

FIRST DIVISION

[A.M. No. RTJ-11-2287 (Formerly OCA I.P.I. No. 11-3640-RTJ), January 22, 2014]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
HON. CADER P. INDAR, AL HAJ, PRESIDING JUDGE AND
ABDULRAHMAN D. PIANG, PROCESS SERVER, BRANCH 14, BOTH
OF THE REGIONAL TRIAL COURT, BRANCH 14, COTABATO CITY,
RESPONDENTS.**

DECISION

LEONARDO-DE CASTRO, J.:

This concerns the anomalous compliance by respondent Process Server Abdulrahman D. Piang (Piang) with the requirements for the facilitation of his initial salary, particularly his Daily Time Records (DTRs) for the months of February and March of 2010.

Piang was appointed Process Server of the Regional Trial Court (RTC), Branch 14 of Cotabato City on January 25, 2010. He assumed office on February 15, 2010.

On January 26, 2010, the Office of the Court Administrator, Office of Administrative Services (OCA-OAS), required Piang to submit several documents, which included a complete DTR or Bundy Card, verified as to the prescribed office hours by the Presiding Judge/Clerk of Court, one month from the date of his assumption.^[1]

On February 22, 2010, Piang submitted the requirements to the OCA-OAS, including two DTRs with detailed time-in and time-out entries for the months of February and March 2010.^[2] The DTR for the month of February 2010 reported Piang's time-in and time-out from February 15, 2010 to February 26, 2010, when it should only validly cover the period of February 15, 2010 up to February 21, 2010, the day prior to its submission to the OCA-OAS. In addition, the DTR for the month of March 2010 already contained complete time-in and time-out entries for the entire month even when the same had not yet transpired and become due.

Thus, Court Administrator Jose Midas P. Marquez (Marquez), in his *1st Indorsement*^[3] dated April 5, 2010, required Piang to comment on his anomalous DTRs for February and March 2010.

In his explanation letter^[4] dated February 22, 2010 addressed to the OCA-OAS, Piang said that it was an honest mistake caused by his lack of knowledge of the policies being implemented by the office. He claimed that he understood the OCA-OAS directive to submit "complete DTR or Bundy Card verified as to prescribed office hours by the Presiding Judge/Clerk of court, one month from the date of assumption" to mean that he should already submit DTRs for the remaining days of

February and of the whole month of March 2010 even though he had not yet worked on those days. He further explained that he had no fraudulent intention and that the error was due to sheer inadvertence on his part alone, being too excited to perform his duties and to have the documents signed by former Judge Cader P. Indar (Indar). He simply forgot to seek advice from Judge Indar. Piang adopted the same explanation in his subsequent Comment^[5] dated May 24, 2010.

Based on Piang's explanation, Court Administrator Marquez wrote a letter^[6] dated April 20, 2010 addressed to Judge Indar requiring the judge to comment on why he signed the questioned DTRs even if these were not yet due.

In the Agenda Report^[7] dated May 9, 2011, the OCA found sufficient reason to hold Piang administratively liable. The OCA opined that the punching of the remaining working days for the month of February and for the entire month of March 2010, even for dates that were not yet due, is an outright violation of OCA Circular 7-2003. Failure to submit true and accurate DTRs/Bundy Cards amounts to falsification which is punishable by dismissal, and under Civil Service Rules and Regulations, it is dishonesty. The OCA, however, took into consideration the mitigating circumstance of Piang acknowledging his infractions, as well as the fact that this is his first offense. Thus, the OCA submitted the following recommendations:

1. That the instant administrative complaint be **RE-DOCKETED** as a regular administrative matter;
2. That respondent Abdulrahman D. Piang, Process Server, Regional Trial Court, Branch 14, Cotobato City be found liable for Dishonesty; be immediately **SUSPENDED** for one (1) year without pay; and **WARNED** that a repetition of the same offense shall be dealt with more severely;
3. That the salary of respondent Abdulrahman D. Piang for the months of February and March 2010 be **FORFEITED** in view of the fact that he doctored and falsified Daily Time Records covering said months; and
4. That Judge Cader P. Indar be required to submit a **COMMENT** within ten (10) days from receipt hereof with notices sent to his last known residence and to the Regional Trial Court of Cotobato City, Branch 14, otherwise he will be deemed to have waived the right to file the same and the matter shall be decided based on the records at hand.^[8]

