

EN BANC

[A.M. NO. 2004-35-SC, January 23, 2006]

**RE: ANONYMOUS COMPLAINT AGAINST MS. ROWENA
MARINDUQUE, CASUAL UTILITY WORKER II, ASSIGNED AT
PHILJA DEVELOPMENT CENTER, TAGAYTAY CITY.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

In a letter dated October 1, 2004 sent to the Office of Administrative Services of this Court, a "Concerned Citizen Against Graft and Corruption, Province of Cavite" reported that Rowena Marinduque, a casual utility worker II assigned to the PHILJA Development Center in Tagaytay City, collected her salaries and allowances while attending a caregiver course during office hours. Attached to the complaint is her schedule of classes.

In a 1st Indorsement dated October 8, 2004, Atty. Ma. Carina M. Cunanan, then Acting Chief of Administrative Services, forwarded the anonymous letter-complaint to retired Justice Antonio M. Martinez, then Vice-Chancellor, PHILJA, for appropriate action.

Justice Martinez, in letters both dated October 7, 2004, directed Rowena and Emily G. Vasquez, Officer-in-Charge (OIC) of PHILJA Development Center and Rowena's supervisor, to submit their respective comments.

In her comment dated October 10, 2004, Rowena admitted that she was indeed attending classes during office hours. She confirmed the schedule of her classes attached to the complaint, except that during Mondays, Wednesdays and Fridays, her classes started at 11:00 A.M., contrary to what was reported therein. She claimed, however, that she compensated for the hours she spent in school by working at the PHILJA Development Center beyond office hours and even Saturdays. She was constrained to continue her studies in order to realize her dream of finishing a profession for the benefit of her family. She asked for forgiveness for what she had done and offered to resign so she can continue her studies.

OIC Vasquez, on her part, stated in her comment that she has no knowledge of Rowena's activities. She explained as follows:

In your letter, it was stated that Ms. Marinduque is alleged to be attending classes during office hours. I would like to make it clear that I have no knowledge of such activities by Ms. Marinduque. She reports to work on time whenever I am in Tagaytay and proceeds to help her husband with his daily chores.

The last time we had a seminar was July of this year. In all the days of

the said seminar, Ms. Marinduque was at the office at all times doing her job. After the seminar, the water supply of the Center broke down, making it impossible to conduct seminars at the Center. To my knowledge, during these times, she would always be helping her husband clean the rooms and other areas of the Center. Also, during this period, personnel assigned in Tagaytay either had to collect water from the waterspouts whenever it would rain or bring in water from outside the Center for their personal use. It is for this reason that I tolerated the movement of personnel getting in and out of the premises that could have led to my complacent monitoring of their whereabouts.

Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer of this Court, conducted an investigation, and on November 12, 2004, submitted her Report quoted as follows:

As may be safely deduced, Ms. Marinduque has been paid by the Court of her complete salary for the months of June, July and August 2004. This was made possible because the Court relied on the DTRs submitted by Ms. Marinduque for the said months not knowing that it is falsified. This has definitely prejudiced and resulted damage to the Court which paid her full salaries for less work done. Her claim that she rendered overtime to compensate the hours that she was in school is of no moment. Other than her bare allegation, she did not present any document to prove that she indeed rendered overtime to offset her absences during regular hours of work, and her authority to do so. If there was indeed such an arrangement, the best evidence that she could have presented to buttress her claim is her DTR. On the contrary, the DTRs she submitted bear out that there was no such an arrangement as it is clear therein (though falsified) that she regularly reported for work from 8:00 AM up to 4:30 PM daily.

As regards the second issue, this Office submits that Mrs. Vasquez was negligent in failing to monitor the act and whereabouts of her staff especially Ms. Marinduque during office hours. Being the OIC of the PHILJA Development Center, one of her duties is to see to it that her staff is in their work stations and properly performing their respective tasks and duties the whole working day especially that as OIC, she certifies to the correctness of the entries in their DTRs.

Mrs. Vasquez stated that, except on some occasions that she saw Ms. Marinduque arrive at the PHILJA Development Center alighting from a tricycle carrying food take out which she dismissed as a regular routine because she thought that perhaps she normally buys lunch from outside, and also there was a time that they have no water supply at the PHILJA Development Center and they have to bring in drinking water, there was not a single occasion that she noticed Ms. Marinduque absent from her work station. However, the admission of Ms. Marinduque that she is indeed attending school classes during office hours as mentioned above establishes the fact that Mrs. Vasquez incurred lapses in the performance of her duties as such things are happening right under her nose unnoticed. The continuous absence for three (3) months by a subordinate from the workplace at a particular hour of the day could not have been