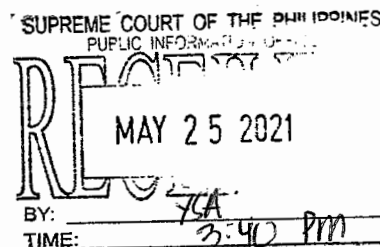




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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated September 7, 2020, which reads as follows:

“A.M. No. P-13-3127 [Formerly OCA IPI No. 04-2053-P] – (NORMA A. TORDESILLAS, *complainant*, v. NICOLAS B. MABUTE, Stenographer I, FLOCERFIDA M. UNAY, Stenographer I, LOURDES O. BARCIBAL, Clerk II, and AMBROSIO B. MABUTE, Process Server, all of the Municipal Circuit Trial Court, Paranas-San Sebastian Samar, *respondents*). – For resolution is the administrative complaint¹ against respondents Nicolas B. Mabute (Nicolas), Stenographer I, Flocerfida Unay (Flocerfida), Stenographer I, Lourdes O. Barcibal (Lourdes), Clerk II, and Ambrosio B. Mabute (Ambrosio), Process Server, all court employees of the Municipal Circuit Trial Court (MCTC) of Paranas-San Sebastian, Samar for grave misconduct relative to the alleged tampering of the daily time records (DTRs), logbook and leave applications.

The Facts

On November 8, 2004, the Office of the Court Administrator (OCA), received an Affidavit dated November 8, 2004,² executed by Norma A. Tordesillas (complainant), Court Stenographer I of the MCTC Paranas-San Sebastian Samar. Complainant alleged that respondents on several occasions, would enter in the logbook that they arrived before 8:00 o'clock in the morning when in fact, they were late, specifically:

1. On July 7, 2004 Nicolas arrived in court at 9:25 a.m. but indicated in his DTR that he arrived on time. Moreover, Nicolas punched in the time card of Ambrocio before 8:00 a.m. on July 22, 2004, despite the latter arriving late that day;

¹ Rollo, p. 1.

² Id.

2. On January 28 and July 7, 2004, Lourdes arrived at 9:15 a.m. and 8:45 a.m., respectively, but made it appear that she arrived before 8:00 a.m.;
3. On July 22, 2004 Flocerfida punched in the time card of Lourdes to make it appear that the latter was in the office before 1:00 p.m., despite still being out of the office. In addition, on August 5, 2004, Flocerfida arrived late and brought home her time card, punched it in another court and indicated therein that she arrived before 8:00 a.m.

In addition, complainant alleged that Nicolas, Ambrocio and Florcefida threatened to inflict physical harm on her, when she reported the foregoing infractions to the branch clerk of court.³

On November 19, 2004, the OCA sent a 1st Indorsement⁴ to respondents, referring the letter of complainant for their respective comments. In their separate comments, all dated January 6, 2005,⁵ respondents claimed that the allegations of complainant are without any basis.

In his Comment, Nicolas admitted that he reported to work at 9:25 a.m. on July 7, 2004 but contrary to the claim of complainant, he correctly reflected it in the court's logbook of attendance.⁶ In addition, Nicolas denied that he punched in the time card of Ambrocio on July 22, 2004 considering that he was on leave that day.⁷

Flocerfida in her comment alleged that she was not late on August 5, 2004 but in fact was on sick leave, attaching copies of her DTR for August 2004 and application for leave.⁸ She likewise denied that she punched in the time card of Lourdes, considering the latter was on leave on July 22, 2004.⁹ In support of her allegations, Flocerfida attached copies of the DTR and application for leave of Lourdes.¹⁰

In her Comment, Lourdes denied that she made it appear in her DTR that she arrived at 8:00 a.m. on January 28, 2004 and July 7, 2004. On the contrary, her DTR showed that she indeed timed in at 9:15 a.m. on January 28, 2004 and at 8:45 on July 7, 2004. In support thereof, attached copies of her DTR. Moreover, Lourdes denied that Flocerfida punched in her time card,

³ Id.

⁴ Id. at 7-10.

⁵ Id. at 11-13, 25-27, 38-40, 50-52.

⁶ Id. at 11.

⁷ Id.

⁸ Id. at 26.

⁹ Id. at 25.

