



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated November 10, 2020 which reads as follows:

“A.M. No. P-20-4093 (*Office of the Court Administrator vs. Mr. Rumel M. Macalisang, Sheriff IV, Branch 258, Regional Trial Court [RTC], Paranaque City [formerly A.M. No. 19-04-90 RTC Re: Habitual Tardiness of Mr. Rumel M. Macalisang, etc.]*). – For resolution is the Report¹ dated April 3, 2019 submitted by Ryan U. Lopez, Officer-in-Charge, Employees’ Leave Division, Office of Administrative Services, Office of the Court Administrator (OCA), with reference to respondent Rumel M. Macalisang’s (*Macalisang*) habitual tardiness from July 2018 to December 2018 and February 2019 to March 2019.

The Report shows that respondent Macalisang, whose official working hours is from 8:00 a.m. to 4:30 p.m., has incurred the following tardiness to wit:

July 2018	14 times
August 2018	12 times
September 2018	11 times
October 2018	17 times
November 2018	16 times
December 2018	14 times
February 2019	11 times
March 2019	12 times

In its 1st Indorsement² dated April 12, 2019, the OCA required Macalisang to comment on the Report.

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¹ Rollo, p. 3.

² *Id.* at 12.

In his Comment³ dated May 22, 2019, respondent admitted the Report of Ryan U. Lopez. He claimed that his tardiness was due to a number of inevitable domestic problems. Respondent begs the compassionate understanding and magnanimity of the Honorable Court for some leniency regarding his unintentional transgression. In seeking this Court's compassion and forgiveness, he cited his twenty-five (25) years of unblemished service in the Judiciary, and that this was his first infraction. He also promised not to commit the same in the future, and begged the Court to give him the chance to atone for his mistake.

The OCA Evaluation and Recommendation

In its Report and Recommendation⁴ dated August 29, 2019, the OCA found respondent Macalisang guilty of habitual tardiness. It opined that jurisprudence is replete with ruling that moral obligations, performance of household chores, traffic problems, and health, domestic and financial concerns, are not sufficient reasons to excuse habitual tardiness.⁵ Hence, respondent Macalisang's explanation does not merit consideration to justify his habitual tardiness.

As regards the penalty, the OCA in its evaluation opined:

Section 50 F(4), Rule 10 of the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS) penalizes habitual tardiness with reprimand for the first offense; suspension of one (1) day to thirty (30) days for the second; and dismissal from the service for the third. However, considering that Mr. Macalisang incurred habitual tardiness twice, six (6) months in 2018 and two (2) months in 2019, the penalty of suspension may be imposed. On the other hand, **since his position as a sheriff is vital to public service and the penalty of suspension may hamper the expeditious administration of justice**, a fine of Five Thousand Pesos (P5,000.00) may be imposed instead.⁶

Thus, the OCA recommended that respondent Macalisang be fined with a stern warning, to wit:

RECOMMENDATION: It is respectfully recommended for the consideration of the Honorable Court that:

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³ *Id.* at 13-14.

⁴ Through Court Administrator Jose Midas P. Marquez and Assistant Court Administrator Lilian C. Barribal-Co; *id.* at 16-19.

⁵ *Rollo*, p. 17.

⁶ *Id.* at 18. (Emphasis ours)

1. the Report dated 3 April 2019 of Mr. Ryan U. Lopez[,] Officer-in-Charge, Leave Division, Office of Administrative Services, Office of the Court Administrator, be RE-DOCKETED as a regular administrative matter against Rumel M. Macalisang, Sheriff IV, Branch 258, Regional Trial Court, Paranaque City, for habitual tardiness: and
2. Sheriff Rumel M. Macalisang be **FINED** in the amount of Five Thousand Pesos (₱5,000.00) with a **STERN WARNING** that a repetition of the same or any similar act shall be dealt with severely by the Court.⁷

The Court's Ruling

The Court adopts the factual findings, legal conclusions, and recommendation of the OCA, except as to the penalty.

Civil Service Commission (CSC) Memorandum Circular (MC) No. 23, Series of 1998, defines an employee who is habitually tardy, as follows:

Any employee shall be considered habitually tardy if he incurs tardiness, regardless of the number of minutes, ten (10) times a month for at least two (2) months in a semester or at least two (2) consecutive months during the year

In case at bar, respondent admittedly committed tardiness. It is, likewise, manifest from the records that he was habitually tardy for two (2) semesters. In the second semester of 2018, he was tardy for more than ten (10) times for each of the six (6) consecutive months covering the period July to December 2018. While in the second semester of 2019, he was late for more than ten (10) times for two (2) consecutive months covering the period February to March 2019. Evidently, there is no question that respondent incurred habitual tardiness.

In the recent case of *Santiago v. Pijana*,⁸ respondent Sheriff Pijana was fined in the amount of ₱22,361.00, equivalent to his last salary received, in lieu of the penalty of one (1) month suspension for two (2) counts of habitual tardiness. The Court considered that the charge was Sheriff Pijana's first administrative offense in her more than seventeen (17) years in government service.

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⁷ *Id.* at 19.

⁸ A.M. No. P-19-3959 (Notice), June 19, 2019.

