

EN BANC

[A.M. No. 2004-19-SC, November 04, 2004]

RE: ALLEGED VIOLATION BY MR. EFREN ASCRATE OF CIVIL SERVICE RULES ON ABSENTEEISM AND TARDINESS.

DECISION

PER CURIAM:

In a letter, dated 19 April 2004, Mrs. Milagros Santos-Ong, Chief, Supreme Court Library Services, reported to the Office of Administrative Services (OAS) that Mr. Efren Ascrate, Court Stenographer I, Office of the Chief Justice, Supreme Court, detailed with the SC Library Services, violated the "Supreme Court rule requiring all employees on (sic) the court to log in and out each day and for discrepancies which were discovered this March 31, 2004."^[1] She averred that respondent failed to swipe his ID in the Chronolog Time Recorder Machine as required and that there were discrepancies in the entries found in the attendance logbook of the Library Services *vis-à-vis* the computer printout of respondent's Daily Time Record (DTR).

According to the complainant, upon reading a copy^[2] of the En Banc Resolution of Administrative Matter No. 00-06-09-SC, promulgated on 16 March 2004, holding that, "[r]espondents **Efren Ascrate**, x x x who committed tardiness for the **first time**, x x x be reprimanded pursuant to the Civil Service Rule earlier cited, providing that for the first offense of habitual tardiness, the penalty is reprimand" [Emphasis supplied.], her attention was caught by the term "*first time*," and this prompted her to investigate. Thereafter, she requested the SC Leave Division for a computer printout of the attendance of respondent for the months of January and March 2004 as recorded by the Chronolog Time Recorder Machine. After examining said documents, she came to the conclusion that "there were days when Mr. Ascrate did not swipe his ID but he signed the Logbook."

Specifically, the following acts were purportedly committed by respondent in violation of Supreme Court rules:

1. That on January 07, 09, 15, 28, and 30, 2004, and on March 01, 02, 11, 12, 15, 16, and 19, 2004, respondent signed his name on the logbook of the Library Services although he failed to swipe his ID;
2. That respondent made the following entries on the logbook, which showed discrepancies when compared against the entries on the computer printouts, as follows:

DATE

LOGBOOK

COMPUTER
PRINTOUT

January 08	8:10 A.M.	9:15 A.M.
January 13	8:20 A.M.	8:01 A.M.
January 14	8:15 A.M.	8:25 A.M.
March 02	No time in just signature.	No time in.
March 04	8:06 A.M.	8:26 A.M.
March 11	7:30 A.M.	No time in.

3. And, that respondent was frequently absent from his place of work.

Apropos the above complaints, Mrs. Santos-Ong further alleged that she had, in separate letters,^[3] directed respondent to explain the discrepancies. Verbal follow-ups were also supposedly made, but respondent failed to comply with said directives.

Lastly, complainant requested for the transfer of respondent back to the Office of the Chief Justice where his [Ascrate] item actually belongs.

Acting on the letter-complaint of Mrs. Santos-Ong, the Supreme Court Leave Division, in a Memorandum dated 27 April 2004, reported the following findings:

As to Mrs. Ong's first complaint, the records show that Mr. Ascrate was really absent on January 7, 9, 15, 28 & 30, 2004. He neither swiped his ID nor registered in the logbook, hence, we do not find any wrong doing committed by him.

As regards her second complaint, Mr. Ascrate failed to swipe his ID but he was able to register in the logbook in the Library Services on March 1, 12, 15, 16, 19 & 30, 2004, hence, this office considered him present on those dates.

As to her last complaint, this office finds discrepancies in Mr. Ascrate's time of arrival as recorded in the logbook of the Library Services and in the print out of his DTR in the computer for January 8, 13, 14 and March 2, 4, & 11, 2004. However, this office considered him as tardy for January 8, 13, 14 as well as for March 4 and absent on March 2 & 11, 2004.^[4]

From the foregoing, the Leave Division recommended that the matter be referred to the Complaints and Investigation Division, OAS, for appropriate action. Moreover, it advised complainant to address her request for the transfer of respondent to the Office of the Chief Justice.

In compliance with the OAS Memorandum dated 03 May 2004, respondent filed his comment dated 07 May 2004. He explained that he failed to swipe his ID on certain dates because he had forgotten the same at home. With respect to his frequent absences, he averred that he incurred them due to an ailment, the nature of which he failed to disclose. Likewise, he claimed that he always filed the corresponding

leave applications on the days that he did not go to work. He apologized for disobeying the rules of the office, and promised never to repeat such disobedience again.

