



# PHILJA E-Alerts

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## JUDGES

- **Undue delay in rendering a decision or order; Ignorance of the law**

In the instant case, records show that on October 12, 2012, CCP filed a motion for reconsideration and for the dissolution of the writ of preliminary injunction. On the same date, respondent judge gave EE the opportunity to file comment/opposition, and CCP to file a reply from receipt of EE's comment/opposition, which upon submission was deemed submitted for resolution. On December 13, 2012, EE filed his Comment, while on November 26, 2013, CCP filed its Manifestation with Extremely Urgent Motion for Resolution. In the same manifestation, CCP informed the trial court that it would no longer file a reply, and moved for the early resolution of its motion for reconsideration. Notwithstanding that the matter had already been submitted for resolution upon submission of CCP's manifestation/motion, respondent judge continued with the proceedings by setting the case for preliminary and pre-trial conference on April 4, 2013. On March 6, 2013, CCP filed anew a reiterative urgent motion for speedy resolution. Respondent judge resolved the motion only on April 1, 2013. Respondent judge did not provide any reason for his delay in resolving the said motion.

A Motion for reconsideration of an interlocutory order should be resolved within a reasonable length of time in view of its urgency, and not the 90-day period in the Constitution. Otherwise, the issue in question may become moot and academic. In this particular case, there was an urgent need to resolve the motion in order to remove any doubt on EE's entitlement to a preliminary injunction. In sum, the unexplained delay of respondent judge in resolving the motion is inexcusable, unwarranted and unreasonable. An inexcusable failure to decide a case or motion constitutes gross inefficiency, warranting the imposition of administrative sanctions such as suspension from office without pay or fine on the defaulting judge.

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Based on the foregoing, respondent judge manifested ignorance as to the propriety or impropriety of issuing a writ of preliminary injunction. The evidence presented in the application for preliminary injunction do not show the presence of the requisites for applicant's entitlement to a writ of preliminary mandatory injunction. Indeed, the expired lease contract itself would have easily shown that applicant was not entitled to the writ. In fact, the initial attempts by applicant to get an injunction against CCP were denied in the Orders dated June 27, 2012 and July 3, 2012, respectively, in the same case. It should be pointed out also that applicant filed a motion for reconsideration which the CA rejected anew. Thus, without basis in fact and in law, respondent judge's issuance of the writ of preliminary injunction shows manifest gross ignorance of the law.

Another point of concern is respondent judge's nonchalant attitude as to the implication of the appellate court's finding of grave abuse of discretion. The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." Furthermore, the use of a petition for *certiorari* is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void." From the foregoing definition, it is clear that the special civil action of *certiorari* under Rule 65 will strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross, as what happened in this case.

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Though not every judicial error bespeaks ignorance of the law or of the rules, and that, when committed in good faith, does not warrant administrative sanction, the rule applies only in cases within the parameters of tolerable misjudgment. When the law or the rule is so elementary, not to be aware of it or to act as if one does not know it constitutes gross ignorance of the law. One who accepts the exalted position of a judge owes the public and the court proficiency in the law, and the duty to maintain professional competence at all times. When a judge displays an utter lack of familiarity with the rules, he erodes the confidence of the public in the courts. A judge is expected to keep abreast of the developments and amendments thereto, as well as of prevailing jurisprudence. Ignorance of the law by a judge can easily be the mainspring of injustice.

In the absence of fraud, dishonesty, or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action. However, the assailed judicial acts must not be in gross violation of clearly established law or procedure, which every judge must be familiar with. Every magistrate presiding over a court of law must have the basic rules at the palm of his hands and maintain professional competence at all times.

Thus, respondent judge's actuations cannot be considered as mere error of judgment that can be easily excused. Obstinate disregard of basic and established rule of law or procedure amounts to inexcusable abuse of authority and gross ignorance of the law.