In a Resolution^[9] dated June 29, 2011, the Court required (1) Piang to manifest if he was willing to submit the case for decision/resolution based on the pleadings filed, and (2) Judge Indar to submit his comment on the present matter, otherwise, it shall be deemed waived and the case against him will be decided based on the records at hand.

Piang filed his Manifestation^[10] on September 15, 2011 expressing his willingness to submit the instant administrative case for resolution based on the submitted pleadings and requesting leniency of the Court in deciding his case.

In a Resolution^[11] dated February 8, 2012, the Court required Judge Indar to show cause why he failed to comply with the earlier Resolution dated June 29, 2011 of the Court and directed him anew to submit the required comment.

Acting Presiding Judge Bansawan Z. Ibrahim (Ibrahim), Al Haj, RTC-Branch 14 of Cotabato City, informed the OCA, through a letter^[12] dated April 23, 2012, that Judge Indar, who was by then already suspended because of another administrative case, had not been in touch with the court, thus, Judge Ibrahim believed that Judge Indar would no longer submit his comment on the present case. Judge Ibrahim also vouched for the absence of malice on the part of Piang when he prepared the subject DTRs; Piang was merely not advised properly.

Court Administrator Marquez submitted a report^[13] dated April 3, 2013, in which he recommended that:

1. The OCA's findings and recommendation of a penalty of suspension for one (1) year without pay against Abdulrahman D. Piang, Process Server, Branch 14, Regional Trial Court, Cotabato City, be **APPROVED** and **ADOPTED**.
2. Respondent Judge Cader P. Indar, former Presiding Judge of Branch 14, Regional Trial Court, Cotabato City, be found **GUILTY** of **GROSS MISCONDUCT** and **INSUBORDINATION**; and
3. A penalty of **FINE** in the amount of **FORTY THOUSAND PESOS (P40,000.00)** be imposed against respondent Judge Indar, to be deducted from the monetary value of his unclaimed leave credits.
^[14]

Six months thereafter, Judge Indar finally submitted his Comment on October 7, 2013. In his Comment, Judge Indar was completely silent on the reason/s for his delay in filing the same and went straight ahead to explaining the circumstances surrounding Piang's February and March 2010 DTRs, thus:

4. That the undersigned had inadvertently signed the Daily Time Records (DTRs) for February 15, 2010 and March 2010 of Mr. Abdulrahman D. Piang, as it was submitted for signatures together with the other DTRs of the old employees of RTC, Branch 14, Cotabato City;
5. That during a talk with Mr. Piang, He explained to the undersigned that he was advised to prepare the subjects DTRs for the processing of his initial salary and that he complied right away by submitting the same for signatures;
6. That he confided to the undersigned that his act was an honest mistake as he failed to inquire about the rules on preparing DTRs, all that he was thinking at that time was to comply immediately with the directive of Administrative Services of the Office of the

Court Administrator for the submission of the subject DTRs;

7. That the undersigned is convinced that Mr. Piang committed an honest mistake and that his act was never intended to violate or disregard the rules and law he being a first time appointee to the government service at that time, he cannot as yet be expected to know the rules and regulations pertaining to DTRs;
8. That Mr. Piang deserves a second chance, as he has already suffered enough from such honest mistake as he has been performing his duties as Process Server of RTC, Branch 14, Cotabato City without salaries and benefits since his appointment to office.^[15]

The charge of dishonesty against Piang

OCA Circular No. 7-2003 clearly states that court personnel should indicate in their bundy cards the "truthful and accurate times" of their arrival at, and departure from, the office. As we have ruled in *Garcia v. Bada*^[16] and *Servino v. Adolfo*,^[17] court employees must follow the clear mandate of OCA Circular No. 7-2003. Piang's entries in his February and March 2010 DTRs for dates that had not yet come to pass were a clear violation of OCA Circular No. 7-2003.