The Court adopted the findings of the OCA that given the nature of the duties and responsibilities of respondent as a sheriff, a fine in lieu of suspension may be imposed, pursuant to Section 47, Rule 10 of the 2011 Revised Rules on Administrative Cases in the Civil Service (*RRACCS*) (now Section 52, Rule 10 of the 2017 *RACCS*).

Similarly, in the instant case, the OCA found respondent's position as a sheriff vital to public service and the penalty of suspension may hamper the expeditious administration of justice. Hence, the OCA recommended that a fine of Five Thousand Pesos (₱5,000.00) may be imposed instead of one (1) month suspension.

We agree. However, We deem it necessary to take a second look as to the OCA's determination of the amount of fine.

Section 50, paragraph f, Rule 10 of the 2017 *RACCS* classifies habitual tardiness as a light offense and is punishable by reprimand for the first offense; suspension of one (1) to thirty (30) days for the second offense; and dismissal from the service for the third offense. Here, although this is the first time that respondent is formally charged with habitual tardiness, records reveal that he was habitually tardy for two (2) semesters. It appearing that respondent has not been previously found liable of any administrative offense, the penalty of one (1) month suspension is in order. However, We find that Section 52, Rule 10 of the 2017 *RACCS* finds application in the instant case. Hence, respondent may be meted a penalty of fine lieu of suspension.

Section 52, Rule 10 of the 2017 *RACCS* provides the guidelines where the payment of fine in place of suspension may be imposed, to wit:

SECTION 52. *Penalty of Fine.* — The following are the guidelines for the penalty of fine:

1. The disciplining authority may allow payment of fine in place of suspension if any of the following circumstances is present:
 - a. **When the functions/nature of the office is impressed with national interest such as those involved in maintenance of peace and order**, health and safety, and education;

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- b. When the respondent is actually discharging frontline functions or those directly dealing with the public and the human resource complement of the office is insufficient to perform such function;
- c. When the respondent committed the offense without utilizing or abusing the powers of his/her position or office; or
- d. When the respondent has already retired or otherwise separated from government service and the penalty of suspension could not be served anymore, the fine may be sourced from the accumulated leave credits or whatever benefits due the respondent.

2. The payment of penalty of fine in lieu of suspension shall be available in Grave, Less Grave and **Light Offenses where the penalty imposed is for six (6) months or less at the ratio of one (1) day of suspension from the service to one (1) day salary fine**; x x x (Emphasis supplied)

Thus, applying the above-quoted provision, and considering that said circumstances are extant in the instant case, particularly: (1) the nature of respondent's office as a sheriff is imbued with national interest; and (2) respondent is charged for two (2) counts of habitual tardiness – a light offense where the penalty imposed is one (1) month suspension, We deem the penalty of fine equivalent to one (1) month salary in lieu of one (1) month suspension to be appropriate.

As a final note, We reiterate: “that court officials and employees must strictly observe official time can never be overemphasized. By reason of the nature and functions of their office, they must be role models in the faithful observance of the constitutional canon that public office is a public trust. Inherent in this mandate is the observance of prescribed office hours and the efficient use thereof for public service, if only to recompense the Government and ultimately the people who shoulder the cost of maintaining the Judiciary.”⁹ Indeed, to inspire public respect for the justice system, court officials and employees are, at all times, behooved to strictly observe official time. As punctuality is a virtue, absenteeism and tardiness are impermissible.¹⁰

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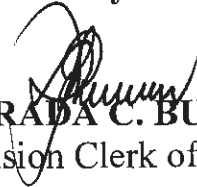
⁹ *Office of the Court Administrator v. Atty. Cunanan*, 519 Phil. 222, 224 (2006).

¹⁰ *Re: Imposition of Corresponding Penalties for Habitual Tardiness*, 484 Phil. 480, 485 (2004).

WHEREFORE, respondent Rumel M. Macalisang, Sheriff IV, Branch 258, Regional Trial Court, Paranaque City, is found **GUILTY** of two (2) counts of habitual tardiness and is **FINED** in the amount equivalent to his one (1) month salary, with a **STERN WARNING** that a repetition of the same or any similar act shall be dealt with more severely by the Court.

SO ORDERED.” Zalameda, J., on wellness leave.

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court _{10/21/22}

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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- Hon. Jose Midas P. Marquez (x)
Court Administrator
- Hon. Raul B. Villanueva (x)
- Hon. Jenny Lind R. Aldecoa-Delorino (x)
- Hon. Leo Tolentino Madrazo (x)
Deputy Court Administrators
- Hon. Lilian Barribal-Co (x)
- Hon. Maria Regina A. F. M. Ignacio (x)
Assistant Court Administrators
OCA, Supreme Court
- Office of Administrative Services (x)
- Legal Office (x)
- Court Management Office (x)
- Financial Management Office (x)
- Docket & Clearance Division (x)
OCA, Supreme Court

- Mr. Rumel M. Macalisang
Sheriff IV
Regional Trial Court, Branch 258
1700 Parañaque City
- The Clerk of Court
Regional Trial Court, Branch 258
1700 Parañaque City
- Public Information Office (x)
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