

**PAUL G. DUQUE, COMPLAINANT, VS. BRANCH CLERK OF COURT
ROMEO B. ASPIRAS, LEGAL RESEARCHER CARINA C. BRETANIA,
INTERPRETER MA. ANITA GATCHECO, STENOGRAPHER ANA
GRACIA E. SANTIAGO,...**

A.M. No. P-05-2036 (Formerly OCA-I.P.I. No. 03-1722-P). July 15, 2005

Ponente: TINGA, J.

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TINGA, J.:

This administrative matter was initiated by the letter[1] dated June 2, 2003 of Paul G. Duque charging respondents with falsification of public documents, gross dishonesty and grave misconduct.

The report of the Office of the Court Administrator (OCA) follows:

Complainant, who is a resigned Court Stenographer, alleges that sometime in September 2002, he approached Judge Ruben R. Plata of MTCC, Branch 1, Santiago City and expressed his desire to pursue a course in Nursing. He submitted a letter of resignation and Judge Plata prepared and signed a letter of indorsement to the Supreme Court.

Complainant claims that he was forced to resign because Annie Gatcheco, together with Carina Bretania and Maripi Apolonio, were questioning the entries of his daily attendance in the office logbook. He suspects that these employees were using him to get back at Judge Plata who imposed a strict monitoring of the attendance of court employees and whom they suspect of causing their apprehension by the National Bureau of Investigation (NBI) for Illegal Gambling. Since they believed that complainant is close to the judge, he became their target just to get even with the judge.

After he came out of the office of Judge Plata, he showed his letter of resignation as well as the indorsement to respondent Romeo Aspiras. The latter asked for a copy thereof and even discouraged him from resigning. Respondent Aspiras promised to talk to Judge Manuel Rosete and ask him to call a staff meeting to stop the bickering. However, instead of doing what he promised, respondent Aspiras, without complainant's knowledge, mailed the duplicate copy of the letter of resignation and indorsement to the Office of the Court Administrator, Supreme Court. He suspects that respondents Maripi Apolonio, Carina Bretania and Annie Gatcheco conspired with respondent Aspiras in mailing the said letters.

The three aforementioned respondents were the ones seen by herein complainant loitering around town during office hours. The three allegedly went to the University of La Salette, interviewed his professors and Dean and tried to secure school papers as evidence against him. Complainant demands that an investigation be conducted on the attendance/tardiness of respondents Gatcheco, Apolonio and Bretania.

On 26 December 2001, the Executive Judge issued a memorandum as Implementing Order of Administrative Circular No. 2-99 dated 15 January 1999, Re: "Strict Observance of Working Hours and Disciplinary Action for Absenteeism and Tardiness" in relation to CSC Memo Circ. No. 4, Series of 1991. Despite the issued memorandum, complainant claims that respondents refused to sign the office logbook as a show of defiance against the Executive Judge. Thus, another memorandum, dated 16 September 2002 was issued because of

some court employees' open defiance of the Order to sign in the logbook.

From January 2002 to May 2002, the court personnel in MTCC, Branch 2 did not have an office logbook. On 5 September 2002, a Memorandum was issued for the consolidation of the logbook with the Office of the Clerk of Court. Branch 2 was able to come out with one and made it appear that they started on June 2002. There were scattered entries to cover up their failure to install a logbook from January to May 2002 and from June to 31 August 2002. A handful of personnel signed the logbook without indicating their time in and time out.

Starting 6 September 2002, all the other personnel of Branch 2 posted their time-in and time-out in a sporadic manner; most entries did not indicate time in and out. On the other hand, they submitted fully accomplished DTRs with no tardiness or absences. Meanwhile, the logbook for October, November and December 2002 is missing. Hence, no record exists with which to compare their submitted DTRs. In addition, herein respondents also wrote street jargons opposite their names in the logbook, like: "Hunk", "Cute", "Pretty", "Stunning", "Sexy" and "Macho" thus effectively showing their disrespect to their office and the Executive Judge.

