

RE: ALLEGED VIOLATION BY MR. EFREN ASCRATE OF CIVIL SERVICE RULES ON ABSENTEEISM AND TARDINESS.*A.M. No. 2004-19-SC. November 04, 2004*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-m-no-2004-19/>**PER CURIAM:**

In a letter, dated 19 April 2004, Mrs. Milagros Santos-Ong, Chief, Supreme Court Library Services, reported to the Office of Administrative Services (OAS) that Mr. Efren Ascrate, Court Stenographer I, Office of the Chief Justice, Supreme Court, detailed with the SC Library Services, violated the “Supreme Court rule requiring all employees on (sic) the court to log in and out each day and for discrepancies which were discovered this March 31, 2004.”[1] She averred that respondent failed to swipe his ID in the Chronolog Time Recorder Machine as required and that there were discrepancies in the entries found in the attendance logbook of the Library Services vis-à-vis the computer printout of respondent’s Daily Time Record (DTR).

According to the complainant, upon reading a copy[2] of the En Banc Resolution of Administrative Matter No. 00-06-09-SC, promulgated on 16 March 2004, holding that, “[r]espondents Efren Ascrate, x x x who committed tardiness for the first time, x x x be reprimanded pursuant to the Civil Service Rule earlier cited, providing that for the first offense of habitual tardiness, the penalty is reprimand”[Emphasis supplied.], her attention was caught by the term “first time,” and this prompted her to investigate. Thereafter, she requested the SC Leave Division for a computer printout of the attendance of respondent for the months of January and March 2004 as recorded by the Chronolog Time Recorder Machine. After examining said documents, she came to the conclusion that “there were days when Mr. Ascrate did not swipe his ID but he signed the Logbook.”

Specifically, the following acts were purportedly committed by respondent in violation of Supreme Court rules:

- That on January 07, 09, 15, 28, and 30, 2004, and on March 01, 02, 11, 12, 15, 16, and 19, 2004, respondent signed his name on the logbook of the Library Services although he failed to swipe his ID;
- That respondent made the following entries on the logbook, which showed discrepancies when compared against the entries on the computer printouts, as follows:

DATE

LOGBOOK

COMPUTER PRINTOUT

January 08

8:10 A.M.

9:15 A.M.

January 13

8:20 A.M.

8:01 A.M.

January 14

8:15 A.M.

8:25 A.M.

March 02

No time in just signature.

No time in.

March 04

8:06 A.M.

8:26 A.M.

March 11

7:30 A.M.

No time in.

- And, that respondent was frequently absent from his place of work.

Apropos the above complaints, Mrs. Santos-Ong further alleged that she had, in separate letters,[3] directed respondent to explain the discrepancies. Verbal follow-ups were also supposedly made, but respondent failed to comply with said directives.

Lastly, complainant requested for the transfer of respondent back to the Office of the Chief Justice where his [Ascrate] item actually belongs.

Acting on the letter-complaint of Mrs. Santos-Ong, the Supreme Court Leave Division, in a Memorandum dated 27 April 2004, reported the following findings:

As to Mrs. Ong's first complaint, the records show that Mr. Ascrate was really absent on January 7, 9, 15, 28 & 30, 2004. He neither swiped his ID nor registered in the logbook, hence, we do not find any wrong doing committed by him.

As regards her second complaint, Mr. Ascrate failed to swipe his ID but he was able to register in the logbook in the Library Services on March 1, 12, 15, 16, 19 & 30, 2004, hence, this office considered him present on those dates.

As to her last complaint, this office finds discrepancies in Mr. Ascrate's time of arrival as recorded in the logbook of the Library Services and in the print out of his DTR in the computer for January 8, 13, 14 and March 2, 4, & 11, 2004. However, this office considered him as tardy for January 8, 13, 14 as well as for March 4 and absent on March 2 & 11, 2004.[4]

From the foregoing, the Leave Division recommended that the matter be referred to the Complaints and Investigation Division, OAS, for appropriate action. Moreover, it advised complainant to address her request for the transfer of respondent to the Office of the Chief Justice.

In compliance with the OAS Memorandum dated 03 May 2004, respondent filed his comment dated 07 May 2004. He explained that he failed to swipe his ID on certain dates because he had forgotten the same at home. With respect to his frequent absences, he averred that he incurred them due to an ailment, the nature of which he failed to disclose. Likewise, he claimed that he always filed the corresponding leave applications on the days that he did not go to work. He apologized for disobeying the rules of the office, and promised never to repeat such disobedience again.

