

SECOND DIVISION

[**A.M. No. P-15-3379 (Formerly A.M. No. 15-07-77-MeTC), November 22, 2017**]

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, V. MR. ALDEN P. COBARRUBIAS,^[*] CLERK III; AND MR. VLADIMIR^[] A. BRAVO, COURT INTERPRETER II, BOTH OF METROPOLITAN TRIAL COURT [METC], BRANCH 24, MANILA, RESPONDENTS.**

DECISION

CAGUIOA, J:

An undated anonymous letter-complaint^[1] was sent to the Office of the Court Administrator (OCA) against the following personnel of the Metropolitan Trial Court (MeTC), Branch 24, Manila: Alden Cobarrubias (Clerk III), Vladimir Bravo (Court Interpreter II), Teodora Balboa (Clerk of Court III), and Antonio Abad, Jr. (Clerk III).^[2] Abad, Cobarrubias, and Bravo allegedly falsified their respective daily time record (DTR), while Balboa tolerated the same.^[3] In an Indorsement^[4] dated September 21, 2011, the OCA referred the said complaint to then Executive Judge Mario A. Magdoza-Malagar of MeTC-Manila for discreet investigation and report.

Investigation Report of Executive Judge Magdoza-Malagar

In the Investigation Report^[5] dated December 9, 2011, Executive Judge Magdoza-Malagar stated that the following findings were based on several interviews with Balboa, and on the entries in the logbook and DTR of Abad, Cobarrubias, and Bravo for the five-month period of June to October 2011 which were already on file with the Leave Division of the OCA.^[6] In the case of Abad, there was no discrepancy in the entries in the logbook and DTR.^[7] In the case of Cobarrubias, there were several discrepancies in the entries in the logbook and DTR (*i.e.*, in the logbook, he was marked as absent on two [2] occasions, but he indicated in his DTR that he was present; on several occasions, his "time-in" in the logbook is different from that indicated in the DTR).^[8] In the case of Bravo, during the said five-month period, he incurred twenty-four (24) sick leaves, eighteen (18) vacation leaves, one (1) special privilege leave, and tardiness for thirty (30) days.^[9] Based on informal inquiries, Executive Judge Magdoza-Malagar noted that Bravo's frequent absences and tardiness were allegedly due to drinking.^[10] It was also noted in the Investigation Report that, as a court interpreter, Bravo is expected to be present during every trial, however, due to his frequent absences and tardiness, another court staff has to perform his work to the detriment of public service.^[11] It was also stated in the Investigation Report that Balboa admitted that she had been lenient in allowing the court employees to record entries in the logbook.^[12]

Based on the foregoing findings, Executive Judge Magdoza-Malagar recommended the following: (a) dismissal of the complaint against Abad for lack of evidence; (b)

filing of administrative complaint against Cobarrubias for falsification of his DTR; (c) filing of administrative complaint against Bravo for absenteeism, tardiness and dereliction of duty; and (d) issuance of a warning to Balboa, directing her to ensure that all entries in the logbook are true and accurate.^[13]

Acting on the above Investigation Report, the OCA Chief of Legal Office, Wilhelmina D. Geronga recommended the following actions in a Memorandum^[14] dated January 4, 2013 addressed to the Court Administrator: (a) dismissal of the complaint against Abad for insufficiency of evidence; (b) directing Cobarrubias and Bravo to comment on the allegations in the complaint and on the findings in the Investigation Report, considering the seriousness of the charges which constitute serious misconduct and conduct prejudicial to the best interest of the service, respectively; and (c) directing Balboa to comment on the allegation in the complaint that she tolerated the conduct of Cobarrubias and Bravo.^[15] Rather than issue a warning to Balboa as recommended in the Investigation Report, the OCA deemed it proper to require her to comment on the allegations in the complaint.^[16]