The logbook for January, February, March, April and May 2003 likewise revealed the habitual tardiness incurred by several employees of said Branch in violation of CSC Memo Circ. No. 4, Series of 1991.

Complainant also cites several incidents wherein respondents allegedly falsified or tampered with the office logbook on the entries in their DTR, to wit:

- a) On 27 September 2002, Susie Palma arrived in court at 1:05 pm. After a couple of minutes, respondent Carina Bretania arrived but posted her time-in as 1:00 pm. When confronted by the Executive Judge, she admitted that somebody from Branch 2 reserved a space for her in the logbook by writing her name;
- b) On 8 October 2001, respondents Annie Gatcheco and Andrealyn Andres conspired together by posting the former's name in the office logbook;
- c) Respondent Maripi Apolonio's 27 September 2002 entry on the logbook showed that she was on leave on that day but her DTR for the same day reflected that she was in court from 8:00-12:00 am and 1:00-5:00 pm.

Complainant likewise points to respondent Bretania as the one who took the logbook from the Office of the Clerk of Court and hid the same. She was said to have connived with respondent Apolonio in hiding the logbook for October, November and December 2002.[2]

The OCA summarizes the separate comments filed by respondents, viz:

2. COMMENT dated 1 October 2003 of respondent Maripi A. Apolonio denying the allegations in the complaint. She clarifies that employees of Branch 2, such as herself and respondent Bretania have no authority or power to question complainant's entries in the logbook particularly since the latter is an employee of Branch 1. She explains that the logbooks were placed in the Office of the Clerk of Court where they have to log in and out. Judge Plata would then bring the logbook in his office and write "closed" "late" or "no entry after here" such that those who are late could no longer log in or out and will just enter their attendance on the daily time record placed at the wall facing the door of his office.

Respondent suspects that the instant complaint is just an act to conceal the falsification of DTR being committed by herein complainant, with the aid of Judge Plata and a certain Rogelio Ruma.

On the allegation that she herself falsified her DTR, respondent asserts that she was not the one who placed "PI ON LEAVE" in the logbook on 27 September 2002. She claims that it must have been written by somebody who has hidden motive to remove her from the service. She also noticed that on 5 September 2002 in the lower portion of the logbook there was written 'ABSENT MARIPI APOLONIO' in the handwriting of Judge Ruben Plata.

3. COMMENT dated 1 October 2003 of respondents Ma. Anita Gatcheco, Andrealyn Andres and Eugenio

Taguba denying the allegations in the complaint. They stress that they have not falsified, much less tampered with their DTRs. It has been the policy in their branch (Branch 2) for members to sign the DTR forms located at the DTR rack behind the Branch Clerk of Court's table. For more or less ten (10) years, no irregularity was observed or reported on such policy. Said DTRs were submitted to and examined by the Branch Clerk of Court after which they are sent to the Leave Division of the Office of the Court Administrator, Supreme Court.

On complainant's allegation of irregularity allegedly committed on 8 October 2001, respondents clarify that on said day, respondent Andres asked respondent Gatcheco to sign her name on the logbook because she was ordered by Judge Plata to buy puto for his birthday on the following day. They insist that it was not a practice in their branch and it only happened once. They have already submitted their answer to the memorandum issued by Judge Plata regarding the aforesaid incident and no further action was taken against them, hence, they considered the matter closed.

Respondents herein deny that they conspired with respondent Aspiras in mailing the duplicate copy of complainant's resignation and indorsement letter to the Office of the Court Administrator. They point out that complainant offered no proof to substantiate his accusation. They believe that it was Judge Plata who mailed the aforesaid letters because complainant's resignation would release him from the consequence of his having tolerated complainant's schooling. They further claim that the instant complaint is just a ploy to stop them from exposing complainant's own acts of irregularities.

