

EXECUTIVE JUDGE AURORA MAQUEDA ROMAN, REGIONAL TRIAL COURT, GUMACA, QUEZON, COMPLAINANT, VS. VIRGILIO M. FORTALEZA, CLERK OF COURT, MUNICIPAL TRIAL COURT, CATANAUAN, QUEZON, RES...

A.M. No. P-10-2865 (FORMERLY A.M. OCA I.P.I. NO. 09-3044-P). November 22, 2010

Ponente: BRION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/bf1949f77618/>

BRION, J.:

This administrative case arose from a letter-complaint, dated May 24, 2007, by one who wanted to keep her identity confidential, addressed to former Chief Justice Reynato S. Puno, informing him of the alleged irregularities happening at the Municipal Trial Court (MTC) of Catanauan, Quezon. For purposes of this Decision, the letter-sender shall be referred to as the "informant."

The letter-complaint reported that respondent Clerk of Court Virgilio M. Fortaleza is the husband of stenographer Norberta Fortaleza and the brother-in-law of process server Gavino Otico Ramos. All three work at the MTC. On the basis of these relations, Norberta and Gavino got performance ratings higher than those given to the other MTC employees. The informant further claimed that the respondent made her sign blank performance evaluation forms without telling her what rating she would get, and added that she was not evaluated for the period July to December 2006. She likewise reported that the respondent is fond of attending cockfights during office hours, and allows Norberta to sign his daily time record during his absence. She also charged the respondent and his wife of using abusive words in addressing her in the presence of other people. Despite these specific charges, the informant still requested that her identity be kept confidential.

The Office of the Chief Justice referred the letter-complaint to then Court Administrator Christopher O. Lock for discreet investigation. The Office of the Court Administrator (OCA), in its letter of September 20, 2007, informed the informant that her allegations regarding the abusive conduct of the respondent and his wife, as well as the irregularities in the filling up of her performance evaluation sheet, cannot prosper without the disclosure of her identity. The OCA explained that the informant's testimony was needed to substantiate these charges. The OCA, nevertheless, stated that the informant's other charges, such as attending cockfights during office hours and tampering of attendance record, may be referred to Executive Judge Aurora V. Maqueda-Roman of the Regional Trial Court, Gumaca, Quezon, for investigation. Accordingly, the OCA referred the letter-complaint to Judge Maqueda-Roman for the conduct of a discreet investigation.

In her Report and Recommendation dated January 2, 2008, Judge Maqueda-Roman found merit in the allegation that the respondent had been "loafing on his job" and recommended that he be meted a P3,000.00 fine, with a warning that a repetition of the same or similar acts will be dealt with more severely. Judge Maqueda-Roman dismissed the other charges against the respondent for lack of basis.

The Report and Recommendation of Judge Maqueda-Roman reads in part:

x x x x

After careful consideration of the testimonies of Virgilio Fortaleza and his co-employees including his wife at MTC Catanauan as well as the other employees at [DAR], Catanauan, Quezon and a policeman at MPS, Catanauan, Quezon, [the] undersigned Executive Judge of RTC, Gumaca, Quezon is inclined to believe that indeed Virgilio Fortaleza has been loafing in office. Even his wife, Norberta Fortaleza stated that once in a while, her husband, Virgilio Fortaleza leaves office, sometimes for half an hour and stays at the police station to smoke to while away his sleepy feeling. Other employees testified that at times[,] Virgilio left office and stayed out for less than an hour or for an hour or for two (2) or three (3) hours for two (2) or three (3) days a week. In this light[,] his co-employees differ in their estimate as to the duration of his stay out of office during office hours. Where Virgilio Fortaleza went out and stayed out of office has not been clearly established, it was not shown that he stayed out of office to attend cockfight[s]. No one of the witnesses disclosed and confirmed that he went out of office and attended cockfights during office hours.[1]

In our Resolution dated February 11, 2009, the Court resolved to: (1) treat Judge Maqueda-Roman's Report and Recommendation as a complaint against the respondent and (2) require the respondent to submit his comment on the complaint. Thus, Judge Maqueda-Roman was made the nominal complainant.

The respondent, in his comment, admitted going to cockfights during Saturdays and Sundays, but denied doing so during office hours. He likewise admitted going out of his office either to smoke, read newspapers in the library, or communicate with the police on legal matters.

In our Resolution of July 6, 2009, we referred the case to the OCA for evaluation, report and recommendation. The OCA, in its Memorandum dated October 26, 2009, recommended that the respondent be held liable for loafing during office hours, and be suspended from office without pay for six (6) months.

The OCA explained that the testimonies of the various witnesses during the investigation, conducted by Judge Maqueda-Roman, established that the respondent had been loafing during office hours.

