RE: DISHONESTY AND/OR FALSIFICATION OF OFFICIAL DOCUMENT OF MR. ROGELIO M. VALDEZCO, JR., SC SUPERVISING JUDICIAL STAFF OFFICER, ACCOUNTING DIVISION, FISCAL MANAGEMENT AND BUDGE...

A.M. NO. 2005-22-SC. May 31, 2006

Ponente: GARCIA, J.

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GARCIA, J.:

This refers to a Memorandum[1] of Atty. Eden T. Candelaria, Chief AdministrativeOfficer, Office of the Administrative Services (OAS), dated November 9, 2005, for then Chief Justice Hilario G. Davide, Jr. concerning the charge of falsification of Daily Time Record (DTR) allegedly committed by respondent Rogelio M. Valdezco, Jr., Supervising Judicial Staff Officer, Accounting Division, Fiscal Management and Budget Office (FMBO).

Records yield the following facts:

As recommended by the OAS in a Memorandum[2] of June 21, 2005, then Chief Justice Hilario G. Davide, Jr. approved the request of respondent and nine (9) other Court employees to render overtime services effective June 27, 2005 to July 19, 2005. Included in the approval was the entitlement of said employees to compensator time-off equivalent to the number of hours they earned as overtime services subject to the condition that overtime services shall be from 5:00 p.m. to 8:00 p.m. on weekdays and 8:00 a.m. to 4:00 p.m. on Saturdays, Sundays and holidays.

Pursuant to the approved overtime scheme, respondent filed, on August 9, 2005, an Application for Leave[3] therein availing compensatory time-off for his absences incurred on July 5, 15, 25, August 5 and 8, 2005. Appended to said leave application was respondent's DTR for the months of June and July, 2005 reflecting overtime services purportedly rendered, albeit without the supporting time-outs during office hours, and the corresponding time-ins for such services.

In a Memorandum[4] dated August 31, 2005, Ms. Ursula Editha O. San Pedro, FMBO Chief Accountant, informed respondent about his failure to swipe his ID in the Chronolog Time Recorder Machine (CTRM) for office time-out for regular hours and time-in on weekday overtime services rendered, for which reason his request for approval of his DTR for July was not acted upon. In the same Memorandum, Ms. San Pedro directed respondent to explain his omission within twenty-four (24) hours from notice.

In another Memorandum, Ms. San Pedro apprised OAS Chief Administrative Officer Eden T. Candelaria about the action taken on respondent's leave application. She also informed Atty. Candelaria that respondent was, at the time, enrolled in the College of Law of the Pamantasan ng Lungsod ng Maynila (PLM), inviting particular attention to the fact that "he [respondent] has classes on the dates where he rendered overtime services."

Thereafter, the OAS required respondent to submit his comment on allegations contained in the Memorandum immediately adverted to above.

In his letter-comment dated September 22, 2005,[5] respondent admitted failing to swipe his chronolog ID for the time-out and time-in for weekday overtime services. A a measure to justify his failure, respondent referred to the same practice he observed in the paid overtime services made on February 2, 2005 which the Internal Audit Division then approved. Respondent also alleged being unaware of any difference between the procedure for claiming overtime services with pay and overtime with compensatory time-off. As regards the contested dates (July 2, 6, 7, 9, 11, 12, 13, 14, 16, 18 and 19, 2005),[6] respondent drew attention to his corresponding Monday to Saturday school attendance which, according to him, was marred by "relentless tardiness", "missed classes" and absences. Pressing on, he described his first afternoon class as "very light and manageable", with a professor who is "not at all strict in attendance". Respondent's statement that "the time-out reflected in [his] DTR are all true" sums up his explanation, although he hastened to add that he never benefited from the contested overtime services rendered since his application for compensatory time-off was disapproved in the first place.

On November 9, 2005, the OAS submitted a Memorandum[7] to the Court with the following observations and findings:

> Mr. Valdezco's [self-serving] reason cannot be given credence to justify his claim for alleged overtime services he rendered for the period from 27 June to 19 July 2005. .... A careful examination of his daily Time Record (DTR) for the month of July 2005, reveals that indeed he rendered overtime services but school records also show that he had classes on the same dates/periods at the PLM. It should be noted that he was given the authority to render overtime "for a maximum of three (3) hours only on weekdays which shall start at 5:00 p.m. and end at 8:00 p.m." In other words, he needs to register his time-out first for office hours before he registers his time-in before the start of his overtime service. By doing so, the actual number of hours rendered in overtime can be easily determined.
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> Perusal of the records tends to show that Mr. Veldezco committed an irregularity in claiming for overtime services rendered as reflected in his DTRs since no basis for overtime services rendered can attest whether he actually rendered the alleged overtime services as recommended by Ms. San Pedro on the details of action on application for leave.
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> Administrative Circular No. 18-2005 provides that:
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> xxx xxx xxx
>
> WHEREAS, under the Joint Circular, in lieu of overtime pay, the employees may use as "time-off" the accrued number of hours of overtime service they rendered.

xxx xxx xxx

Mr. Valdezco should be reminded that the authority to render overtime services was approved on the basis of his request "for the period effective upon approval hereof up to 19 July 2005 x x x subject to the condition that they start their overtime work at 5:00 p.m. during the weekdays."