4. COMMENT dated 7 October 2003 of respondent Carina Claridad-Bretania vehemently denying the allegations in the complaint. She asserts that she has always been truthful in reflecting in her DTR her correct time of arrival and departure. She insists that the entry in the court logbook on 27 September 2002 is true and the time reflected thereon is the correct time of her arrival. She points out that she came earlier than Mr. Wilmer Beltejar who wrote an even earlier time than hers. In addition, the logbook on the said date was closed/marked by the Executive Judge himself at 1:05 pm.

Respondent denies that she conspired with her officemates in taking or hiding their office logbook for the months of October, November and December 2002. The logbook had always been under the close supervision of the Office of the Clerk of Court and the Executive Judge and is only taken out of the judge's chamber during log-in and log-out time.

She avers that complainant's suspicion that they conspired in mailing his resignation letter has no ground to stand on.

5. COMMENT dated 15 September 2003 of respondent Romeo B. Aspiras who admits that complainant showed and gave him copies of his letter of resignation as well as the indorsement of Judge Plata. He was made to believe that complainant was really sincere in his desire to resign. After reading the letter, he kept it in the main drawer of his office table and did not think of it anymore as he was busy working on his retirement papers.

After complainant accused him of mailing said copy of the letter to the Supre Court, he went back to his office and tried to look for the copy given to him but he could no longer find it. He avers that such accusation is devoid of basis as he has no motive nor any interest in complainant's resignation. Although he is already retired from the service, respondent expresses his willingness to appear and testify should an investigation be conducted.

6. COUNTER-AFFIDAVIT dated 15 September 2003 of respondents Ana Gracia E. Santiago and Fe L. Alvarez specifically denying the charges against them. They insist that it has always been the practice in their branch (Branch 2) to observe a policy of honesty in signing the Daily Time Record (DTR) located at the DTR rack behind the table of the branch clerk of court. The DTRs are submitted to and examined by respondent Romeo B. Aspiras and which are then sent to the Leave Division, Office of the Court Administrator, Supreme Court for appropriate action. For ten (10) years, more or less, there has been no reported irregularity on such

practice.[3]

The OCA recommended the dismissal of the complaint against respondent Aspiras in view of his retirement, and the referral of the case to the Executive Judge of Santiago City for investigation, report and recommendation.[4] The recommendation was approved and adopted in the Resolution dated October 11, 2005.[5]

In compliance with the directive, Hon. Fe Albano Madrid, the Executive Judge, conducted an investigation and submitted a report and recommendation dated March 2, 2005, recommending that respondents "be admonished to strictly comply with the utilization of the logbook." Judge Madrid found that the entries in the daily time records (DTRs) of the respondents and the entries in the logbook, at least for the month of September 2002 which was the only one available, did not correspond. However, since the clerk of court attested to the correctness of the DTRs, the same should enjoy the presumption of truth and regularity. The logbooks do not suffice to impugn the correctness of the DTRs considering that the employees were not conscientious in filling them out. Further, the investigating judge found no evidence to indicate that respondents hid the missing logbooks.[6]

The Omnibus Rules Implementing Book V of Executive Order No. 292 (Implementing Rules) provides that each head of department or agency shall require a daily record of attendance of all the officers and employees under him including those serving in the field or on the water, to be kept on the proper form and, whenever possible, registered on the bundy clock.[7] Falsification or irregularities in the keeping of time records will render the guilty officer or employee administratively liable without prejudice to criminal prosecution as the circumstances warrant.[8]

Judicial notice should be taken of the fact that in government offices where there are no bundy clocks, it is a matter of practice for employees upon arrival at work and before proceeding to their respective workstations to first sign their names on the attendance logbook, which is usually placed at an area in their office which is easily accessible to all the employees when they enter that office. It is only at the end of each month that employees fill out their DTRs reflecting therein the entries earlier made in the logbook. In other words, the entries in the DTR are based on the entries made daily in the logbook.[9]

In this case, the investigating judge found that the maintenance of a logbook was not strictly enforced. She concludes, however, that the duty of recording the daily attendance of respondent court employees was complied with. Moreover, due to the fact that the clerk of court attested to the correctness of the DTRs submitted by respondents, the DTRs should be presumed to be accurate and any adverse conclusion which might be drawn from the failure of respondents to faithfully keep a logbook of their attendance should be disregarded.