THE COURT'S RULING

After due consideration, we adopt the OCA's findings.

Court personnel must devote every moment of official time to public service. The conduct and behavior of court personnel should be characterized by a high degree of professionalism and responsibility, as they mirror the image of the court. Specifically, court personnel must strictly observe official time to inspire public respect for the justice system. Section 1, Canon IV[2] of the Code of Conduct for Court Personnel mandates that court personnel shall commit themselves exclusively to the business and responsibilities of their office during working hours. Loafing results in inefficiency and non-performance of duty, and adversely affects the prompt delivery of justice.[3]

The Civil Service Commission Rules define "loafing" as "frequent unauthorized absences from duty during regular office hours." The word "frequent" connotes that the employees absent themselves from duty more than once.[4]

In the present case, the charge of loafing was proven by substantial evidence. Gavino, the process server and the respondent's own brother-in-law, testified that there were times the respondent left the office during office hours, although these temporary absences from office did not exceed one hour. Norberta, the stenographer and the respondent's wife, stated that the respondent left the office "once in a while, sometimes for half an hour." Melanie Macaraig, a court interpreter, narrated that the respondent would leave the office during office hours lasting from two to three hours a day, two to three times a week. Nilo Tabernilla, Clerk II at the Department of Agrarian

Reform (DAR), narrated that respondent would go to the DAR office in the morning to chat, but explained that the DAR office is near the MTC. While none of these witnesses saw the respondent attend cockfights during office hours, sufficient basis exists to conclude that the respondent had indeed been loafing during office hours, albeit the witnesses differ in their reports on the length of time he actually stayed out of office. The respondent himself did not deny going out of his office during working hours, although he explained that he would go out either to smoke, to read newspapers in the library, or to discuss legal matters with the police.

We find the respondent's self-serving explanation unmeritorious. First, these claimed activities, even if true, would not consume as much as two (2) to three (3) hours of his time. Second, any discussions of legal matters with the police should be upon the instructions of his judge, which the respondent has not even claimed. Finally, the respondent should only read newspapers and smoke during breaktime; these activities should never be done during working hours. As we explained in *Re: Unauthorized Absences from the Post of Pearl Marie N. Icamina*:^[5]

Pursuant to the constitutional mandate that public office is a public trust, court personnel must observe the prescribed office hours and use this time efficiently for public service, "if only to recompense the Government, and ultimately, the people, who shoulder the cost of maintaining the Judiciary."

Other than the matter of loafing, we agree with the OCA that no evidence exists to support the charges against the respondent.

Section 52(A)(17), Rule IV of the Uniform Rules or Civil Service Commission Resolution No. 991936 classifies loafing or frequent unauthorized absences from duty during regular office hours as a grave offense, punishable by suspension for six (6) months and one (1) day to one (1) year for the first offense, and dismissal for the second offense. Section 53(j), Rule IV of the Uniform Rules allows length of service in the government to be considered as a mitigating circumstance in the determination of the penalty to be imposed. We consider the respondent's more than 30 years of service in the Judiciary as a mitigating circumstance and, accordingly, impose on him the minimum penalty of suspension without pay for six (6) months, as recommended by the OCA.

The Court has made clear that while it is its duty to sternly wield a corrective hand to discipline its errant employees and to weed out those who are undesirable, this Court also has the discretion to temper the harshness of its judgment with mercy. When an officer or employee is disciplined, the object sought is not his/her punishment, but the improvement of the public service, and the preservation of the public's faith and confidence in the government.^[6]

WHEREFORE, in light of all the foregoing, respondent Virgilio M. Fortaleza is hereby found GUILTY of (1) loafing under Section 52(A)(17), Rule IV of the Uniform Rules or Civil Service Commission Resolution No. 991936; and (2) violation of Section 1, Canon IV of the Code of Conduct for Court Personnel. He is hereby SUSPENDED from the service without pay for a period of SIX (6) MONTHS, with the stern warning that a repetition of the same or similar acts will warrant a more severe penalty.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Report and Recommendation, p. 6.

[2] Section 1. Court personnel shall at all times perform official duties properly and with diligence. They shall commit themselves exclusively to the business and responsibilities of their office during working hours.

[3] See *Re: Unauthorized Absences from the Post of Pearl Marie N. Icamina, Legal Researcher, RTC, Branch 8, Kalibo, Aklan*, A.M. No. P-062137, September 30, 2008, 567 SCRA 142, 148.

[4] See *Office of the Court Administrator v. Mallare*, 261 Phil. 18 (2003).

[5] *Supra* note 3.

[6] See *Lopena v. Saloma*, A.M. No. P-06-2280, January 31, 2008, 543 SCRA 228, 236.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.