees)[1] enjoins all officials and employees of the Judiciary to:

“3. Strictly observe official time. As punctuality is a virtue, absenteeism and tardiness are impermissible.”

Likewise, Supreme Court Administrative Circular No. 2-99 (Strict Observance of Working Hours and Disciplinary Action for Absenteeism and Tardiness)[2] provides:

“xxx. Absenteeism and tardiness, even if such do not qualify as ‘habitual’ or ‘frequent,’ under Civil Service Commission Memorandum Circular No. 4, Series of 1991, shall be dealt with severely xxx.”

It is not correct to say that an employee who incurs less than 10 tardiness in one month for two consecutive months in a semester has not committed tardiness. The 10 times requirement is only for the purpose of qualifying the tardiness as habitual, which merits a more severe penalty. To sanction tardiness that is not habitual would open the floodgate to abuse. One is still tardy for work even if the number of tardiness does not reach the threshold number to qualify as habitual tardiness. The law does not countenance tardiness below this threshold level. Tardiness, even if not habitual, still causes inefficiency and is still prejudicial to public service. Tardiness below the threshold level is not innocuous to be simply ignored.[3]

In *Belvis vs. Fernandez*,[4] this Court ruled that:

“There is no question that respondent is prejudicing public service with frequent absences and tardiness. His conduct certainly falls short of the standards prescribed by the Constitution for public officers and employees, to wit: ‘A public 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, act with patriotism and justice, and lead modest lives’.”

Likewise, in *Basco vs. Gregorio*,^[5] this Court held:

“The exacting standards of ethics and morality imposed upon court employees and judges are reflective of the premium placed on the image of the court of justice, and that image is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat. It thus becomes the imperative and sacred duty of everyone charged with the dispensation of justice, from the judge to the lowliest clerk, to maintain the court’s good name and standing as true temples of justice. Circumscribed with the heavy burden of responsibility, their conduct at all times must not only be characterized with propriety and decorum, but above all else, must be above suspicion. Indeed every employee of the Judiciary should be an example of integrity, probity, uprightness, honesty and diligence. x x x”

WHEREFORE, the Court ADOPTS the recommendation of Deputy Clerk of Court and Chief Administrative Officer Atty. Eden T. Candelaria, as follows:

- a) Ms. Lutgarda E. De Leon is hereby SUSPENDED for two months without pay for committing habitual tardiness for the third time;
- b) Ms. Susan Belando and Mr. Almario Medina are severely REPRIMANDED for committing habitual tardiness for the second time;
- c) Ms. Lolita A. Quinto and Atty. Perpetua Socorro Jocelyn S. Guerrero are STERNLY WARNED, this being their first offense of habitual tardiness.

Respondents are likewise warned that a repetition of the same or similar act in the future shall be dealt with more severely by this Court.

SO ORDERED.

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

[1] Effective February 1, 1999.

[2] Ibid.

[3] A.M. No. 00-4-06-SC Re: Complaint of Executive Judge Tito Gustilo, Regional Trial Court, Iloilo City against Clerk of Court Magdalena Lometillo, Regional Trial Court, Iloilo City, promulgated January 15, 2002.

[4] 256 SCRA 455 (1996).

[5] 245 SCRA 614 (1995).

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