RE: EMPLOYEES INCURRING HABITUAL TARDINESS IN THE FIRST SEMESTER OF 2005

A.M. NO. 2005-25-SC. July 06, 2006

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PER CURIAM:

For resolution is the Memorandum dated 3 October 2005 of Atty. Eden T. Candelaria ("Atty. Candelaria"), Deputy Clerk of Court and Chief of the Office of Administrative Services (OAS), recommending the imposition of penalties on eleven employees of the Court who incurred habitual tardiness within the period January to June 2005. The basis of the offense is Civil Service Commission (CSC) Memorandum Circular No. 23, series of 1998, defining habitual tardiness as follows:

> Any employee shall be 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.

On 26 July 2005, Atty. Candelaria individually sent respondent employees a Memorandum citing their tardiness and requiring them to explain in writing why no disciplinary action should be taken against them. The following are respondents' names and respective explanations:

A. Employees with previous penalties for habitual tardiness

- NORA B. ANG ("Ang") of the Office of the Clerk of Court En Banc incurred tardiness 10 times in February and 11 times in April 2005. Ang stated that in the early months of 2005, she went on medication for kidney and gall bladder stones. A vehicular accident in 2000 further caused her body pains, physical discomfort, and slow movement. She also stated that bone-density examinations showed that she had weak bones. She pleaded for consideration and admitted that she realized "it would be better to retire early rather than continue working and be a liability [to] our esteemed office," yet she asked to be allowed "to conclude [her] government service with peace and gratification."

Previously, Ang was (1) REPRIMANDED pursuant to Court Resolution dated 8 August 2000 for her first incursion of habitual tardiness in 1999; (2) SUSPENDED for 10 days pursuant to Court Resolution dated 17 April 2001 for her second incursion in the first semester of 2000; (3) SUSPENDED for three months, and given a final warning, on 27 November 2002 for her third incursion in the second semester of 2000; and (4) SUSPENDED for six months, again with a final warning, in a Court Resolution dated 23 October 2001 for her fourth incursion in the first semester of 2001.

- ROLANDINO D. DUE ("Due") of the Judicial Records Office incurred tardiness 12 times in April and 10 times in June 2005. Due explained that on these times, he had to assist his sister in moving from one residence to another. Previously, Due was REPRIMANDED pursuant to Court Resolution dated 8 August 2000 for habitual tardiness committed in 1999.

- RUDIN S. VENGUA ("Vengua") of the Financial Management Office-OCA, incurred tardiness 10 times in February and 12 times in June 2005. Vengua attributes his tardiness to the heavy traffic on his way to work.

Previously, Vengua was STERNLY WARNED for habitual tardiness in a Court Resolution dated 23 October 2001.

B. Employees incurring habitual tardiness for the first time

- ARLENE R. ABUZMAN ("Abuzman"), Human Resource Management Officer detailed at Training Division-OAS, incurred tardiness 10 times in January and 10 times in April 2005. Abuzman stated that she was suffering from insomnia due to hyperthyroidism and anemia, thus she had difficulty waking up early.

- ATTY. EPHYRO LUIS B. AMATONG ("Atty. Amatong") of the Office of Associate Justice Conchita Carpio Morales incurred tardiness 13 times in April and 14 times in May 2005. Atty. Amatong explained that on 6, 7, 12, 13, 14, and 27 April, and on 18, 20, 24, 27, and 30 May, he was on official business, conducting research at the University of the Philippines Law Library. The explanation of Atty. Amatong is duly noted by Associate Justice Carpio Morales. Incidentally, Atty. Amatong resigned from the Court on 1 August 2005.

- ANDRE A. FERNAN ("Fernan") of the Public Information Office incurred tardiness 10 times in March and in June 2005. Fernan explained that he sometimes reported late because he had to spend time looking after his weak and elderly aunt who had supported him in college.

- DIONELITO T. MANLEGRO ("Manlegro") of the Hall of Justice, RTC Davao City, incurred tardiness 15 times in January and 11 times in February 2005. Manlegro explained that he attended to his wife who suffered from profuse bleeding and underwent an operation. Attached to his Comment was the corresponding medical certificate attesting to his wife's illness.

- WARREN P. ALVAREZ ("Alvarez") of the Cash Division, Financial Management Office-OCA, incurred tardiness 10 times in April and 11 times in June 2005. Alvarez attributed his tardiness to heavy traffic conditions and to insomnia which made it difficult for him to wake up early. He further explained that he has no househelper and must attend personally to the needs of his two daughters.

- FLORENTINO S. BAUTISTA III ("Bautista") of the Office of Assistant Court Administrator Antonio H. Dujua incurred tardiness 14 times in January and 12 times in April 2005. Bautista alleged that on 7, 13, 24, and 28 January and on 19 April, he intended to go on a half-day leave. However, he forgot to file the required leave applications.