¹⁰ Id. at 29-31.

since the former was on leave on July 22, 2004,¹¹ as shown in her application leave¹² dated July 21, 2004.

Ambrosio in his comment¹³ denied that respondent Nicolas punched in his time card on July 22, 2004 considering the latter was on leave that day.¹⁴

Thereafter, this Court, upon the recommendation of the OCA in its Report dated December 9, 2005, issued a Resolution¹⁵ dated February 13, 2006 referring the administrative complaint to Judge Esteban V. Dela Peña, then-Acting Executive Judge of the Regional Trial Court (RTC) of Catbalogan, Samar for investigation, report and recommendation within 60 days from receipt of the records.¹⁶

Despite the directive of this Court, the proceedings became a full-blown adversarial trial and took several years to conclude due to the unavailability of the parties and/or their respective counsel.¹⁷ Thus, the hearings were conducted from September 2007 until March 2010. On September 30, 2010, Investigating Judge, Agerico A. Avila of the RTC of Catbalogan, Samar – Branch 29 submitted with this Court his Report/Recommendation dated August 9, 2010.¹⁸ Accordingly, considering that the administrative complaint was previously referred to the OCA, this Court in its Resolution dated January 17, 2011 resolved to refer the Report/Recommendation to the OCA for evaluation, report and recommendation.¹⁹

The OCA's Recommendation

On January 26, 2012, the OCA issued a Memorandum²⁰ finding that the conclusions of fact by Investigating Judge Avila was supported by the evidence on record, to wit:

FINDINGS OF FACTS, ANALYSIS, RECOMMENDATION

Indeed at first blush, the complained attempt to record the different times of arrival than the true ones by the respondents herein would appear untrue. This was so because they either made a true record of their arrivals on the dates complained of (as in the case of Lourdes and Nicolas) or had conveniently gone on leave (as in the case of Nicholas and Lourdes) on 22 July 2004; Flocerfida on 03 June 2003 and 05 August 2004; and, Ambrocio

¹¹ Id. at 38.
¹² Id. at 43.
¹³ Id. at 50.
¹⁴ Id. at 50-52.
¹⁵ Id. at 79-80.
¹⁶ Id. at 83.
¹⁷ Id. at 531.
¹⁸ Id. at 531-543.
¹⁹ Id. at 601-602.
²⁰ Id. at 604-608.

for 03 June 2003 and 28 January 2004.) The justifications therefore were accomplished by replacing the time cards with the manually accomplished daily time records and the application for leave, i.e. for forced vacation or sick leaves. The net effect therefore of replacing the time cards punched in by those who were in office in favor of those who were late, appeared incredible. The DTRs submitted recorded their true time of arrivals.

Except for the issued 3 June 2003 Memorandum of Judge Mabansag to the herein respondents, their respective explanations to it, and, the blottered incident of 22 July 2004 with the police station, the reported falsification had effectively been superseded. After all to state the true time of office arrivals is to be sincere and honest instead of the reverse. In addition, the time card process of recording the individual entrances and exits from office by the staff, considering the newly installed bundy clock has yet to be mastered by them. This would be sufficient explanation to the late arrivals. It would explain Norma's time card for July 2004 not having noon exits and afternoon entrances recorded. But this case involves more than just tardiness of the four but also dishonesty, neglect of duty and acts prejudicial to the public service.

For instance, all of the respondents as far back as 03 June 2003 had already been directed to explain their tardiness and absences for the day without official leave. The presiding judge had also noted their propensity to indicate in the logbook a timely arrival even if late. This should have sufficiently warned them to come on time since then or record their arrivals accurately. Yet on 28 January 2004 and 07 July, Lourdes admittedly arrived late. To evade Norma's complaint of harassment on the 22nd of July 2004 and of her time card being punched in by Flocerfida, she submitted a leave of absence for the day, supposedly filed priorly. The leave application would effectively belie the necessity of Flocerfida timing in for her. However, the tardiness following the memorandum can be construed as neglect of duty. Same was true of Nicolas who timed in at 9:45 o'clock on 7 July 2004. He filed leave on the 22nd day of July 2004, apparently also to elude the necessity of explaining his acts of bad-mouthing and harassment of Norma on said day.