Although it is not expressly provided in the said authority ... that he has to register first his time-out for office hours before rendering any overtime and his time-in for the actual overtime, he nevertheless committed a fraud in claiming for his overtime services when in fact he did not render overtime services but actually attended his law classes at the PLM. The fact that he did not inform his Office at the time he requested for authority to render overtime creates a prima facie presumption of an irregularity with the end view of gaining some benefits for himself thereby causing damage to the Court and ultimately to the government. Clearly, from the very start there was a deliberate intent to defraud the Court. Classes usually start in the second week of June and at the time he requested his authority to render overtime services, he was already enrolled. x x x.

As to his defense, that he entirely based his action on the same practice as that of overtime with compensation or

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expense allowance, he erroneously relied on it. Even granting that he relied his actions on his previous practice, then why did Ms. San Pedro disapprove his application for leave vis-à-vis his alleged overtime services? Was it because of his mere failure to observe office rules and regulations or was it the timely discovery of the irregularity in registering his overtime service for the period from 27 June to 19 July 2005 when such dates/periods were believed he was attending his classes at the PLM?

Of the two assumptions mentioned, the latter is more persuasive as it was sufficiently proven by the facts and evidence, coupled with his admission. Good faith or mere judgmental error cannot be appreciated to exonerate him administratively for dishonesty. Thus, when the irregularity was unearthed, his succeeding claim for compensatory time-off was disapproved. For sure, his request for authority to render overtime services will be denied if such information is made known to this Office earlier. His act of not informing his supervisor or this Office that he is officially enrolled and that he is attending his law classes after office hours at the PLM when he applied for the authority to render overtime services is a blatant act of committing dishonesty. His claim that he is entitled to compensatory time-off equivalent to the number of hours he earned as a result of his overtime services for the period from 27 June to 19 July 2005 when in truth he is attending his classes on the said dates constitutes an act of dishonesty. Mr. Valdezco, unfortunately failed to refute the same.

On the basis of the foregoing premises, the OAS recommended that respondent be adjudged guilty of dishonesty and/or falsification and ordered dismissed from the service with all accessory penalties.

The recommendation is flawed by the premises holding it together. As it were, respondent is specifically being recommended for dismissal for the above charge/s owing to what the OAS considers as his fraudulent application for entitlement to compensatory time-off equivalent to the number of hours he earned for overtime services rendered. As complainant OAS would have it appear, however, respondent did not render overtime services as evidenced by his failure, during the period material, to register his time-outs for regular office hour and his time-ins for alleged overtime services rendered. To compound matters, according to the OAS, respondent was attending his classes during the time he was supposed to be engaged in overtime work.

Three (3) factual premises are undisputed. Firstly, respondent indeed filed a claim for compensatory time-off corresponding to the hours of his supposed overtime credit. Secondly, he did not swipe his chronolog ID for office time-out and time-in for overtim services rendered, thus leaving no solid verification basis to determine whether or not overtime services were rendered on a given day. Thirdly, respondent was enrolled at the PLM law school and in fact, has classes during the pertinent dates.

Unless it is sufficiently established that he committed acts amounting to falsification, respondent cannot plausibly be adjudged liable for dishonesty for making a fraudulent claim of entitlement for overtime compensatory time-off. Accordingly, crucial in the determination of the charge for falsification of DTR is the question of whether or not respondent rendered overtime service during the subject dates

With the view we take of this case, the commission of falsification cannot be deduced from the bare fact that respondent, during the days he claimed to have rendered overtime services, failed to swipe his ID in the CTRM to indicate time out for office hours and time-in on weekday overtime services. Such failure cannot, without more, be considered as substantial proof that respondent tried to hoodwink the Court by having his ID reflect as, a matter of fact, something, i.e., the rendition of overtime services, that did not actually transpire. Else, we would be reading in such failure something not convincingly indicated by the omission. This is not necessarily to say that respondent indeed rendered, as he now claims, overtime on the days material. The bottom line, however, is that such failure is insufficient to support a conclusion of wrongdoing on the part of respondent.

Lest it be overlooked, the OAS, no less, admits the silence of the governing Administrative Circular (AO) No.

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18-2005 as to the requirement for respondent to register first his time-out for office hours before rendering any overtime and his time-in for the actual overtime. As it were then, what respondent did, or what he did not do, to be precise, the time-out time-in referred to above was not in violation of AC No. 18-2005.