Complainant Milagros Santos-Ong in her reply, maintains, however, that respondent offered her a different explanation. The verbal explanation of Mr. Ascrate was that his ID had been destroyed. And yet, in his letter[5]

dated 04 May 2004 to complainant, he did not bother to explain why he failed to swipe his ID on the Chronolog Time Recorder Machine. He merely apologized for failing to comply with Civil Service rules.

Mrs. Milagros Santos-Ong further clarified that while respondent undeniably submits leave applications, nevertheless, they were usually submitted one (1) month later or only whenever his attention was called to such fact by the Leave Division. And he always filed sick leave applications regardless of whether or not he was sick. In addition, she claims that it is of record that she disapproved respondent's three (3) or four (4) leave applications for the following reasons:

- not filing the application on time
- the leave that is being filed is for sick leave and for certain days, the reason for his absence is not sickness
- the data found in the leave application not accurate such as the date of filing
- disregard for the Memorandum that was given to him for failure to provide explanation.[6]

After considering the written explanations of both parties, the OAS submitted to this Court its Memorandum-Report dated 16 June 2004.

Concisely dealing with the issues seriatim, the OAS opined that after a careful evaluation of the records of the instant case, the following findings were arrived at:

Out of the dates being complained of, the records show that Mr. Ascrate has approved sick leave for January 7, 9, 15, 28 and 30, 2004, hence, since he was absent on those dates it is but logical that he did not swipe his ID on the aforementioned dates. His failure to swipe his ID on these dates could not be considered as a violation of Administrative Circular No. 36-2001.[7]

However, on March 1, 12, 15, 16, and 19, 2004, the computer print-out reflected his time of arrival at 8:15, 7:56, 8:04, 9:00 and 8:01 in the morning, respectively. As correctly found by the Leave Division, this Office, he was present on those dates but is considered tardy on March 1 and 16, 2004. However, he is absent on March 2 and 11. The logbooks of March 1, 12, 15, 16 and 19, 2004, which were duly signed by Mr. Ascrate, tallied with the computer print-outs. Again, no violation of Administrative Circular No. 36-2001 could be ascribed against Mr. Ascrate.

Anent the second allegation that there existed discrepancies on the time entered by Mr. Ascrate in the logbook and the computer print-outs, this Office confirms the same only on two (2) dates out of the six (6) different dates with reported discrepancies. These are on January 8, 2004 and March 11, 2004, where Mr. Ascrate entered 8:10 a.m. and 7:30 a.m. as his time in, respectively, whereas, the computer print-out reflected that his time of arrival on January 8, 2004 is 9:15 a.m., while, as stated above, he was found to be absent on March 11, 2004.

As to the other dates, January 13, 14, and March 4, 2004, the letter of Mrs. Ong incorrectly reported his [Ascrate] time of arrival at 8:20, 8:15 and 8:06, respectively, whereas, the logbook showed that his time of arrival are 8:01, 8:26 and 8:26, respectively. Records show that the computer print-out tallies with the logbook.

Lastly, concerning the alleged loafing of Mr. Ascrate, the same, however, was not established in the absence of substantial evidence supporting such claim.

x x x x x x x x

Premised on the above, what was clearly established was the fact that Mr. Ascrate made it appear on the logbook that on January 8, 2004 he reported for work at 8:10 A.M., when in fact his actual time in was 9:15 A.M. as reflected on the computer print-out. The other one was the fact that on March 11, 2004, he wrote on the logbook 7:30 A.M. as his time in when in fact he was absent on that particular day.[8]

The OAS concluded:

Based on the above provision, Mr. Ascrate's act of reflecting an earlier time of arrival on January 8, 2004 and his act of making it appear that he was present on March 11, 2004 constitute falsification of daily time records comprising of the logbook.

x x x x x x x x

Premised on the above, we find Mr. Ascrate guilty of Dishonesty in these two (2) instances. Under the schedule of penalties adopted by the Civil Service Commission, Gross Dishonesty or Serious Misconduct is classified as a grave offense and the imposable penalty for its first offense is Dismissal.[9]

Thus, it recommended:

- that Mr. Efren Ascrate be meted the penalty of suspension for a period of six (6) months, instead of the penalty of Dismissal, his consistent Very Satisfactory ratings and his long years with the Court, to be appreciated as mitigating circumstances, however, with a stern warning that a repetition of similar act would result to his ultimate dismissal from the service; and
- his transfer to the Office of his Honor where his item belongs as requested by Mrs. Milagros Santos-Ong, is submitted to his Honor's sound discretion.[10]

The Court, after a thorough and careful examination of the records of the case, holds that the findings of the OAS are supported by evidence. Accordingly, it agrees in the conclusion that respondent Ascrate is guilty of falsification of daily time records amounting to gross dishonesty or serious misconduct. We, however, modify the recommended penalty to be imposed.