The late arrivals though were never reflected in the respective reports for the particular months on absences, tardiness and undertimes, admittedly prepared by Lourdes. Same is also a form of dishonesty. So if they can brazenly cover up the complained incidents, then it would not be improbable for them to have been late on days before these.

x x x All the respondents did not explain their complicity in punching each other's card logging in arrivals and departures not at the appointed time.

Ambrocio was able to explain his whereabouts as directed by the presiding judge on 3 June 2003, **but had not bothered with respect to their having punched in each other's times card on the 22nd of July 2004 both in the morning and afternoon.** He relied on the leave of absence filed by Nicolas for the day. Ambrocio also merely denied he participated in badmouthing and harassment of Norma on same day. While it may be true that a leave of absence can well be submitted by the respondents, the regulation respecting vacation or forced leave is to file it a week ahead of the intended leave. **So that the ones filed by Nicolas and Lourdes would not necessarily mean that the acts of punching in their time cards did not occur.**

Nor would the detailed account of the harassment and defamatory statements made just be brushed aside solely because the blotter is generally inadmissible. The fact that Norma went to the extent of having the incident recorded, fresh from its happening would support here assertion that it was true. It should be stressed that shouting or verbal abuse of one in the workplace and during office hours is arrant discourtesy and disrespect towards a co-worker. x x x The act of Florcefida in punching in the time card of Lourdes on the 22nd of July 2004 was likewise untouched by her and Lourdes. This must have been due to the leave of absence of Lourdes. She thought that a denial of it would be sufficient. It is not. The general participation of punching in the time card of another is improper. While she may have been well covered by Lourdes' leave, it does not extinguish her complicity in supporting the three other respondents. Also while she was able to explain her tardiness of 3 June 2003, she opted to just take leave on the complained date of 5 August 2004, when she arrived late. She also failed to justify her participation in the badmouthing and harassment of Norma on the 22nd of July 2004. Such is an act unbecoming of a court employee.

Hence, all the foregoing considered, but taking into consideration that this is a first offense in the long services of respondents with the judiciary hence mitigating the simple neglect of duty and dishonesty of Lourdes O. Barcibal and Nicolas Mabute, merits the investigating officer's recommendation that they be suspended for three months without pay; for the misconduct of Nicolas B. Mabute, Flocefida M. Unay and Ambrocio B. Mabute in harassing Norma A. Tordesillas and for dishonesty in punching in and out each others time cards, a suspension of one month without pay. With warning to all respondents that similar acts in the future will be dealt with more severely.

SO RECOMMENDED.²¹

Accordingly, upon the evaluation of the foregoing facts, the OCA concluded that respondents should be penalized for knowingly making false entries in their DTRs and issued its recommendation, which read as follows:

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

1. the instant administrative complaint be **REDOCKETED** as a regular administrative matter;
2. respondents Lourdes O. Barcibal and Nicolas B. Mabute be found guilty of dishonesty for falsifying their respective DTRs for the month of July 2004 and be **SUSPENDED** for three (3) months without pay;
3. respondent Nicolas B. Mabute be found guilty of misconduct for the harassment committed by him against the complainant and be **SUSPENDED** for another one (1) month without pay;
4. respondents Flocefida M. Unay and Ambrocio B. Mabute be:

²¹ Id. at 604-606. Underscoring and emphasis in the original.

- a. found guilty of misconduct for the harassment committed by them against the complainant and the be **SUSPENDED** for one (1) month without pay; and
 - b. found guilty of dishonesty for punching in and out each others DTRs for the month of July 2004 and be **SUSPENDED** for another one (1) month without pay; and
5. all the respondents be **STERNLY WARNED** that a repetition of the same or similar acts in the future will be dealt with more severely.²²

In its Resolution²³ dated July 10, 2013, this Court resolved to re-docket the instant case as a regular administrative matter. Thereafter, in its Resolution²⁴ dated January 13, 2014, this Court directed the parties to submit their respective memoranda. On April 14, 2014, respondents submitted their joint Memorandum²⁵ dated April 14, 2014. Complainant, however, failed to submit her Memorandum.

In a letter dated February 5, 2018, Flocerfida manifested that she has already retired from the service effective December 2017 and requested that the instant case be resolved.²⁶

The Court's Ruling

This Court finds in order the findings and evaluation of the case by the OCA with modifications as to its recommended penalties.