Finding respondent guilty of gross ignorance of the law, undue delay in rendering an order, and bias and partiality, he was ordered to pay a fine of P500,000 to be deducted from his retirement benefits. **[A.M. No. RTJ-16-2457 (Formerly OCA I.P.I. No. 14-4291-RTJ, February 21, 2017)]**

- **Gross Misconduct; Conduct unbecoming of a judge**

Respondent judge, in his Comment, justifies the use of the Bible in his courtroom by interjecting the constitutionally guaranteed freedom of religion which he alleges was sustained by the Court in the *Concerned Trial Lawyers of Manila* case.

In the aforementioned case, the Court did not hold respondent judge liable as his duties and responsibilities were not impaired by his religious beliefs and convictions. In the present case, however, it appears that respondent judge exhibited a "holier-than-thou" attitude towards litigants and counsels in the exercise of his faith during the conduct of hearings, and

harboured a pre-conceived notion or a certain mindset, particularly with respect to the members of the Freemasonry.

Respondent judge belies this claim and argues that he has Christian concern for Freemasons. When they tell him in open court that they are such, he gives them information and helps them. He even presented in his Comment portions of the Transcript of the Stenographic Notes (TSN) of one of the proceedings he had in *People v. Horacio Yalung, Sr.*, held on February 27, 2015.

The OCA assumes that respondent judge presented said evidence to show that he treats all the parties appearing before him equally. Unfortunately, his own evidence has bolstered complainant's allegation of bias. It appears that the member of the Freemasonry subject of the TSN was treated with all deference and courtesy by respondent judge because he renounced his membership thereof as respondent judge has suggested to him. Thus, it is clear that he does not merely suggest the benefits of reading the Bible but imposes his religious convictions on the parties appearing before him.

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Moreover, contrary to respondent judge's claim, the issue does not center on his freedom of religion. In fact, there is no evidence on record that even remotely suggests that his religious beliefs were being insulted or his use of the Bible was being questioned. What was being assailed by complainant was how respondent judge imposed his religious beliefs on the litigants. Thus, the issue does not involve respondent judge's freedom of religion in conducting his proceedings but the freedom of religion of the parties appearing before him.

The use of the Bible in court is more of a guide to help litigants settle their disputes and not for the purpose of "converting" them. Respondent judge should be more sensitive and respectful of the feelings and varying views of the litigants about faith and religion. In the official discharge of his functions, a judge should be an advocate of the law. If he wants to be an advocate of the faith and share the Gospel with parties and litigants, he is free to do so as long as it is within the bounds of the New Code of Judicial Conduct. Unfortunately, this respondent judge already went beyond. This violation became extant from respondent judge's very own pleadings in this administrative matter.

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The OCA is puzzled over the special interest being shown by respondent judge over Atty. XX who is not even directly involved in the criminal case and in the instant administrative case.

Capitalizing on other's misfortunes and even putting the aforementioned insulting statements on public record demonstrate respondent judge's vexatious attitude and bad faith, for which he must be held accountable and subjected to disciplinary action. A judge must consistently be temperate in words and in actions. Respondent judge's insulting and uncalled-for statements, tending to project complainant's ignorance of the laws and procedure, coming from his inconsiderate belief that the complainant mishandled the cause of his client is obviously and clearly insensitive, distasteful and inexcusable. Such abuse of power and

authority could only invite disrespect from counsels and from the public. Patience is one virtue that members of the bench should practice at all times, and courtesy to everyone is always called for.

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Respondent judge's acts in their entirety can be considered as gross misconduct constituting violations of the New Code of Judicial Conduct particularly the canons relating to impartiality, propriety and equality. Likewise, by imposing his religious convictions and beliefs on the hapless parties appearing in his court and by using distasteful, if not scornful language, respondent judge is also guilty of conduct unbecoming of a judge.

