

EN BANC

[A.M. No. P-07-2358 (FORMERLY A.M. NO. 06-4-138-MTC), October 19, 2010]

ISABEL D. MARQUEZ, CLERK OF COURT, MUNICIPAL TRIAL COURT, CABA, LA UNION, COMPLAINANT, VS. JOCELYN C. FERNANDEZ, STENOGRAPHER, MUNICIPAL TRIAL COURT, CABA, LA UNION, RESPONDENT.

DECISION

PER CURIAM:

We resolve the present administrative complaint dated December 10, 2004^[1] brought by Isabel D. Marquez (*Marquez*), Clerk of Court, Municipal Trial Court, Caba, La Union against Stenographer Jocelyn C. Fernandez (*Fernandez*) of the same court, for frequent unauthorized absences or tardiness, and falsification of public document. The complaint was filed with Executive Judge Rose Mary R. Molina-Alim (*Judge Molina-Alim*), First Judicial Region, Regional Trial Court, Branch 33, Bauang, La Union.

The facts, well set out in the memorandum/report of the Office of the Court Administrator (OCA) dated May 10, 2007,^[2] are summarized below.

The Complaint

Marquez alleged that Fernandez's daily time records (DTRs) from September to November 2004 showed that she had incurred tardiness/undertime almost everyday. In a memorandum she issued on October 3, 2004, Marquez asked Fernandez to explain her tardiness/undertimes. She answered she had health problems due to her fractured arm. Marquez sent Fernandez another memorandum dated November 2, 2004,^[3] but received no reply; a second memorandum dated December 1, 2004^[4] merited a reply where Fernandez again claimed that she was having health problems.

Marquez found Fernandez's explanation unsatisfactory; he dismissed it as a half-truth that does not justify her frequent tardiness/undertime as Fernandez looked strong and healthy. She claimed that Fernandez was often seen roaming the court's premises and the municipal hall where their office is located.

Additionally, the clerk of court alleged that Fernandez incurred unauthorized absences for three (3) months or from September to November 2004.^[5] Marquez noted that while Fernandez indicated in her DTRs that she was on vacation leave, there were no prior notices for the leaves as required by the rules.

In November 2004, Fernandez submitted a medical certificate stating that she was

treated at the Ilocos Training and Regional Medical Center^[6], San Fernando City, La Union on "November 5, November 22 to 26; and November 30, 2004 and need medical attention for 20 days." Verification with the hospital however, revealed that Fernandez was examined and treated at the hospital only on November 5, 2004.^[7] It was obvious that Fernandez introduced details which were not in the original certification the hospital issued on November 26, 2004.

Fernandez's Answer

In a memorandum dated December 14, 2004, Judge Molina-Alim directed Fernandez to answer the complaint.^[8]

Fernandez submitted her answer on February 1, 2005.^[9] She expressed dismay that Marquez could not understand the reason behind her frequent tardiness and undertimes, as well as her absences. She explained that it was due to "mental anxiety" arising from her medical problems, brought about by the bone fracture in her lower left arm that caused her extreme pain and mental stress. She sought treatment at the Ilocos Training and Regional Medical Center, but the treatment was not successful as she developed an infection and was cautioned that her arm might require amputation if the infection spread. She was told it could even be fatal. She claimed that she pleaded with Marquez to excuse her from reporting for work until she had fully recovered, but Marquez ignored her plea.

On the alleged falsification of her medical certificate, Fernandez admitted that she had herself examined and treated on November 5, 2004, for which she was given a medical certificate for that day only. She claimed that Marquez insisted that the certificate be changed to indicate the specific days covering her healing period. For this reason, she returned to the medical center, but her attending physician was not around at the time; the nurse on duty at the orthopedic department of the center named "Rose" told her to just type on the certificate the period when she was getting medical attention and this could be signed later on; she carried out the nurse's suggestion, but because of Marquez's pressure on her to submit the certification, she forgot to have the certificate signed by the nurse before submitting the document to Marquez.

Marquez's Reply

Fernandez's answer elicited a quick reply from Marquez.^[10] She stressed that while there is no doubt that Fernandez's problem is medical in nature in light of the bone fracture she suffered, it was inconceivable that, she was in pain and suffering from anxiety from July to December 2004 considering that, she received reports that Fernandez was just gallivanting around Caba, La Union on the days that she was absent; also, upon verification, the hospital where Fernandez was treated had given her the information that Fernandez had refused to obey and had neglected orders for the proper treatment of her bone fracture. Marquez believed that Fernandez's claim of constant pain and mental anxiety was simply a pretext to justify her frequent tardiness and habitual absenteeism. In a span of six (6) months, Marquez pointed out, Fernandez incurred ninety-three and a half (93 ½) days of absences.

On the issue of falsification of a public document, Marquez noted that a comparison of the copy of the medical certificate issued by the Ilocos Training and Regional

Medical Center and the one Fernandez submitted showed the insertions Fernandez made in her copy of the certificate, thus making her liable for falsification.

Judge Molina-Alim's Investigation

Judge Molina-Alim conducted her own investigation of the complaint and upon its conclusion rendered a Resolution (dated February 28, 2006).^[11] The judge found Fernandez liable for: (1) absenteeism and tardiness and, (2) falsification of a public document. Judge Molina-Alim recommended that Fernandez be dismissed from the service for falsification of her medical certificate, the penalty of six (6) months for habitual absenteeism and tardiness being "mooted" by the penalty of dismissal.

Judge Molina-Alim referred her resolution, together with the case records, to the OCA for action.^[12]

The OCA Evaluation and Related Incidents

The OCA concurred with Judge Molina-Alim's recommendation that Fernandez be held liable as charged. However, it recommended that Fernandez be merely suspended for one year without pay. It regarded Fernandez's medical problems and her admission of guilt as factors mitigating her liability. It also recommended that the complaint be re-docketed as a regular administrative matter.

On July 11, 2007, the Court resolved to: (1) take note of the submission of the parties; (2) re-docket the present complaint as a regular administrative matter; and (3) require the parties to manifest if they were willing to submit the case for resolution on the basis of the records.^[13] The Court also noted the OCA report of May 10, 2007.^[14]

On October 17, 2007, Marquez submitted the case for resolution.^[15] Fernandez failed to do so, notwithstanding the Court's reiteration of its directive, prompting the Court to dispense with her manifestation.^[16]

The Court's Ruling

Except for the imposable sanction, we adopt the OCA evaluation whose relevant portions we quote with approval, as follows:

The crux of the charge against respondent Fernandez is her habitual tardiness and absenteeism, and falsification of public document or dishonesty. Civil Service Memorandum Circular No. 23, Series of 1998 provides that:

Any employee shall be considered habitually tardy if he incurs tardiness, regardless of the member of minutes, ten (10) times a month for at least two consecutive months during the year.

Under Memorandum Circular No. 4, Series of 1991, of the Civil Service Commission, an officer or employee in the civil service shall be