The crux of the case is the dishonesty of respondent in not reflecting his absence and the correct time in the office logbook on two of the dates complained of.

Under Section II of Administrative Circular No. 2-99 entitled "Strict Observance of Working Hours and Disciplinary Action for Absenteeism and Tardiness," falsification of daily time records is considered gross dishonesty:

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. [Emphasis supplied.]

Given the foregoing provision, respondent's act of reflecting an earlier time of arrival on 08 January 2004, when in truth he arrived an hour and five minutes later, and making it appear that he was present on 11 March 2004, when he was not, to cover up his tardiness and absence, respectively, denote separate acts of falsification of a daily time record, which, in this case, happens to be a logbook. Each act constitutes gross dishonesty or serious misconduct.

The making of untrue statements on the logbook quite palpably illustrates a deliberate attempt to conceal or suppress his tardiness and absence on said dates. What other motivation could a person have for making such untruthful statements in a logbook other than to cover up said delinquencies?

With respect to his tardiness, a disparity of one (1) hour and five (5) minutes from the signing of the logbook and the swiping of the ID on the Chronolog Time Recorder Machine is quite implausible considering that all the Chronolog Time Recorder Machines are located within the compound of this Court.

As for his absence on the 11[th] of March 2004, his explanation that he registered only in the logbook because he

forgot his ID is, to use the words of the OAS, “very flimsy.” If, indeed, he was really present on that date, and that he only failed to swipe his ID in the machine because he left it at home, he should have had his supervisor, Ms. Lorna Ricolcol, countersign his logbook entry. At the very least, he should have informed her about it. Sad to say, for the most part, respondent merely apologized for violating Civil Service rules.

Given the facts of the case and considering that respondent has been reprimanded[11] by this Court for being habitually tardy, any reasonable man will be able to deduce that respondent’s acts were done in order to hide his tardiness and absenteeism.

As can be gleaned from his letters, respondent knew fully well that his acts of making false entries in the logbook are serious offenses. While not exactly admitting the charges filed against him, respondent pleaded for forgiveness for disobeying Civil Service rules. No explanation was presented to refute the discrepancies found in the logbook vis-à-vis the computer printouts of his DTR. Consequently, when he tampered with the logbook, respondent manifested his lack of integrity and responsibility.

It is well to remind respondent that dishonesty is a malevolent act that has no place in the judiciary.[12] Time and again, this Court has emphasized that every employee of the judiciary should be an example of integrity, uprightness and honesty, thus:

Public service requires utmost integrity and strictest discipline. A public servant must exhibit at all times the highest sense of honesty and integrity. The administration of justice is a sacred task. By the very nature of their duties and responsibilities, all those involved in it must faithfully adhere to, hold inviolate, and invigorate the principle solemnly enshrined in the 1987 Constitution 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. The conduct and behavior of everyone connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility. Their conduct, at all times, must not only be characterized by propriety and decorum but, above all else, must be above suspicion. Indeed, every employee of the judiciary should be an example of integrity, uprightness and honesty.[13]

Indeed, the acts of respondent fell short of the exacting standards extolled by this Court.

Anent the charges of loafing, the Court agrees with the OAS that complainant failed to submit sufficient evidence to establish her allegation that respondent was frequently not in his place of work or loafing around during office hours. In order to warrant a conviction, there should be evidence offered other than the mere allegation made in the report of complainant. In the case at bar, Mrs. Ong failed to adduce this proof and what is left are only her bare allegations.

To reiterate, “[a]n allegation in a pleading is not an (sic) evidence but is a declaration that has to be proved by evidence.”[14] As the burden was not overcome by complainant, then respondent must be cleared of the charge and accountability of loafing during office hours.

The foregoing premises considered, we find respondent guilty of falsification of a daily time record amounting to gross dishonesty in two (2) instances. Section 22(a), Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292[15] as amended by CSC Memorandum Circular No.19, s. 1999, provides that:

SEC. 22. 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 corresponding penalties:

(a) Dishonesty

1[st] Offense – Dismissal.