Finding respondent guilty of gross misconduct and conduct unbecoming of a judge, the Court imposed upon him the penalty of suspension for three months and a fine in the amount of P10,000. The Court further admonished the judge to be more sensitive to the religious beliefs of the people appearing in court and to adhere strictly to his adjudicative functions, with a stern warning that the commission of the same or similar infractions shall be dealt with more severely by the Court. **[A.M. No. MTJ-17-1892 (Formerly OCA I.P.I. No. 14-2725 MTJ), March 1, 2017]**

- **Gross Neglect of Duty**

On the anomalies found in respondent judge's court, the Code of Judicial Conduct provides:

**RULE 3.08.** – A judge should diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of other judges and court personnel.

**RULE 3.09.** – A judge should organize and supervise the court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity.

**RULE 3.10.** – A judge should take or initiate appropriate disciplinary measures against lawyers or court personnel for unprofessional conduct of which the judge may have become aware.

Respondent judge failed to adhere to these standards. He was inefficient in managing his caseload and grossly negligent in running the affairs of his court. This is evidenced by the following anomalies discovered by the judicial audit team: (1) case records were not well kept since they were not chronologically arranged and had no pagination; (2) legal fees forms were not attached to the records although the amount allegedly paid were enumerated in the pleadings while there were cases without the breakdown of the fees paid; (3) no documents supporting the amount of sheriff's fees for the service of summons were available; (4) the civil and criminal docket books were not updated and the civil docket book contained erasures as to the status of cases for nullity of marriage; (5) the court's semestral docket inventory for June to December 2008 was not accurate; (6) records in some criminal cases had no certificates of arraignment; (7) archiving of cases were resorted to even if the inaction were attributable to the non-compliance of government officers, bureaus and agencies to the directives of the court, and the court's failure to set the cases for hearing; and (8) the court staff in the RTC do not observe the mandatory flag ceremonies under Republic Act No. 8491 and reiterated in Circular No. 37-98 dated June 22, 1998 and Circular No. 62-2001 dated September 27, 2001.

Judges are charged with exercising extra care in ensuring that the records of the cases and official documents in their custody are intact. They must adopt a system of record management and organize their dockets to bolster the prompt and efficient dispatch of business. Further, as administrative officers of the court, judges should organize and supervise court personnel to ensure the prompt and efficient dispatch of business, as well as the observance of high standards of public service and fidelity at all times.

Acting on the findings of the judicial audit team, we hold that respondent judge is liable for gross neglect of duty. Gross neglect of duty refers to negligence that is characterized by a glaring want of care; by acting or omitting to act in a situation where there is a duty to act, not inadvertently, but wilfully and intentionally; or by acting with a conscious indifference to consequences with respect to other persons who may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to take on their own property. In cases involving public officials, there is gross negligence when a breach of duty is flagrant and palpable.

In this case, the totality of the findings of the judicial audit team proves respondent judge's reckless and irresponsible attitude towards his duties. He utterly and glaringly lacked the necessary care and organization in handling and managing his court and personnel. He was completely remiss in his duties to ensure that there is order and inefficiency in his court, to maintain a well-organized system of record-keeping and docket management, and to supervise his personnel and make sure that they are aware of and comply with the exacting standards imposed on all public servants.

Respondent judge himself admits that he has been overly lenient and lax and that, as presiding judge for 11 years, "he overly relied on the representations of his [c]ourt staff, particularly his clerk of court that the case records and disposition of cases are proper and in order." He laments that he is a victim of his court staff's betrayal and perfidy.

Unfortunately for respondent judge, his defense does not exonerate him from the penalties under the law. Judges cannot be excused by the acts of their subordinates because court employees are not the guardians of a judge's responsibility. Judges should not merely rely on their court staff for the proper management of the court's business. Being in legal contemplation the head of his branch, he was the master of his own domain who should be ready and willing to take the responsibility for the mistakes of his subjects, as well as to be ultimately responsible for order and efficiency in his court. He could not hide behind the inefficiency or the incompetence of any of his subordinates.