This Court has repeatedly ruled that the falsification of official documents such as an employee's time records amounts to dishonesty.²⁷ Dishonesty means a disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity, lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.²⁸ Dishonesty, being in the nature of a grave offense, carries the extreme penalty of dismissal from the service with forfeiture of retirement benefits except accrued leave credits, and perpetual disqualification for reemployment in government service.²⁹

In this case, presiding Judge Cesar T. Mabansag (Judge Mabansag)

²² Id. at 607-608.

²³ Id. at 609.

²⁴ Id. at 615.

²⁵ Id. at 616-619.

²⁶ Id. at 646.

²⁷ *Office of the Court Administrator v. Hernandez*, 743 Phil. 507, 511(2014); *Servino v. Adolfo*, 538 Phil. 540, 551(2006); *Garcia v. Reyes, et al.*, 681 Phil. 227, 243(2012).

²⁸ *Bulalat v. Adil*, 562 Phil. 639, 643 (2007).

²⁹ Section 22(a) Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 as amended by the Civil Service Commission Memorandum Circular No. 19, Series of 1999; *Falsification Of Daily Time Records Of Ma. Emcisa A. Benedictos*, 675 Phil. 459, 464(2011).

testified during the administrative hearing that respondents would usually come in late and would often leave the office early in the afternoon while the court was still in session.³⁰ This prompted Judge Mabansag to issue a memorandum³¹ dated June 3, 2003 addressed to herein respondents calling out their tardiness and directing them to explain why no administrative sanctions shall be imposed upon them.³² Respondents duly submitted their respective explanations for their cited tardiness.³³

The warning given by Judge Mabansag should have sufficiently cautioned respondents to come on time or record their arrivals accurately. Lourdes³⁴ and Nicolas³⁵ admittedly arrived late but countered that their DTR accurately reflected their late arrivals.³⁶ On the other hand, Flocerfida denied being late on August 5, 2004 because she was reportedly on sick leave that day.³⁷

However, it was discovered that their late arrivals were never reflected in the respective reports for the particular months on absences, tardiness, and undertimes, admittedly prepared by Lourdes.³⁸ As it appears, respondents replaced the time cards with the manually accomplished daily time records which showed the true time of arrivals, as well as the submission of application for leave, in a bid to cover-up their falsifications.³⁹

Respondents clearly made it appear that they reported for work on time or were on leave, although, in fact, they came in late.

Moreover, the act of Flocerfida and Nicolas punching in the time cards of Lourdes and Ambrocio, respectively, are likewise acts of dishonesty.⁴⁰

Finally, Nicolas, Ambrocio and Flocerfida's are likewise guilty of misconduct. Respondents bad mouthed and harassed complainant after the latter reported their tardiness to the branch clerk of court.

Misconduct is defined as a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer.⁴¹ The act of respondents in harassing and bad-mouthing a

³⁰ *Rollo*, p. 536.

³¹ *Id.* at 6.

³² *Id.*

³³ *Id.* at 604-606.

³⁴ *Id.* at 308.

³⁵ *Id.* at 11.

³⁶ *Id.* at 604-605.

³⁷ *Id.* at 606.

³⁸ *Id.* at 605.

³⁹ *Id.* at 604.

⁴⁰ *Id.* at 605.

⁴¹ *Tormis v. Judge Paredes*, 753 Phil. 41, 52(2015).

fellow court employee who simply reported their tardiness is tantamount to unlawful behavior and constitutes simple misconduct.

The image of a court of justice is mirrored in the conduct, official or otherwise, of the women and men who work in the judiciary, from the judge to the lowest of its personnel.⁴² Any scandalous behavior or any act that may erode the people's esteem for the judiciary is unbecoming of an employee.⁴³ Court personnel must at all times act with strict propriety and proper decorum so as to earn and rebuild the public's trust in the judiciary as an institution.⁴⁴

Pursuant to our ruling in *Boston Finance and Investment Corporation, v. Gonzalez*,⁴⁵ considering that respondents Nicolas, Ambrocio and Flocerfida are found guilty of multiple administrative offenses, *i.e.*, dishonesty and simple misconduct, the penalty to be imposed shall correspond to the most serious charge and the rest shall be considered as aggravating circumstances.⁴⁶ Accordingly, the charge of simple misconduct shall be considered as an aggravating circumstance to the charge of dishonesty.