Comments of Cobarrubias, Bravo, and Balboa

In his Comment^[17] dated March 18, 2013, Bravo admitted his absences and tardiness but denied that the same were due to drinking.^[18] He explained that he was experiencing severe recurring pain in his joints which made it difficult for him to walk, thus he incurred the said absences and tardiness.^[19] He asserted that despite the pain, he tried to report to work in order to perform his tasks and not burden his officemates.^[20] However, he acknowledged that his health problem does not justify his absences and tardiness and thus he apologized for his infractions and begged for the Court's understanding and compassion.^[21]

In his Comment^[22] dated April 5, 2013, Cobarrubias admitted making the alterations in his DTRs for fear of suspension for tardiness due to grave personal problems, and difficulty in traveling from his residence in Bulacan to the office which gave him great stress and affected his work performance.^[23] He denied that Balboa tolerated his acts, and stated that Balboa even issued a memorandum warning him on his absences and tardiness.^[24] He apologized and vowed to do his work to the best of his abilities and with utmost diligence and dedication.^[25]

In her Comment^[26] dated March 22, 2013, Balboa denied that she tolerated the acts of Cobarrubias and Bravo.^[27] She asserted that she checks the entries in the logbook of attendance to determine who are absent.^[28] However, she admitted that, due to heavy workload, there are instances when she would miss checking the attendance of staff who failed to report for work, such as in the case of Cobarrubias.^[29] She also argued that she always reminded Cobarrubias of his tardiness and absences, and even issued a memorandum to him.^[30] In the case of Bravo, Balboa stated that she sent a letter^[31] dated December 11, 2012, informing the OCA-Leave Division of his absences without leave since September 19, 2012 up to the date of the said letter.^[32]

Meanwhile, Bravo resigned on August 23, 2013^[33] and Balboa compulsorily retired from the service on September 11, 2013.^[34]

OCA Report and Recommendation

In a Report^[35] dated June 26, 2015, the OCA recommended the following: (a) the anonymous complaint against Cobarrubias and Bravo be re-docketed as a regular administrative matter; (b) Cobarrubias be suspended for three (3) months without pay, effective immediately, for Dishonesty, with a stern warning that a repetition of the same or similar offense shall be dealt with more severely; (c) Bravo be fined in the amount of Twenty Thousand Pesos (P20,000.00), in view of his resignation, for habitual absenteeism and conduct prejudicial to the best interest of the service; and (d) the anonymous complaint against Balboa and Abad be dismissed for lack of merit.^[36]

The OCA found Cobarrubias guilty of dishonesty for making false entries in his DTR which differ from the entries in the logbook.^[37] The OCA cited Section 52(A)(1), Rule IV of the Uniform Rules on Administrative Cases in the Civil Service,^[38] which classifies dishonesty as a grave offense punishable by dismissal even for the first violation, with forfeiture of retirement benefits except accrued leave credits and perpetual disqualification from reemployment in government service.^[39] The OCA also cited Republic Act No. 6713^[40] which declared the State's policy of promoting a high standard of ethics and utmost responsibility in the public service.^[41] The OCA stressed that the conduct of court personnel, from the presiding judge to the lowliest clerk, must always be beyond reproach and must be circumscribed with the heavy burden of responsibility as to free them from any suspicion that may taint the judiciary.^[42] However, the OCA noted that while the Court has the duty to discipline its employees, it also has the discretion to temper the harshness of judgment with mercy, as held in several cases.^[43] Thus, considering that Cobarrubias readily admitted his offense, apologized and promised to reform his ways, the OCA deemed that the penalty of three (3) months suspension without pay will suffice.^[44]