Finding respondent judge guilty of gross neglect of duty and considering that he has already retired, the Court imposed upon him the penalty of forfeiture of all his benefits except accrued leave credits and declared him disqualified from any re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations and financial institutions. ***[A.M. No. RTJ-10-2219, March 7, 2017]***

## **CLERKS OF COURT**

### **• Gross Neglect of Duty and Grave Misconduct**

The undated anonymous letter alleged that: (1) respondent clerk of court led the sale of decisions in annulment cases in Branch 87; (2) parties in annulment cases were not required to attend hearings; (3) notices supposedly sent to the OSG were not reflected in the records; (4) in one case, the court issued an order of dismissal without notifying the private complainant; (5) some decisions or orders of the court were signed by respondent instead of the presiding judge; (6) respondent would ask the court's process server to sign returns of summons in

annulment cases even if no pleading was actually served; and (7) respondent used court funds for personal expenses and only returned the money at a later date.

Some of the allegations in the undated anonymous letter are consistent with the judicial audit's findings, to wit: (1) the presiding judge himself admitted in his Comment that a number of the decisions and orders in the annulment cases were not decided by him since the signatures appearing on them were not his; (2) return of summons or registry receipts were signed by the process server, as instructed by his "superior" though no summons or pleadings were served; (3) a number of cases did not have TSNs or minutes in the records; (4) forms for legal fees were not attached to the records of the cases; (5) summons were improperly served or not served at all to the OSG or the respondent; (6) there was no notice of appearance of the OSG in a number of cases; (7) there were no pre-trial briefs in a number of cases; (8) some psychological reports were undated, unsigned or mere photocopies; and (9) there was no proof that a copy of the decision was furnished the OSG and/or respondent in a number of cases.

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The Financial Audit Team also found the following: (1) there was a cash shortage of P18,000 in the Fiduciary Fund; (2) respondent did not deposit his collections within the prescribed period; (3) no legal fees were paid in the petition for annulment of marriage filed by AA against BB; (3) no collection of the amount to defray travel expenses needed for service of summons, subpoena and other court processes were made in 54 petitions for declaration of nullity of marriage/annulment of marriage cases.

SC Administrative Circular No. 3-2000 dated June 15, 2000 requires that the collections for the Judiciary Development Fund (JDF) be deposited daily with the nearest Land Bank branch through a designated account number. If a daily deposit is not possible, it should be made at the end of every month, provided that if the JDF collection reaches P500, the money shall be deposited immediately.

These guidelines emphasize the importance and seriousness of the duty imposed upon clerks of court who manage and secure the funds of the Court. Mere delay in remitting the funds collected has, in fact, been considered gross neglect of duty or grave misconduct.

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Given respondent's numerous and grave infractions, we find that he was not only remiss in his duties; he took advantage of his position as clerk of court to circumvent and disregard the rules. His acts do not only point to gross neglect of duty but also grave misconduct. Misconduct is grave if corruption, clear intent to violate the law or flagrant disregard of an established rule is present; otherwise, the misconduct is only simple.

In this case, the facts show that respondent clerk of court disregarded established rules of the Court. Gross neglect of duty and grave misconduct incur the penalty of dismissal. As respondent has already resigned, all the benefits to which he may have been entitled to, except earned leave credits, were declared forfeited. He is also disqualified from holding public office in the future, including in government-owned and controlled corporations. **[A.M. No. 12-7-130-RTC, March 7, 2017]**

#### **LEGAL RESEARCHER**

- **Grave Misconduct; Conduct prejudicial to the best interest of the service**

In this case, respondent legal researcher's acts of withdrawing without authority the publication fees deposited with the OCC and preparing petitions in special proceedings cases for a fee on several occasions—per the corroborating statements of the witnesses interviewed

by the investigating judge—clearly show her flagrant disregard of the law and the rules, and serve to validate the various allegations and rumors of her proclivity to corruption, thereby constituting violations of Sections 1 and 2, Canon I, and Section 2(b) and (e), Canon III of the Code of Conduct for Court Personnel.