Although dishonesty carries with it the extreme penalty of dismissal from service, this Court has on several occasions ruled that where a penalty less punitive would suffice, whatever missteps may be committed by the employee ought not to be visited with a consequence so severe. It is not only for the law's concern for the workingman; there is, in addition, his family to consider.⁴⁷

In several administrative cases, this Court has refrained from imposing the actual penalties in view of mitigating factors such as the respondent's length of service, acknowledgment of infractions and feeling of remorse, family circumstances, humanitarian and equitable considerations, and advanced age, among others.⁴⁸ Indeed, while this Court is duty-bound to sternly wield a corrective hand to discipline errant employees and weed out those who are undesirable, it also has the discretion to temper the harshness of its judgment with mercy.⁴⁹

In *Office of the Court Administrator v. Cobarrubias*,⁵⁰ this Court found respondent therein guilty of dishonesty for making false entries in his DTR and meted the penalty of suspension for three months without pay.⁵¹ This

⁴² *Diomampo v. Laribo, Jr.*, 687 Phil. 47, 54 (2012).

⁴³ *Id.*

⁴⁴ *Jaravata v. Orenca*, 687 Phil. 75, 78 (2012).

⁴⁵ A.M. No. RTJ-18-2520, October 9, 2018, 883 SCRA 17.

⁴⁶ *Id.* at 32.

⁴⁷ *Office of the Court Administrator v. Araya, Jr.*, 685 Phil. 365, 374-375 (2012).

⁴⁸ *Office of the Court Administrator v. Viesca*, 819 Phil. 582, 585 (2017).

⁴⁹ *Id.*

⁵⁰ A.M. No. P-15-3379, November 22, 2017, 845 SCRA 649.

⁵¹ *Id.* at 655-656.

Court considered respondent's length of service in the judiciary as a mitigating factor in imposing the penalty.⁵²

In the present case, this Court notes several mitigating circumstances that may reasonably justify the reduction of the penalty imposable on respondents. Taking into consideration respondents' advanced age and given that this is a first offense in the long services of respondents with the judiciary,⁵³ human compassion prescribes to mitigate their liabilities.

Respondents are reminded that as court employees they must exercise at all times a high degree of professionalism and responsibility, as service in the Judiciary is not only a duty but also a mission. This Court has repeatedly emphasized that everyone in the judiciary, from the presiding judge to the clerk, must always be beyond reproach, free of any suspicion that may taint the judiciary. Public service requires utmost integrity and discipline. A public servant must exhibit at all times the highest sense of honesty and integrity, for no less than the Constitution mandates the principle that a public office is a public trust and all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency. As the administration of justice is a sacred task, the persons involved in it ought to live up to the strictest standards of honesty and integrity. Their conduct, at all times, must not only be characterized by propriety and decorum, but must also be above suspicion. Thus, every employee of the judiciary should be an example of integrity, uprightness, and honesty.⁵⁴

WHEREFORE, respondents Nicolas B. Mabute, Ambrocio B. Mabute, Flocerfida M. Unay are found guilty of **DISHONESTY** and **SIMPLE MISCONDUCT** and meted with the penalty of **SUSPENSION** for three (3) months without pay. Considering that respondent Flocerfida M. Unay has already retired from service, the penalty of suspension is no longer feasible. Thus, in lieu of suspension, the penalty of **FINE** equivalent to three (3) months salary is to be deducted from her retirement benefits.

Respondent Lourdes O. Barcibal is found guilty of **DISHONESTY** and meted with the penalty of **SUSPENSION** for three (3) months without pay.

All the respondents be **STERNLY WARNED** that a repetition of the same or similar acts in the future will be dealt with more severely

⁵² Id. at 655.

⁵³ *Rollo*, pp. 11, Nicolas has been with the judiciary since 1990; id. at 50, Ambrocio has been with the judiciary since 1987; id. at 38, Lourdes has been with the judiciary since 1985; and id. at 25, Flocerfida has been with the judiciary since 1990.

⁵⁴ *Office of the Court Administrator v. Judge Chavez, et al.*, 806 Phil. 932, 966 (2017).

SO ORDERED.”

By authority of the Court:

Misael DCBatt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court 4774

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Stenographer I
Ms. Flocerfida M. Unay
Stenographer I
Ms. Lourdes O. Barcibal
Clerk II
Mr. Ambrosio B. Mabute
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