The Court is not inclined to simply brush off the apparent transgression of the directive to faithfully accomplish the logbook as the basis for the entries in the DTR. If the logbook was not faithfully and accurately filled out, what then did the respondents use as basis in accomplishing their DTRs?

It is the duty of the clerk of court to compare the logbook with the DTR submitted by court employees and to check whether there is any variance in the entries therein before certifying to the truthfulness of the DTR. The clerk of court, who exercises a more direct supervision over the employees, should have been more watchful over their conduct and the manner with which they complied with the directive to keep a logbook of daily attendance.[10] Obviously, respondent clerk of court Aspiras was remiss in his duties. However, the optional retirement of respondent clerk of court Aspiras, which took effect on June 1, 2003 or before the complaint was received by the Court on July 18, 2003, placed him outside the administrative supervision of this Court. Consequently, the complaint against him had been dismissed for being moot and academic. [11]

Similarly, we are not disposed to ignore respondent Bretania's admission that someone else wrote her name on the

logbook on September 27, 2002. Neither are we prepared to discount the admission of respondent Andres that on October 8, 2001, she asked respondent Gatcheco to sign her name in the logbook because she was going to run an errand for Judge Plata and was expecting to be late for work. The conduct displayed by these respondents is undesirable. Even though the keeping of a logbook was not strictly required by the judge and clerk of court concerned, respondents Bretania and Andres ought not to have construed this as a license to have someone else write their names on the logbook for them, or for respondent Gatcheco to accede to respondent Andres's request.

In view of the investigating judge's observation that the court employees are generally loyal and dedicated to their work, and that the imposition of a severe penalty will greatly diminish their morale given the circumstances, reprimand should be sufficient. This is also in keeping with the Implementing Rules which imposes the penalty of reprimand for the violation of reasonable office rules and regulations.[12]

The other charges, i.e., that respondents hid the logbooks and wrote street jargon thereon, should be dismissed for lack of evidence. It should be noted that although the clerk of court issued a certification that the logbooks of court personnel of Metropolitan Trial Court in Cities, Santiago City, Branches I and II and the Office of the Clerk of Court covering the period October 2001, January 2002 to May 2002 and November 2002 to December 2002 are missing, the investigating judge found no evidence to indicate that respondents were the ones who hid the logbooks. She also found no proof that respondents wrote street jargon opposite their names thereon.

WHEREFORE, respondents Carina C. Bretania, Ma. Anita Gatcheco, and Andrealyn M. Andres are hereby REPRIMANDED with WARNING that commission of similar acts in the future will be dealt with more severely. Respondents are enjoined to faithfully fill out the logbook henceforth. All other charges are hereby DISMISSED for insufficiency of evidence.

SO ORDERED.

Puno, Chairman, Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 1-266, with annexes.

[2] Id. at 322-325.

[3] Id. at 325-327.

[4] Id. at 327-328.

[5] Id. at 329.

[6] Id. at 336.

[7] Sec. 2, Rule XVII, Implementing Rules.

[8] Sec. 4, Rule XVII, Implementing Rules.

[9] Judge Rolando G. How v. Teodora A. Ruiz, A.M. No. P-05-1932, February 15, 2005.

[10] Judge Ubaldino A. Lacurom v. Magbanua, A.M. No. P-02-1646, January 22, 2003, 395 SCRA 589.

[11] Rollo, p. 329; Resolution dated October 11, 2004.

[12] Sec. 22 (c), Rule XIV, Implementing Rules.

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