Section 4, Rule XVII (on Government Office Hours) of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws also provides that falsification or irregularities in the keeping of time records will render the guilty officer or employee administratively liable.^[18]

There is no other way but for the Court to view Piang's falsification of his February and March 2010 DTRs as tantamount to dishonesty. He cannot claim honest mistake as he was fully aware when he accomplished his DTRs for February and March 2010 that there were dates that had not yet even come to pass and for which he could not have reported for work yet. He even meticulously and, thus, intentionally, entered varying time-in and time-out for each date in said DTRs. Piang need not be advised of the policies at RTC-Branch 14 of Cotabato City. Truthfulness and accuracy in the DTRs should be complied with in any office, government offices most especially.

Dishonesty, being in the nature of a grave offense, carries the extreme penalty of dismissal from the service with forfeiture of retirement benefits except accrued leave credits, and perpetual disqualification for reemployment in government service. Indeed, dishonesty is a malevolent act that has no place in the judiciary. This Court has defined dishonesty as the "(d)isposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray."^[19]

Nonetheless, the Court has recognized exceptions to the rule, and imposed penalties less severe than dismissal from service upon a dishonest employee. In *Falsification*

of Daily Time Records of Ma. Encisa A. Benedictos, Administrative Officer I, Regional Trial Court, Malolos City, Bulacan,^[20] the Court ratiocinated:

[I]n several administrative cases, the Court refrained from imposing the actual penalties in the presence of mitigating factors. There were several cases, particularly involving dishonesty, in which the Court meted a penalty lower than dismissal because of the existence of mitigating circumstances.

In *In Re: Ting and Esmerio*, the Court did not impose the severe penalty of dismissal because the respondents acknowledged their infractions, demonstrated remorse, and had dedicated long years of service to the judiciary. Instead, the Court imposed the penalty of suspension for six months on Ting, and the forfeiture of Esmerio's salary equivalent to six months on account of the latter's retirement.

The Court similarly imposed in *Re: Failure of Jose Dante E. Guerrero to Register his Time In and Out in the Chronolog Time Recorder Machine on Several Dates* the penalty of six months suspension on an employee found guilty of dishonesty for falsifying his time record. The Court took into account as mitigating circumstances Guerrero's good performance rating, 13 years of satisfactory service in the judiciary, and his acknowledgment of and remorse for his infractions.

The compassion extended by the Court in the aforementioned cases was not without legal basis. Section 53, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service, grants the disciplining authority the discretion to consider mitigating circumstances in the imposition of the proper penalty. (Citations omitted.)

In the case at bar, considering that Piang readily admitted his infraction and that this is Piang's first administrative case, a similar penalty of six (6) months suspension, instead of dismissal, is already sufficient.

The charges of gross misconduct and insubordination against Judge Indar

It took three directives and three years for Judge Indar to submit his Comment on the present administrative matter against him and Piang. In a letter dated April 20, 2010, Court Administrator Marquez required Judge Indar to comment on why he signed Piang's DTRs for February and March 2010 even if these were not yet due. In a Resolution issued more than a year later, on June 29, 2011, the Court likewise ordered Judge Indar to submit his comment on the matter of Piang's anomalous DTRs. Then, in another Resolution dated February 8, 2012, the Court already required Judge Indar to show cause why he failed to comply with the Resolution dated June 29, 2011 and directed him once more to file his comment. Despite being given notices of the aforementioned letter and Resolutions, Judge Indar filed his Comment only on October 7, 2013, and even then, he did not offer any apology and/or explanation for his long delay in complying with the directives/orders of the OCA and this Court. In fact, Judge Indar has still not complied with the show-cause