

FIRST DIVISION

[A.M. NO. P-04-1838 [FORMERLY A.M. NO. 03-11-641-RTC], August 31, 2006]

**RE: AUDIT REPORT ON ATTENDANCE OF COURT PERSONNEL OF
REGIONAL TRIAL COURT, BRANCH 32, MANILA,**

R E S O L U T I O N

AUSTRIA-MARTINEZ, J.

Before us is an administrative case against the following court personnel, namely: Loida Moralejo, Officer-in-Charge; Heidwig Marie O. Balicanta, Clerk III; Elma Dabbay, Court Stenographer III; Virginia Peralta, Court Stenographer; Paquito del Rosario, Court Aide; Andresito Robles, Process Server; and Guillermo dela Cruz, Court Stenographer III, all assigned in the Regional Trial Court (RTC), Branch 32, Manila presided over by Judge Juan C. Nabong, Jr. for violation in the observance of the use of the daily attendance logbook and the subsequent submission of their Daily Time Record (DTR) to the Office of the Court Administrator (OCA) Employees Leave Division (ELD).

An audit of the attendance of court personnel of RTC, Branch 32, Manila was conducted on April 23, 2002. The said audit was triggered when then Deputy Court Administrator (DCA) Christopher O. Lock called at the said court on the said day for an official business at about 9:00 a.m. and only the process server, Andresito Robles, was around. During the audit, the team got hold of the court personnel attendance logbook and observed that some of the court personnel arrived very late in the morning on the said day. The audit team found out that there was a possible violation committed by the court personnel of RTC, Branch 32, Manila of the rules pertaining to the use of the daily attendance logbook and submission of DTRs.

In the Memorandum dated September 2, 2002, then Deputy Court Administrator Christopher O. Lock found, on the bases of the confiscated logbook and the DTRs, the following:

1. Loida Moralejo (Moralejo), Officer-in-Charge (OIC), NEVER logged-in or out to document her attendance. Her logbook entries since January 2001 up to date of audit on April 23, 2002 do not reflect her signature or initial. She claimed exemption from complying with the regulation upon the consent of Judge Nabong. For the Year 2002 (January-March), Ms. Moralejo submitted her DTR to OCA ELD with one hundred percent (100%) attendance and declared tardiness in a total of eighteen (18) minutes for the months of February and March.
2. Heidwig Marie O. Balicanta (Balicanta), Clerk III, NEVER logged-in or out to document her attendance. She never logged-in since her employment with the court since August 2001 to the date of audit. Her signature/initial is not found in the confiscated logbook. However, she submitted DTRs showing complete

attendance for CY 2002 with no late/undertime.

3. Elma Dabbay (Dabbay), Court Stenographer, failed to log-in on January 2, 3 and 4 March 4, 25 and 26 and yet reported in her DTR to have been present during those times.
4. Virginia Peralta (Peralta), Court Stenographer, failed to log-in on January 2, 3, 4 and 7 and yet reported in her submitted DTR to have been present in those days.
5. Paquito del Rosario (del Rosario), Court Aide, failed to log-in on January 2, 3, 10, 18, 21, 24 and 25 and yet submitted DTR showing he was present in those times.
6. Andresito Robles (Andresito), Process Server, failed to log-in on January 14, February 1 and March 6 and yet reported in his DTR to having been present in those days.
7. Guillermo dela Cruz, failed to log-in on January 2, 2002 but reported in his DTR to have been present on said date.
8. Nenita Robles (Nenita), failed to log-in on March 5, 8, 13, 14, 15 and 22 but declared in her DTR that she was on leave with pay. ^[1]

In the same Memorandum, DCA Lock directed the above-mentioned court personnel to explain their failure to log-in their attendance in the attendance logbook and their subsequent reporting to OCA ELD of having been present during the days they failed to log-in. Further, DCA Lock requested Judge Nabong to submit his explanation on his failure to properly supervise the implementation of the Civil Service Rules and Regulations on attendance as implemented by Memorandum Circular (MC) No. 4 and for his inability to detect that the DTR (CS Form 48) of some of his personnel which he had signed and submitted to OCA ELD did not truthfully reflect the entries in the attendance logbook.