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The Court is not unaware that in certain cases, it exercised its discretion to assess mitigating circumstances such as respondent's 20 years, or more, of service. The Court, however, cannot apply this exception to the present case for, as already pointed herein, the findings—that respondent had been soliciting and/or receiving money from litigants on the promise of favorable action on their cases and had been using and/or misusing the publication fees for personal use—show her proclivity for corruption and abuse of position.

As a public servant, respondent is expected at all times to exhibit the highest sense of honesty, integrity, and responsibility that the Constitution, under Article XI, Section 1 mandates. Moreover, as a court employee, she ought to have been well aware of the high standards of propriety and decorum expected of employees in the judiciary as “any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it.” Without doubt, she has shown her unfitness for public office. In this light, the OCA correctly held respondent administratively liable for gross misconduct and conduct prejudicial to the best interest of the service. Pursuant to Section 50 of the RRACCS, the Court finds the penalty of dismissal proper.

Finding respondent guilty of grave misconduct and conduct prejudicial to the best interest of the service, the Court declared her dismissed from the service with forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to re-employment in any branch or agency of the government, including government-owned or controlled corporations, without prejudice to her criminal liabilities. **[A.M. No. P-14-3216 (Formerly OCA I.P.I. No. 10-3376-P), February 21, 2017]**

#### **COURT STENOGRAPHER**

- **Grave Misconduct; Dishonesty; Conduct prejudicial to the best interest of the service**

In this case, the record is replete with evidence pointing not only to respondent AA but also to BB as the persons responsible for the subject misdeed.

First, with respect to respondent court stenographer AA, testimonial and documentary evidence reveals her unwarranted interest in the LRC case. Respondent AA performed numerous acts which led to no other conclusion than that she was instrumental and complicit in making sure that the petition would be granted. Respondent AA first approached the OCC and tried to persuade them to have the LRC case assigned to Branch 83. Her request was denied as there was a process of raffling off the cases. This, however, did not stop respondent AA from pursuing her objective. When the LRC case mysteriously appeared in Branch 83, it was respondent AA who practically prepared all the orders relating to the said case. More importantly, it was respondent AA who prepared the draft of the November 4, 2011 Order which granted the petition.

Moreover, apart from preparing the draft of the subject order, respondent AA surreptitiously issued an entry of judgment for the same on February 20, 2012. Respondent AA claimed that she only issued the subject entry of judgment to prevent the disruption of service because CC was absent on that day. It must be noted that it was the function of CC, as OIC, to

prepare and sign the entry of judgment. Regrettably for respondent AA, CC was able to successfully rebut her claim by attaching her DTR for February 20, 2012 to prove that she was present on the said date.

Likewise, aside from failing to inform CC of the said entry of judgment, respondent AA notified neither the latter nor the presiding judge of the OCC's refusal to receive the entry of judgment.

Finally, as to respondent clerk BB, the Court disagrees with the OCA that her acts were done in accordance with her usual daily routine. Contrary to the OCA findings, BB's acts, relating to the present anomaly, could not be considered as constituting simple neglect of duty because they were not committed due to carelessness and indifference, but as a result of a willful violation of the established rules. In fact, her participation was an essential part of the scheme, without which, no semblance of legitimacy could have attached to the proceedings before Branch 83 regarding the LRC case.

As stated by CC, the standard procedure in the trial court was for the clerk in charge to receive the case records raffled to their branch from the OCC personnel and to sign in the logbook carried by the latter to evidence receipt of the records. A similar procedure was explained by the OCC staff when they attested that the record of the LRC case was delivered to and received by Branch 77.

Respondent BB could not claim simple negligence for failing to comply with the said procedure. It must be recalled that DD confronted BB regarding the irregularity but the latter responded by pointing to AA with her lips. BB never denied this assertion. Her response to DD's inquiry only shows that she was aware of the misdeed.

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In sum, the totality of the evidence shows that respondents **AA and BB connived** to guarantee that the LRC petition would be acted on favorably. Clearly, they were united in their efforts to ensure the realization of their scheme without being found out. Despite the positive evidence and allegations hurled against them, AA and BB chose to simply deny their complicity without addressing the actions attributed to them. Verily, their responsibility and culpability with regard to the misdeed were established by substantial evidence. Their respective participation in this misdeed and their continuous feigning of innocence, constitute gross misconduct, serious dishonesty, and conduct prejudicial to the best interest of the service.