Complainant Milagros Santos-Ong in her reply, maintains, however, that respondent offered her a different explanation. The verbal explanation of Mr. Ascrate was that his ID had been destroyed. And yet, in his letter^[5] dated 04 May 2004 to complainant, he did not bother to explain why he failed to swipe his ID on the Chronolog Time Recorder Machine. He merely apologized for failing to comply with Civil Service rules.

Mrs. Milagros Santos-Ong further clarified that while respondent undeniably submits leave applications, nevertheless, they were usually submitted one (1) month later or only whenever his attention was called to such fact by the Leave Division. And he always filed sick leave applications regardless of whether or not he was sick. In addition, she claims that it is of record that she disapproved respondent's three (3) or four (4) leave applications for the following reasons:

- a. not filing the application on time
- b. the leave that is being filed is for sick leave and for certain days, the reason for his absence is not sickness
- c. the data found in the leave application not accurate such as the date of filing
- d. disregard for the Memorandum that was given to him for failure to provide explanation.^[6]

After considering the written explanations of both parties, the OAS submitted to this Court its Memorandum-Report dated 16 June 2004.

Concisely dealing with the issues *seriatim*, the OAS opined that after a careful evaluation of the records of the instant case, the following findings were arrived at:

Out of the dates being complained of, the records show that Mr. Ascrate has approved sick leave for January 7, 9, 15, 28 and 30, 2004, hence, since he was absent on those dates it is but logical that he did not swipe his ID on the aforementioned dates. His failure to swipe his ID on these dates could not be considered as a violation of Administrative Circular No. 36-2001.^[7]

However, on March 1, 12, 15, 16, and 19, 2004, the computer print-out reflected his time of arrival at 8:15, 7:56, 8:04, 9:00 and 8:01 in the morning, respectively. As correctly found by the Leave Division, this Office, he was present on those dates but is considered tardy on March 1 and 16, 2004. However, he is absent on March 2 and 11. The logbooks of March 1, 12, 15, 16 and 19, 2004, which were duly signed by Mr. Ascrate, tallied with the computer print-outs. Again, no violation of Administrative Circular No. 36-2001 could be ascribed against Mr. Ascrate.

Anent the second allegation that there existed discrepancies on the time entered by Mr. Ascrate in the logbook and the computer print-outs, this Office confirms the same only on two (2) dates out of the six (6) different dates with reported discrepancies. These are on January 8, 2004 and March 11, 2004, where Mr. Ascrate entered 8:10 a.m. and 7:30 a.m. as his time in, respectively, whereas, the computer print-out reflected that his time of arrival on January 8, 2004 is 9:15 a.m., while, as stated above, he was found to be absent on March 11, 2004.

As to the other dates, January 13, 14, and March 4, 2004, the letter of Mrs. Ong incorrectly reported his [Ascrate] time of arrival at 8:20, 8:15 and 8:06, respectively, whereas, the logbook showed that his time of arrival are 8:01, 8:26 and 8:26, respectively. Records show that the computer print-out tallies with the logbook.

Lastly, concerning the alleged loafing of Mr. Ascrate, the same, however, was not established in the absence of substantial evidence supporting such claim.

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Premised on the above, what was clearly established was the fact that Mr. Ascrate made it appear on the logbook that on January 8, 2004 he reported for work at 8:10 A.M., when in fact his actual time in was 9:15 A.M. as reflected on the computer print-out. The other one was the fact that on March 11, 2004, he wrote on the logbook 7:30 A.M. as his time in when in fact he was absent on that particular day.^[8]

The OAS concluded:

Based on the above provision, Mr. Ascrate's act of reflecting an earlier time of arrival on January 8, 2004 and his act of making it appear that he was present on March 11, 2004 constitute falsification of daily time records comprising of the logbook.

x x x x x x x x x

Premised on the above, we find Mr. Ascrate guilty of Dishonesty in these two (2) instances. Under the schedule of penalties adopted by the Civil Service Commission, Gross Dishonesty or Serious Misconduct is classified as a grave offense and the imposable penalty for its first offense is Dismissal.^[9]

Thus, it recommended:

1. that Mr. Efren Ascrate be meted the penalty of suspension for a period of six (6) months, instead of the penalty of Dismissal, his consistent Very Satisfactory ratings and his long years with the Court, to be appreciated as mitigating circumstances, however, with a stern warning that a repetition of similar act would result to his ultimate dismissal from the service; and