

SECOND DIVISION

[A.M. No. P-12-3048 (formerly A.M. No. 11-3-29-MCTC), June 05, 2013]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
NELSON P. MAGBANUA, PROCESS SERVER, 3RD MUNICIPAL
CIRCUIT TRIAL COURT, PATNONGON, ANTIQUE, RESPONDENT.**

DECISION

BRION, J.:

In an undated report^[1] filed with the Leave Division of the Office of the Court Administrator (OCA) on January 27, 2011, Ms. Ethelda B. Valente, then Clerk of Court, 31 Municipal Circuit Trial Court, PatnongonBugasong-Valderrama, Antique, reported the irregularities in the Daily Time Record (*DTR*) of Nelson P. Magbanua (*respondent*), a Process Server of the same court, for the month of November 2010. Ms. Valente claimed that the entries in the respondent's *DTR* for the month of November 2010 do not tally with the entries in the logLook of their office. In support of her allegations, Ms. Valente submitted photocopies of the respondent's *DTR* and of their office logbook.^[2]

In a 1st Indorsement^[3] dated April 12, 2011, the respondent was required to comment on Ms. Valente's allegations against him. In his Comment^[4] dated May 16, 2011, the respondent explained that he secretly maintained a record book^[5] to record the actual time of his arrival in and departure from the office without the knowledge of his co-employees. It started in August 2010 when Ms. Valente became hostile and antagonistic towards him after a case filed with the court was dismissed for non- appearance of the plaintiff Anecita Panaligan. An administrative case was filed by Panaligan against Ms. Valente on the ground that she failed to attend the hearing of her case because she was not sent a copy of the Notice of Hearing. Ms. Valente blamed the respondent for the failure to serve a copy of the notice of hearing on plaintiff Panaligan. The respondent further asserted that he was not given an opportunity to explain the alleged irregularities in his *DTR*. Ms. Valente forwarded his *DTR* and the logbook to the OCA without his knowledge.

The respondent explained that although he has no entries in the logbook of the time of his arrival in and departure from the office in the afternoon of November 2, 2010, he recorded them in his own record book. On November 8 and 9, 2010, he mistakenly copied in his *DTR* the entries of his arrival in their office logbook due to his poor eyesight. In the morning of November 22, 2010, he went to San Jose, Antique on official business to serve the Notice of Hearing of a criminal case on the Office of the Provincial Prosecutor and on the Public Attorney's Office. In the afternoon, he recorded his time of arrival and departure in his own record book because he could not find the logbook. The following day, or on November 23, 2010, he logged in before he went to Bugasong, Antique to serve the notice of hearing of

the criminal case on the accused and the witnesses for the prosecution. He returned to the office before 12:00 noon but again he could not find the logbook. He recorded his time of arrival and departure in the afternoon in his own record book. On November 24 and 25, 2010, he recorded his time of arrival and departure in his own record book because Ms. Valente kept the office logbook.

In an Agenda Report^[6] dated January 10, 2012, the OCA confirmed that the entries in the DTR of the respondent and in the logbook do not tally. These records show the following:

	DTR		Logbook	
	IN	OUT	IN	OUT
<u>November 2, 2010</u>				
morning	8:02	12:00	8:02	12:00
afternoon	12:15	5:00	no entry	
<u>November 8, 2010</u>				
morning	8:08	12:00	8:18	12:00
afternoon	12:15	5:00	12:15	5:00
<u>November 9, 2010</u>				
morning	7:23	12:00	8:23	12:00
afternoon	12:15	5:00	12:15	5:00
<u>November 22, 2010</u>				
morning	8:00	12:00	no entry	
afternoon	12:15	5:00	no entry	
<u>November 23, 2010</u>				
morning	7:52	12:00	7:52	no entry
afternoon	12:15	5:00	no entry	
<u>November 24, 2010</u>				
morning	8:37	12:00	8:37	no entry
afternoon	12:15	5:00	no entry	
<u>November 25, 2010</u>				
morning	8:08	12:00	8:08	12:00
afternoon	12:15	5:00	no entry	

The OCA recommended: (1) that the matter be re-docketed as a regular administrative matter; (2) that the respondent be found guilty of dishonesty and that a fine of P5,000.00 be imposed with the warning that a repetition of the same or any similar act shall be dealt with more severely; and (3) that Ms. Valente be ordered to show cause, within ten (10) days from notice, why no disciplinary action should be taken against her for her failure to properly supervise the employees in her office, particularly in their use of the logbook, the preparation of the DTR and the observance of OCA Circular No. 7-2003.

Thereafter, the Court issued Resolution^[7] dated February 27, 2012: (1) ordering the re-docketing of the complaint as a regular administrative matter; (2) requiring the respondent to manifest to the Court whether he was willing to submit this matter for resolution on the basis of the pleadings filed; and (3) requiring Ms. Valente to show cause, within ten (10) days from notice, why no disciplinary action should be taken against her for failure to properly supervise the employees in her branch, particularly in their use of logbook, the preparation of the DTR, and the observance of OCA Circular No. 7-2003.

In a letter^[8] dated April 16, 2012, the respondent manifested that he was submitting the complaint against him for resolution, based on the pleadings already filed. He further promised to be more careful and circumspect in filling up his DTR.

Ms. Valente, who is now retired from the service, filed her compliance through her lawyer.^[9] She alleged that she is aware of OCA Circular No. 7-2003 which lodged with the Clerk of Court the duty to supervise the personnel of the court, especially with regard to their use of the logbook and in the preparation of the DTR. However, the duty to sign the DTR of the court personnel was removed from her and was assumed by Judge Felixberto P. Barte. It is not true that she had been keeping the logbook. This has always been at its designated table inside the court premises, where court personnel have ready access during office hours.

Ms. Valente has her own explanations on the discrepancies in the respondent's DTR and in the office logbook for the month of November -

17. For November 2, Mr. Magbanua failed to report back to the office, that is why the Office Logbook does not contain entries for his afternoon arrival and departure. The incorrect morning arrival entries for November 8 and 9, may have been due to inadvertence, indeed;

18. For November 22, it may be true that Mr. Magbanua was out of the office to serve the NOTICE OF HEARING in Criminal Case No. 4051-B, but since the Office Logbook does not contain any entry for the day, Mr. Magbanua did not pass by the office before he went out to serve the said NOTICE. Otherwise, there is no logical reason why he failed to enter his time of arrival in the morning before serving the said NOTICE because the Office Logbook has all the while been just there lying on its table for him to record his time of arrival. The Office Logbook had never been denied access to him, or to any other court personnel, during office hours, on weekdays;

19. For November 23, Mr. Magbanua must have gone to Bugasong to serve the foregoing NOTICE, but he reported first to the office in the morning, before going to Bugasong, thus, the morning arrival entry. This negates his allegation that he failed to log on November 22 because he could not find the Office Logbook. This only goes to prove that on November 22, Mr. Magbanua did not report to the office before serving the NOTICE, nor did he report back after having served the same[.]^[10]

The Court finds Ms. Valente's explanation satisfactory. OCA Circular No. 7-2003 requires every Clerk of Court to maintain a registry book (logbook) in which all employees of that court shall indicate their daily time of arrival in and departure from the office. He shall also check the accuracy of the DTRs prepared by the court employees by comparing them with the entries in the logbook. She had complied with these duties. In keeping track of the respondent's attendance, Ms. Valente may be legally presumed, in the absence of any evidence to the contrary, to have acted in the regular performance of her official duties.^[11]

The OCA issued Circular No. 7-2003, dated January 9, 2003, enjoining every official