In the case of Bravo, the OCA noted that he committed habitual absenteeism and tardiness^[45] based on the findings in the Investigation Report which showed that during the five-month period of June to October 2011, he incurred twenty-four (24) sick leaves, eighteen (18) vacation leaves, one (1) special privilege leave, and tardiness for thirty (30) days.^[46] Bravo also readily admitted the said findings, sought forgiveness therefor, and attributed his absences and tardiness to the alleged recurring and severe pain in his joints.^[47] However, the OCA noted that he failed to present a single medical certificate, and to file his leave applications.^[48] Moreover, the OCA found that his unauthorized absences exceeded the allowable 2.5 days monthly leave.^[49] The OCA concluded that his unauthorized and habitual absences and tardiness constitute a grave offense tantamount to conduct prejudicial to the service.^[50]

The OCA cited Memorandum Circular (MC) No. 04, series of 1991, of the Civil Service Commission which was quoted in OCA Circular No. 1-91^[51] which defined habitual absenteeism^[52] and habitual tardiness^[53] and provided sanctions^[54] therefor.^[55] The same provides that those found guilty of habitual absenteeism and tardiness shall be meted the penalty of six (6) months and one (1) day to one (1) year suspension without pay for the first offense. The OCA also cited Supreme Court Administrative Circular No. 14-2002^[56] which also quoted MC No. 04. The OCA

further cited Section 23 (q),^[57] Rule XIV (Discipline) of the Omnibus Rules Implementing Book V of Executive Order No. 292,^[58] which classified frequent unauthorized absences or tardiness as a grave offense punishable by suspension for six (6) months and one (1) day to one (1) year for the first offense.^[59] Furthermore, the OCA cited Section 46(B)(5)(8),^[60] Rule 10 (Schedule of Penalties) of the Revised Rules on Administrative Cases in the Civil Service (RRACCS),^[61] which classified the two (2) offenses committed by Bravo (*i.e.*, frequent unauthorized absences or tardiness, and conduct prejudicial to the best interest of the service) as grave offenses punishable by suspension of six (6) months and one (1) day to one (1) year for the first offense.^[62] Since Bravo committed two (2) offenses classified as less grave and thus punishable with the same penalty, the OCA applied Section 50^[63] of the RRACCS and treated the penalty for the second offense as an aggravating circumstance.^[64] However, since Bravo already resigned effective August 23, 2013, the OCA imposed fine of Twenty Thousand Pesos (P20,000.00) in lieu of suspension.^[65]

Regarding the allegations against Balboa, the OCA found that, although she warned the concerned employees on their absences and tardiness, she still failed to prevent the falsification committed by Cobarrubias on several occasions.^[66] Citing *Duque v. Aspiras*,^[67] the OCA stressed that a clerk of court has the duty to verify the entries in the logbook and DTR before certifying to its truthfulness.^[68] The OCA emphasized that the clerk of court should have been more watchful over the employees' conduct, especially regarding attendance.^[69] Citing *Concerned Litigants v. Araya, Jr.*,^[70] the OCA emphasized that her failure to live up to the standards of responsibility required warrants disciplinary action for this Court cannot countenance any conduct, act, or omission on the part of those involved in the administration of justice which will violate the norms of public accountability and diminish, or tend to diminish, the faith of the people in the judicial system.^[71]

Nevertheless, the OCA took into consideration Balboa's forty-three (43) years of service in the government, having risen from the ranks, first as clerical aide and eventually as Clerk of Court III.^[72] She also received the following awards: Outstanding Clerk of Court, First Level Court, from Society for Judicial Excellence for 2007, and Loyalty Award from the City of Manila, and other plaques of recognition.^[73] The OCA averred that considering the above circumstances and in view of her unblemished record, she should not be punished for a minor lapse of duty.^[74] At most, had she still be in service, she would have been merely reminded to be more circumspect in the performance of her duties.^[75]

After a careful consideration of the foregoing, the Court hereby adopts and affirms the findings and recommendations in the above OCA Report.

WHEREFORE, the Court hereby **ORDERS** the following:

1. Respondent Alden P. Cobarrubias (Clerk III) be **SUSPENDED** for three (3) months without pay, effective immediately, for dishonesty, with a **STERN WARNING** that a repetition of the same or similar offense shall be dealt with more severely;