On June 13, 2002, respondent Guillermo dela Cruz died, thus the issue against him had become moot and academic.

Since Nenita declared in her DTR that she was on leave with pay, her explanation is no longer necessary.

On October 1, 2002, the OCA received the respective explanations^[2] of Peralta, Dabbay, Andresito and del Rosario. They admitted that they did not comply with MC No. 4 implementing the Civil Service Rules on attendance but averred that the same was done in good faith and honest mistake. In like manner, Moralejo explained that her shortcomings were slip-ups and were not deliberate nor abuse of her position. She asserted that she was under the impression that as OIC, she was not subject to the same daily logging-in and out rules of other employees. She begged pardon if she had wrongly interpreted the rules and the same was not intentional. Lastly, Balicanta reasoned that she started training as Clerk III in Branch 32, Manila last May 2001, under a work-no-pay scenario and was appointed only in August 2001. Her failure to log-in was an unintentional mistake as she was used to log-in straight to her DTR.

In the Agenda Report dated March 22, 2004,^[3] the OCA submitted other relevant information together with its evaluation and recommendation, to wit:

OTHER RELEVANT INFORMATION: Verification with the Docket and Clearance Division, Legal Office, OCA shows that all six (6) personnel, except for OIC Loida Moralejo, have no pending administrative cases. Ms. Moralejo was charged for Conduct Prejudicial to the Best Interest of the Service by Ms. Carmencita dela Cruz which case was docketed as OCA IPI No. 03-1787-P and filed on 7 October 2003.

EVALUATION: This Office is convinced that all of the seven (7) [sic] personnel of RTC, Branch 32 are culpable. Indeed, they admitted, in one way or another, their wrongdoing when they averred, inter alia, in their Explanation to Deputy Court Administrator Christopher O. Lock's Memorandum dated 2 September 2002 that:

Our omission or negligence to log in and out in those particular dates are inexcusable but it was not done intentionally. Our actions in filling up our Daily Time Record were done in good faith because we were really present in those questioned dates, the fact that our DTR's were initialed by our Officer-in-Charge and signed by the Presiding Judge.

x x x We respectfully pray that this Explanation be given merit and consideration and plea for Your Honor's Compassion and Generosity in evaluating our inexcusable negligence in not complying with Memorandum Circular No. 4, dated June 15, 1973."

x x x x

As an Acting Clerk of Court, Ms. Moralejo, is presumed to know her duties, functions, and responsibilities. She could not hide under the pretext of her wrong impression that as Officer-in-Charge, she is exempt from registering her attendance in the logbook. Memorandum Circular No. 4 dated 15 June 1973 is very clear that the time appearing in Form 48 (Daily Time Records) should tally with the time recorded in the registry book. Therefore, her excuse is not valid. Being a ranking officer of the said court, she should have set good example to her co-employees and should always be abreast of recent laws and jurisprudence. Ignorance of such basic and elementary rules does not exempt her from administrative liability.

Considering the prevailing circumstances of this case vis-à-vis the submitted daily time record (DTR) not based on existing logbook/bundy clock entry, the same is without factual or legal basis, hence, as submitted, the DTR could not be considered the official report of attendance. Such a report, therefore, is a falsity. The Audit Report of Deputy Court Administrator Christopher Lock further notes that there is a great disparity between the dates the seven personnel failed to log-in during the months of January to March 2002 and the daily time record

submitted to OCA, Leave Division.

Section 23, Rule XIV of the "Rules implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws" promulgated by the Civil Service [Laws' promulgated by the Civil Service] Commission on December 27, 1991, provides the following:

Sec. 23. Administrative offenses with its corresponding penalties are classified into grave, less grave, and light, depending on the gravity of its nature and effects of said acts on the government service.

The following are grave offenses with its corresponding penalties:

- (a) Dishonesty (1st Offense, Dismissal)
- (b) Falsification of official document (1st Offense Dismissal)

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Under the above-cited law, all the respondents whose daily time records are evidently unrepresentative of the truth, should be punished with dismissal, although it is their first offense.