Neither in our mind can the fact of respondent being enrolled at the PLM be taken as prima facie indicia of his commission of falsification. As the Court distinctly notes, no evidence had been presented that respondent was attending his law class at the precise date and time he was supposed to be rendering overtime work. To be sure, on the subject dates, respondent reported for work during his official time. If at all, the certification obtained from the PLM College of Law that respondent was enrolled at that institution only proves the fact of enrollment, but not necessarily that, during the period material, he was inside his classroom attending his late afternoon and early evening classes. Needless to stress, to complainant in administrative proceedings rests the onus of proving, by substantive evidence, inculpatory allegations in the complaint.[8] Complainant does not appear to have discharged its burden under the premises.

Certainly not lost on the Court is what the OAS said in its Memorandum, thus:

> In this case, since the document falsified is the daily time record, it is imperative that there be proof of damage to the government. Such damage may take the form of salary paid to the employee for services not rendered. In view of the fact that no proof would tell that Mr. Valdezco unduly benefited from his daily time records with regard to his alleged overtime services rendered, he cannot be held administratively liable for falsification of official documents. It shows that his daily time records were not absolutely false. In other words, there was a color of truth in the entries in his DTRs as he did report for work during his official time but not on the hours spent for overtime service as claimed by him.[9]

If respondent is to be called to task for some misfeasance or nonfeasance, it is for requesting authority to render overtime services knowing pretty well and without so much as informing all concerned that he is enrolled in and is supposed to be in class after office hours. Needless to stress, it behooved him to inform the recommending and approving authority about his schooling. That he did not so inform beclouds the bona fides of his request to render overtime services. To be sure, no matter how well meant his requests for overtime were, the same would have been denied had respondent informed his immediate supervisor that he is officially enrolled and attending law classes at PLM.

The Code of Conduct and Ethical Standards for Public Officials and Employees[10], sets forth the state's policy of promoting a high standard of ethics and utmost responsibility in the public service. Specifically, Section 4 (c) thereof provides:

> (c) Justness and sincerity.- Public officials and employees shall remain true to the people at all times. They must act with justness and sincerity x x x They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest.

The Code of Conduct for Court Personnel[11] is more exacting, enjoining as it does employees of the judiciary to serve as sentinels of justice as any act of impropriety on their part immeasurably affects the honor and dignity of the judiciary and the people's confidence in it.

In all, the Court finds respondent guilty for violating the strict standards of honesty, integrity and uprightness,[12] a violation which verily translates to acts prejudicial to the best interest of the service.

Accordingly, the Court finds respondent guilty of conduct prejudicial to the best interest of the service. Pursuant to Rule IV, Section 52-A (20) of the Uniform Rules On Administrative Cases in the Civil Service, the imposable penalty therefor on first offense is suspension for a period of six (6) months and one (1) day to one (1) year.

It appears from the records that respondent has been in the judiciary for thirteen (13) years. He was hired on August 17, 1992 as a permanent employee (Accountant I) and is presently holding the position of SC Supervising Judicial Staff Officer. The Court, consistent with its ruling in Ruperto G. Jugueta vs. Ricardo Estacio,[13] considers respondent's length of service as a mitigating circumstance and imposes the penalty in its minimum period.[14]

The Court observes that it is not uncommon for employees to do everything in their power to better their lot. However, let this case serve as a stern warning to all that one's pursuit of personal development and improvement, without regard to the demands of ethics and utmost responsibility in the public service, will never be countenanced by this Court.[15]

WHEREFORE, the Court finds respondent Rogelio M. Valdezco GUILTY of conduct prejudicial to the best interest of the service and is SUSPENDED for six (6) months and one (1) day without pay.

SO ORDERED.

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

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[1] Rollo, pp. 1-9.

[2] Rollo, pp. 59-60.

[3] Id. at 19.

[4]Id. at 43.

[5]Id. at 10-14.

[6]Id. at 16.

[7]Supra note 1.

[8] Montes vs. Bugtas, A.M. No. RTJ-01-1627, April 17, 2001, 356 SCRA 539.

[9] Rollo, p. 7.

[10] Republic Act No. 6713.

[11] A.M. No.03-06-13-SC.

[12] Basco vs. Gregorio, A.M. No. P-94-1026, July 6, 1995, 245 SCRA 614.

[13]A.M. No. CA-04-17-P, 444 SCRA 10, November 25, 2004.

[14]RE: AC No. 04-AM-2002, Josejina Fria vs. Gemiliana De Los Angeles, A.M. No. CA-02-15-P, 430 SCRA 412 (June 3, 2004).

[15]Consolacion A. Lumancas and Yolando O. Uriarte vs. Virginia B. Intas, G.R. No. 133472, December 5, 2000, 347 SCRA 22.

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