Respondents AA and BB were found guilty of grave misconduct, dishonesty and conduct prejudicial to the best interest of the service and were thus declared dismissed from the service with forfeiture of all their retirement and other benefits, except accrued leave credits, and with prejudice to re-employment in any government office, including government-owned and controlled corporations. **[A.M. No. P-16-3550 (Formerly A.M. I.P.I. No. 14-4252-P), January 31, 2017]**

- **Habitual Absenteeism**

Frequent unauthorized absences without authorization are inimical to public service. Even with the fullest measure of sympathy and patience, the Court cannot act otherwise since the exigencies of government service cannot and should never be subordinated to purely human equations.

SC-AC No. 14-02, issued on March 18, 2002, provides the policy of the Court with respect to habitual absenteeism, to wit:



## A. HABITUAL ABSENTEEISM

1. An officer or employee in the civil service shall be considered habitually absent if he incurs unauthorized absences exceeding the allowable 2.5 days monthly leave credit under the leave law for at least three months in a semester or at least three consecutive months during the year; x x x

In this case, respondent incurred 7.5 days of absences in October 2015; 10 days of absences in November 2015; and 15.5 days of absences in December 2015. Certainly, these absences are in excess of the allowable 2.5 days monthly leave credits for at least three months in a semester. Nevertheless, mere absenteeism is insufficient to be administratively liable; rather, the absences incurred must be unauthorized.

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Respondent's defense—that he attached his medical certificates to his sick leave applications—does not deserve merit. As emphasized by the OCA, it is not the lack of medical certificates that rendered the absences of respondent unauthorized; instead, it is the failure of these medical certificates to justify his absences. To reiterate, the medical certificates did not indicate that he should have rested for the days indicated in his sick leave applications. His comment does not even mention the medical condition he was suffering, its nature, effect, gravity or his required medications that would warrant a long period of sick leaves. In fine, respondent's defense is insufficient to justify his habitual absenteeism.

Respondent was suspended from service for one month without pay, with a stern warning that a repetition of the same or a similar infraction shall be dealt with more severely. **[A.M. No. P-17-3634 (Formerly A.M. No. 16-04-94-RTC), March 1, 2017]**

- **Simple neglect of duty**

The main charge against respondent court stenographer involves her failure to transcribe TSNs in nullity and annulment of marriage cases. The OCA also found that the TSNs were not attached to their proper case records.

Stenographers should comply faithfully with paragraph 1, Section 17, Rule 136, of the Rules of Court:

**SEC. 17. Stenographer.** – It shall be the duty of the stenographer who has attended a session of a court either in the morning or in the afternoon, to deliver to the clerk of court, immediately at the close of such morning or afternoon session, all the notes he has taken, to be attached to the record of the case; and it shall likewise be the duty of the clerk to demand that the stenographer comply with said duty. The clerk of court shall stamp the date on which such notes are received by him. When such notes are transcribed, the transcript shall be delivered to the clerk, duly initialed on each page thereof, to be attached to the record of the case.

Further, SC Administrative Circular No. 24-90 requires all stenographers to transcribe all stenographic notes and attach the transcripts to the record of the case not later than 20 days from the time the notes were taken. Stenographers shall also accomplish a verified monthly certification to monitor their compliance with this directive. The stenographer's salary shall be withheld in case of failure or refusal to submit the required certification.

Respondent explained that it is their practice to keep TSNs in their cabinets. If there were stenographic notes that were not transcribed, she claims that this was due to lack of time.

These excuses, however, are not acceptable. Clearly, respondent was remiss in her duties as stenographer and should be held liable for simple neglect of duty.