- FERNANDO P. PASCUAL ("Pascual") of the Records Division-OCA incurred tardiness 11 times in January and in May 2005. Pascual attributed his tardiness to the recurring headaches he experienced due to hypertension.

- JACQUELINE R. SUING ("Suing") of the Legal Office-OCA incurred tardiness 10 times in April and in June 2005. Suing explained that she was suffering from insomnia. She further claimed that she was ill on 2 to 15 May 2005, for which she was required to take five days of complete bed rest. The corresponding medical certificate was attached to her Comment.

After evaluating respondents' comments, Atty. Candelaria gave the following recommendations:

> x x x all of the above employees offered the same reasons falling under either one of the folowing categories: sickness or illness, moral obligations to family and relatives, domestic or household responsibilities, traffic, health or physical conditions.
>
> x x x To consider the pleas x x x would be unfair to those employees who, with or without being in the same situations, have managed to be punctual in reporting for work.
>
> x x x x

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However, after evaluating [Atty. Amatong's] explanation that he was actually on official business researching at the UP Law Center on 6, 7, 12, 13, 14, and 27 April, and 18, 20, 24, 27, and 30 May 2005, [which fact] was attested to by his Chief of Office, Associate Justice Carpio Morales, this Office deem[s] his explanation meritorious. Being on official business on the aforementioned dates justifies the actual time he recorded in the office logbook or his DTR. The entries pertaining to the dates referred above when he went to the UP Law Center to do research works can in effect be totally disregarded. In fact, he could have merely stated in the office logbook or his DTR that he was on official business for the aforesaid dates, yet he opted to reflect the actual time he reported back to his office.

In the case of Ms. Ang, this is actually her fifth incursion of tardiness x x x. Citing her critical health problems and her length of service to the Court, she pleads for early retirement, stating that she does not want to be a liability to the Court. x x x

x x x x

It is very clear that a strict application of the above provision would justify [Ms. Ang's] dismissal from the service. However, in the past Resolutions of the Court, it has recognized humanitarian reasons and extended compassion in the imposition of the penalty of dismissal. As a matter of fact, in a similar case,[1] the employees who committed tardiness for the third and fourth time instead of [being dismissed] were only suspended for three months and ten days, respectively.

x x x x

x x x considering [Ms. Ang's] 23 years of service with the Court and considering further that her explanation for her habitual tardiness involving her serious health problem has been substantially supported by evidence consisting of medical records, this Office finds the penalty of six months justified.

With respect to her plea for early retirement, [we are] informed that Ms. Ang, who is now 61 years old as of this writing, has not submitted yet her application thereto nor manifested her desire to this Office to pursue with her request. Her desire for early retirement must not be made dependent on the outcome of her case for habitual tardiness, but must be made independently by actually applying for the same so this Office could appropriately act on it. Besides, it may create a bad precedent if this Office would make a favorable recommendation allowing her to avail of early retirement for those who only wish to avoid being penalized by the Court.

From among those who have been found habitually tardy for the first time, this Office takes exception of the case of Mr. Pascual in determining the imposable penalty x x x. [From] A.M. No. 2005-16-SC,[2] [we see that] the period for which [Mr. Pascual] was penalized for absenteeism is the same period [in] which he incurred his tardiness in the case at bar. The explanation which he offered thereat, which was not accepted by the Court, is the same x x x explanation he gave for his tardiness.

x x x x

Premises considered, this Office respectfully recommends that:

a. Ms. Nora B. Ang, for having been found guilty of habitual tardiness for the fifth time, be SUSPENDED for a period of six (6) months with a WARNING that a similar violation will result to her dismissal from the service;

b. Mr. Rolandino D. Due and Mr. Rudin S. Vengua, for having been found habitually tardy for the second time, be SEVERELY REPRIMANDED for humanitarian considerations, with a WARNING that repetition of the same offense in the future shall be dealt with [more] severely;

c. The following employees be WARNED for their first offense of habitual tardiness:

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- Arlene R. Abuzman

- Andre A. Fernan

- Dionelito T. Manlegro

- Warren P. Alvarez

- Florentino S. Bautista III

- Jacqueline R. Suing

d. Mr. Fernando P. Pascual be REPRIMANDED, with a WARNING that a repetition of a similar offense shall be dealt with more severely;

e. For having found the explanation of Atty. Ephyro Luis B. Amatong meritorious, this administrative case against him [be] dismissed for lack of merit.

The Court agrees with the findings of Atty. Candelaria except as to the recommended penalties.