However, as enunciated in *OCA vs. Liza Maria Sirios, et al.*, A.M. No. P-02-1659, 28 August 2003, we do not hastily inflict an extreme penalty upon an erring employee, especially so in cases where there exist mitigating circumstances which could alleviate his or her culpability. Here, we note that all the six employees readily acknowledged their offenses, sought pardon and vowed to rectify their conceived errors. They beg for the kind indulgence of the Court considering that the perceived offenses were unintentional and, therefore, done in good faith. They likewise invoked their dedication to their duty. Furthermore, a perusal of their service records shows that this is their first administrative offense. Except for Ms. Moralejo, who has a pending case for Conduct Prejudicial to the Best Interest of the Service, all of them have no record. But it bears stressing that good faith, under the case at bar, is not a valid defense.

On the other hand, this is also the first offense of Ms. Moralejo insofar as violation of Strict Observance of Working Hours is concerned. But she, in like manner, also acknowledged her offense, offered her most sincere apology and vowed to reform her ways. It is also noteworthy that she being a Clerk of Court only in an acting capacity the same extenuating factors warrant the reduction of her imposable penalty. Moreover, we cannot escape the fact that if all of these personnel would be severely penalized the official transactions of the court might be jeopardized and the administration of justice delayed. Hence, we must impose the penalty according to the corresponding degree of culpability each one has committed.

Since Ms. Moralejo is a ranking official of all the seven personnel, we are

of the view that a stiffer penalty of a FINE equivalent to three (3) months salary is proper. Ms. Balicanta, on the other hand, for equally failing to log-in during the period of January to March 2002 should be FINED equivalent to one (1) month salary. While Mr. Del Rosario who failed to log-in on 2, 3, 10, 18, 21, 24 and 25 January should be FINED for P2,000.00. As to Ms. Dabbay, we find the penalty of a FINE amounting to P1,000.00 to be proper. Whereas, Ms. Peralta and Mr. Robles should be reprimanded for their failure to observe compliance with Memorandum Circular No. 4.

As regards Mr. Guillermo dela Cruz, we agree with Deputy Court Administrator Christopher Lock's observation that the issue has become moot and academic because of his death.

RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court are our recommendations that the case be RE-DOCKETED as a regular administrative case and that:

1. Ms. Loida Moralejo be FINED equivalent to three (3) months salary;
2. Ms. Heidwig Marie Balicanta be FINED equivalent to her one (1) month salary;
3. Mr. Paquito del Rosario be FINED for P2,000.00;
4. Ms. Elma Dabbay be FINED for P1,000.00;
5. Mr. Andresito Robles and Ms. Virginia Peralta be ADMONISHED, with a WARNING against herein respondents that a commission of the same or similar offense shall be dealt with severely;
6. All respondents are WARNED that the commission of a similar offense in the future will met heavier penalties;
7. The issue against Mr. Guillermo dela Cruz be considered MOOT and ACADEMIC; and
8. Judge Juan C. Nabong, Jr. be REPRIMANDED for failure to properly supervise proper implementation of the Civil Service Rules and Regulation on attendance as implemented by Memorandum Circular No. 4.

In his letter dated September 1, 2004, respondent judge requested a period of ten days from September 6, 2004 to file his comment and requested for the copy of the Memorandum of DCA Lock dated September 2, 2002.

In the Resolution of October 4, 2004, the Court granted Judge Nabong's request and required him to show cause for his failure to comply with the September 2, 2002 Memorandum of DCA Lock.

In his Explanation dated February 24, 2005^[4] Judge Nabong admits his seeming obliviousness (a miserable, but not intentional honest inadvertence) in complying with the directive of DCA Lock in the Memorandum dated September 2, 2002. He reasoned that a copy of the pertinent Civil Service Rules and Regulations on Attendance, as implemented by Supreme Court MC No. 4, was not attached to the Resolution of the Court and that he was only able to locate a copy through one of his staff.