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Since respondent resigned from the RTC in December 2009, the Court imposed upon her the penalty of a fine in the amount of P5,000 to be deducted from whatever benefits she may still be entitled to after her voluntary resignation. **[A.M. No. 12-7-130-RTC, March 7, 2017]**

#### **COURT INTERPRETER**

- **Simple neglect of duty**

As court interpreter, respondent court interpreter is duty-bound to prepare and sign the minutes of court sessions. In *Reyes v. Pabilane*, we discussed the importance of the minutes:

[F]or it gives a brief summary of the events that take place thereat including a statement of the date and time of the session; the name of the judge, clerk of court, court stenographer, and court interpreter who are present; the names of the counsel for the parties who appear; the parties presenting evidence; the names of the witnesses who testified; the documentary evidence marked; and the date of the next hearing. (Citation and underscoring omitted.)

Respondent's failure to prepare and sign the minutes of the court proceedings constitutes simple neglect of duty.

Respondent also denies that he acted as an agent for Atty. XX when he referred said counsel to Ms. AA for possible lawyer-client relationship. He claims that he merely provided the names of counsels within the vicinity of the Hall of Justice.

Section 5, Canon IV of the Code of Conduct for Court Personnel enjoins all court personnel from recommending private attorneys to litigants, prospective litigants or anyone dealing with the judiciary. As an employee of the judiciary, respondent must maintain a neutral attitude in dealing with party-litigants. All court personnel should be reminded that they have no business getting personally involved in matters directly emanating from court proceedings, unless expressly so provided by law. Since the image of the courts of justice is reflected in the conduct, official or otherwise, of even its minor employees, it is the imperative duty of everyone involved in the dispensation of justice to maintain the courts' integrity and standing as true temples of justice and avoid any impression or impropriety, misdeed or negligence. While court employees are not totally prohibited from rendering aid to others, they should see to it that the assistance, albeit involving acts unrelated to their official functions, does not in any way compromise the public's trust in the justice system.

In this case, respondent transgressed the strict norm of conduct required from court employees by referring a prospective litigant to a private lawyer. His act gave the impression that the court is indorsing a particular lawyer, thereby undermining the public's faith in the impartiality of the courts.

Respondent was held guilty of simple misconduct and was fined in the amount of P5,000. **[A.M. No. 12-7-130-RTC, March 7, 2017]**

#### **PROCESS SERVER**

- **Grave Misconduct; Serious Dishonesty**

We have said that the duty of a process server is vital to the administration of justice. A process server's primary duty is to serve court notices which precisely requires utmost care on his part to ensure that all notices assigned to him are duly served on the parties. It is through the

process server that defendants learn of the action brought against them by the complainant. Significantly, it is also through the service of summons by the process server that the trial court acquires jurisdiction over the defendant. It is therefore important that summonses, other writs and court processes be served expeditiously.

Respondent committed grave misconduct and serious dishonesty when he signed process server returns without actually serving any such summons or court process. Misconduct is an unacceptable behavior that transgresses the established rules of conduct for public officers. To be considered as grave and to warrant dismissal from the service, the misconduct must be serious, important, weighty, momentous and not trifling. It must imply wrongful intention and not a mere error of judgment and it must have a direct relation to, and be connected with, the performance of his official duties amounting either to maladministration, willful, intentional neglect or failure to discharge the duties of the office. On the other hand, dishonesty is the disposition to lie, cheat, deceive, or defraud; unworthiness; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.

Here, there is evidence to show that respondent intentionally neglected the discharge of his duty and, as a consequence, deceived both the court and the litigants. Assuming that he was merely instructed by his superior to falsify the return, he knew or ought to have known that such instruction is illegal. Respondent should not have tolerated such illegal act. Instead, he should have taken measures to stop it.

Respondent was found guilty of grave misconduct and serious dishonesty but considering his retirement from service in 2013, all benefits to which he may have been entitled to, except earned leave credits, were declared forfeited and he was declared disqualified from re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations and financial institutions. **[A.M. No. 12-7-130-RTC, March 7, 2017]**