There is no question that respondent employees violated the rule on tardiness. Except for Atty. Amatong, all of the respondents failed to provide an explanation that could be deemed satisfactory. The Court has repeatedly held that moral obligations, performance of household chores, traffic problems, health conditions, and domestic and financial concerns are not sufficient reasons to excuse habitual tardiness.[3]

As enshrined in the Constitution, a public office is a public trust. Inherent in this mandate is the observance of prescribed office hours and the efficient use of every moment thereof for public service, if only to recompense the Government, and ultimately, the people, who shoulder the cost of maintaining the Judiciary.[4] Thus, to inspire public respect for the justice system, court officials and employees must at all times strictly observe official time.[5]

In Basco v. Gregorio, we 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.[6]

Under CSC Memorandum Circular No. 19, series of 1999, habitual tardiness is classified as a light offense with the following penalties:

First offense – Reprimand
Second offense – Suspension for 1 to 30 days
Third offense – Dismissal

However, in several administrative cases, the Court has refrained from imposing the actual penalties in the presence of mitigating factors.[7] 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, have had varying significance in the Court's determination of the imposable penalty.

Pascual was previously disciplined in 2005 for habitual absenteeism. Although suspension is the proper imposable penalty for the first incursion of such offense under the Uniform Rules on Administrative Cases,[8] the Court instead fined Pascual P2,000 after considering mitigating factors in his favor. The present case concerns only

Pascual's first offense of habitual tardiness, yet this charge coming shortly after his earlier sanction may very well demonstrate his lack of regard for the Court's strict policy on punctuality and attendance.

We come to the case of Ang. The Court notes that this is her fifth offense of habitual tardiness. For her third and fourth incursion, Ang was penalized with suspension for three months and six months, respectively. On both occasions, she was given a final warning by the Court.

If the Court were to be steadfast in performing its duty to apply the law, no matter how harsh, then the only course of action at this juncture is to dismiss Ang from the service. Clearly, public interest in an efficient and honest judiciary dictates that notice of future harsher penalties should not be followed by another forewarning of the same kind, ad infinitum, but by discipline through appropriate penalties.[9] The Court has dismissed employees in the past for habitual absenteeism, lamenting that the offense causes inefficiency in the public service.[10] Habitual tardiness of this frequency must be treated likewise, if we are to maintain the administration of justice orderly and efficient.

WHEREFORE, we find the following employees administratively liable for habitual tardiness and impose upon them the corresponding penalties, as follows:

- The Court DISMISSES Ms. Nora B. Ang from the service for her fifth offense of habitual tardiness, with forfeiture of retirement benefits except accrued leave credits, and with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

- The Court SEVERELY REPRIMANDS Mr. Rolandino D. Due and Mr. Rudin S. Vengua for their second offense of habitual tardiness;

- The Court SEVERELY REPRIMANDS Mr. Fernando P. Pascual, in view of his previous incursion of habitual absenteeism;

- Ms. Arlene R. Abuzman, Mr. Warren P. Alvarez, Mr. Florentino S. Bautista III, Mr. Andre A. Fernan, Mr. Dionelito T. Manlegro, and Ms. Jacqueline R. Suing are REPRIMANDED, 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 merit a more severe sanction from the Court.

The charge against Atty. Ephyro Luis B. Amatong is DISMISSED for lack of merit.
SO ORDERED.

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

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[1] Re: Imposition of Corresponding Penalties for Habitual Tardiness Committed During the First and Second Semester of 2003, A.M. No. 00-06-09-SC, 16 March 2004, 425 SCRA 508.

[2] Re: Habitual Absenteeism of Mr. Fernando P. Pascual, A.M. No. 2005-15-SC, 22 September 2005, 470 SCRA 569.

[3] Domingo-Regala v. Sultan, A.M. No. P-05-1940, 28 February 2005, 452 SCRA 385; Monserate v. Adolfo, A.M. No. P-04-1823, 12 July 2004, 434 SCRA 117; In Re: Imposition of Corresponding Penalties for Habitual Tardiness Committed During the Second Semester of 2002, A.M. No. 00-6-09-SC, 409 SCRA 9, 14 August 2003.

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[4] Administrative Circular No. 2-99, "Strict Observance of Working Hours and Disciplinary Action for Absenteeism and Tardiness," 15 January 1999.

[5] Administrative Circular No. 1-99, "Enhancing the Dignity of Courts as Temples of Justice and Promoting Respect for their Officials and Employees," 15 January 1999.

[6] 245 SCRA 614, 619 (1995), as cited in Re: Habitual Tardiness First Semester 2002, 440 Phil. 349, 357 (2002).

[7] Concerned Employee vs. Valentin, A.M. No. 2005-01-SC, 8 June 2005, 459 SCRA 307; Re: Administrative Case for Dishonesty Against Elizabeth Ting and Angelita C. Esmerio, A.M. No. 2001-7-SC and A.M. No. 2001-8-SC, 22 July 2005, 464 SCRA 1.

[8] Section 52, Rule IV of Resolution No. 991936 of the Civil Service Commission, effective 26 September 1999.

[9] Poso v. Judge Mijares, 436 Phil. 295 (2002).

[10] Florendo v. Cadano, A.M. No. P-05-1983, 20 October 2005, 473 SCRA 448; Reyes-Macabeo v. Valle, 448 Phil. 583 (2003); Judge Ortiguerra v. Genota, Jr., 434 Phil. 787 (2002).

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