Thus, dishonesty, as a grave offense, warrants the severe penalty of dismissal from service upon the commission of even the first offense.

On numerous occasions, this Court did not hesitate to impose such extreme punishment on employees found guilty of grave offenses.[16] There is no reason why respondent should be treated differently.

The Court cannot turn a blind eye to what is plainly a transgression of the law. By reason of the nature and function of the Supreme Court, officials and employees of the highest court of the land must be role models in the faithful observance of the constitutional tenet that public office is a public trust. The image of the Supreme Court is mirrored in the conduct, not only of the Justices, but of every man and woman working thereat. Any act which diminishes or tends to diminish the faith of the people in the judiciary, shall not be countenanced. The slightest breach of duty by, and the slightest irregularity in the conduct of, court officers and employees detract from the dignity of the courts and erode the faith of the people in the judiciary.[17]

WHEREFORE, after due deliberation, we find respondent, Efren Ascrate, GUILTY of dishonesty. He is hereby DISMISSED from the service with forfeiture of all benefits and privileges except accrued leave credits, if any, with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations and financial institutions.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Tinga, Chico-Nazario, and Garcia, JJ., concur.
Azcuna, J., on leave.

[1] Rollo, p. 29.

[2] A copy of the resolution was allegedly left on her table.

[3] Supra.

[4] Rollo, p. 28.

[5] Id., 10.

[6] Id., 8.

[7] Administrative Circular No. 36-2001 explicitly provides that:

Accordingly, all employees (whether regular, coterminous or casual) are required to register their daily attendance in the Chronolog Time Recorder Machine and in the logbook of their respective offices. [Emphasis supplied.]

[8] Rollo, pp. 4-5.

[9] Rollo, p. 6.

[10] Rollo, pp. 6-7.

[11] In A.M. No. 00-06-09-SC, 16 March 2004, Re: Imposition of Corresponding Penalties for Habitual Tardiness Committed During the first and second semesters of 2003.

[12] Lacurom v. Magbanua, A.M. No. P-02-1646, 22 January 2003, citing Pizarro v. Villegas, A.M. No.

P-97-1243, 20 November 2000, 345 SCRA 42.

[13] *Mirano v. Saavedra*, A.M. No. P-89-383, 04 August 1993, 225 SCRA 77.

[14] *Sps. Reyes v. CA*, G.R. No. 147758, 26 June 2002, 383 SCRA 471.

[15] *The Administrative Code of 1987*.

[16] *Lumiqued v. Exevea*, G.R. No. 117565, 18 November 1997, 282 SCRA 125; *Re: Financial Audit in RTC, General Santos City*, A.M. No. 96-1-25-RTC, 18 April 1997, 271 SCRA 302; *Marasigan v. Buena*, A.M. No. 95-1-01-MTCC, 05 January 1998, 284 SCRA 1; *Moner v. Ampatua*, A.M. No. SCC-98-3(P), 03 September 1998, 295 SCRA 20; *Eamiguel v. Ho*, A.M. No. 98-1263-P, 06 March 1998, 287 SCRA 79; *Re: Suspension of Clerk of Court Rogelio Joboco*, RTC Br. 16, Naval, Biliran, A.M. No. 10-1296-RTC, 12 August 1998, 294 SCRA 119; *Regalado v. Buena*, A.M. No. P-96-1183, 29 June 1999, 309 SCRA 265; *Marbas-Vizcarra v. Florendo*, A.M. No. 95-11-P, 20 July 1999, 310 SCRA 592; *Amane v. Mendoza-Arce*, A.M. No. P-94-1080, A.M. No. P-95-1128, A.M. No. P-95-1144, 19 November 1999, 318 SCRA 465; *Almario v. Resus*, A.M. No. P-94-1076, 22 November 1999, 318 SCRA 742; *Cabanatan v. Molina*, A.M. No. P-01-1520, 370 SCRA 16; *CSC v. Sta. Ana*, A.M. No. OCA-01-5, 01 August 2002, 386 SCRA 1; *Lacuum v. Magbanua*, A.M. No. P-02-1646, 22 January 2003; and *Madrid v. Quebral*, A.M. No. P-03-1744, 07 October 2003, 413 SCRA 1.

[17] *Buenaventura v. Benedicto*, A.C. No. 137-J, 27 March 1971, 38 SCRA 71.

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