



Supreme Court of the Philippines Philippine Judicial Academy



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Judges; Issuing unjust interlocutory orders, knowingly rendering an unjust judgment and grave abuse of discretion/authority:

Anent the issue of non-service, suffice it to say that it is elementary in criminal cases that court orders and processes are properly served to the public prosecutor who controls the prosecution of the case and to the private prosecutor, if any, and not to the private complainant(s). Thus, complainant cannot aver that the order denying the motion for reconsideration was kept from them considering that the records show proper service to the public and private prosecutors.

The Court resolved to **DISMISS** the instant administrative complaint against herein respondent for lack of merit. (A.M. OCA IPI No. 05-2380-RTJ, June 14, 2006)

Judges; Grave abuse of authority:

Contempt of court involves the doing of an act, or the failure to do an act, in such manner as to create an affront to the court and the sovereign dignity with which it is clothed. It is defined as "disobedience to the court by acting in opposition to its authority, justice and dignity."

The Rules of Court penalizes two types of contempt, namely, direct contempt and indirect contempt. Direct contempt is committed in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, and includes disrespect toward the court, offensive personalities towards others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so."

On the other hand, Section 3 of Rule 71 of the Rules of Court enumerates particular acts which constitute indirect contempt, thus;

- (a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;
- (b) Disobedience of or resistance to a lawful writ, process, order or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;
- (c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under Section 1 of this Rule;
- (d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;
- (e) Assuming to be an attorney or an officer of a court, and acting as such without authority
- (f) Failure to obey a subpoena duly served;
- (g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held him

It is well-settled that the power to declare a person in contempt is inherent in all courts so as to preserve order in judicial proceedings and to uphold the administration of justice. Judges, however, are enjoined to exercise such power judiciously and sparingly, with utmost restraint, and with the end view of utilizing the same for correction and preservation of the dignity of the court, and not for retaliation or vindication. The salutary rule is that the power to punish for contempt must be exercised on the preservative, not vindictive principle, and on the corrective and not retaliatory idea of punishment. The courts must exercise the power to punish for contempt for purposes that are impersonal, because the power is intended as a safeguard not for the judges as persons but for the functions that they exercise. Only occasionally should the court invoke the inherent power in order to retain that respect without which the administration of justice must falter or fail.

Thus, respondent Judge was declared guilty of grave abuse of authority for injudiciously ordering the detention of complainant without sufficient legal ground x x x

For improperly citing complainant for contempt and ordering his detention without sufficient legal basis, a fine of P5,000 is hereby **IMPOSED** upon the respondent Judge, with a **STERN WARNING** that a repetition of the same or similar acts in the future will be dealt with more severely. (A.M. No. RTJ-06-1972, June 21, 2006)

Judges; Simple Misconduct:

Ordinarily, a judge's efforts to bring litigants to settle is considered a laudable act. The actuations of respondent judge, however, of failing to hold a hearing on complainants' urgent motions and persistently pushing for a settlement severely compromised the impartiality of his office. Judges are not only required to be impartial, they must appear to be impartial.

Respondent judge is also required by Canon 3 of the old Code of Judicial Conduct to maintain professional competence. In this regard, it is the responsibility of the judge in every case before him to diligently ascertain the facts and the applicable law based on the evidence presented.

The Court found respondent judge **GUILTY** of simple misconduct. He was **FINED** P20,000.00. The Court **STERNLY WARNED** him that a repetition of a similar infraction will merit a more severe sanction. (A.M. No. RTJ-04-1858, June 5, 2006)

Judges; Gross inefficiency:

Article VIII, Section 15 (1) of the Constitution mandates lower court judges to decide a case within the reglementary period of 90 days.

Likewise, the Code of Judicial Conduct under Rule 3.05 of Canon 3 enunciates as follows:

Rule 3.05 – A judge shall dispose the court's business promptly and decide cases within the required periods.

Rules prescribing the time within which certain acts must be done are indispensable to prevent needless delays in the orderly and speedy disposition of cases. Thus, the 90-day period is mandatory. The Court has consistently emphasized strict observance of this rule in order to minimize the twin problems of congestion and delay that have long plagued our courts.

Any delay in the administration of justice, no matter how brief, deprives the litigant of his right to a speedy disposition of his case. Not only does it magnify the cost of seeking justice. It undermines the people's faith and confidence in the judiciary, lower its standards and brings it to disrepute.

Whenever a judge cannot decide a case promptly, all he has to do is to ask the Court for a reasonable extension of time to resolve it.

Respondent judge was found **GUILTY of GROSS INEFFICIENCY**, for which she was **FINED** in the amount of Fifteen Thousand Pesos (P15,000.00) to be deducted from her retirement benefits. (A.M. No. RTJ-05-1941, April 25, 2006)

Branch Clerk of Court; Neglect of duty:

Time and again, we stress that Clerks of Court are essential judicial officers who perform delicate administrative functions vital to the prompt and proper administration of justice. Their duty is, *inter alia*, to assist in the management of the calendar of the court and in all matters that do not involve the discretion or judgment properly belonging to the judge. They play a key role in the complement of the court, as their office is the hub of adjudicative and administrative orders, processes and concerns. As such, they are required to be persons of competence, honesty and probity; they cannot be permitted to slacken on their jobs.

One final note. We would like to remind judges and branch clerks of court that they share the same duty and obligation to dispense justice promptly and speedily. In achieving this salutary purpose, their individual roles are corollary, even symbiotic. They should therefore, strive to work together and mutually assist each other in the pursuit of this goal.

Branch Clerk of Court was found **GUILTY of NEGLECT OF DUTY** for which she was **FINED** in the amount of One Thousand Pesos (P1,000.00) with a **WARNING** that a repetition of the same or similar offense shall be dealt with more severely. (A.M. No. RTJ-05-1941, April 25, 2006)

Clerk of Court; Dishonesty and misconduct for incurring cash shortages in connection with the handling of court funds:

No less than the Constitution itself provides that *a public office is a public trust. Public officers and employees are duty bound to serve the people with the highest degree of responsibility, integrity, loyalty, and efficiency and shall, at all times, remain accountable to the people.* Persons involved in the administration of justice ought to live up to the strictest standard of honesty and integrity in the public service. The conduct of every personnel connected with the courts should, at all times, be circumspect to preserve the integrity and dignity of our courts of justice. As forerunners in the administration of justice, they ought to live up to the strictest standards of honesty and integrity, considering that their positions primarily involve service to the public. Clerks of Court, in particular, are the chief administrative officers of their respective courts who must show competence, honesty and probity, having been charged with safeguarding the integrity of the court and its proceedings. Furthermore, they are judicial officers entrusted to perform delicate functions with regard to the collection of legal fees, and are expected to correctly and effectively implement regulations. Hence, as custodians of court funds and revenues, they have always been reminded of their duty to immediately deposit the various funds received by them to the authorized government depositories for *they are not supposed to keep funds in their custody.*

The failure of a clerk of court to turn over funds in his possession and adequately explain and present evidence thereon constitutes gross dishonesty, grave misconduct, and even malversation of public funds which this Court will never countenance, as these offenses indubitably diminish the faith of the people in the judiciary.

Herein respondent was found **GUILTY** of dishonesty and gross misconduct. He was **DISMISSED** from the service effective immediately, with forfeiture of all retirement benefits except accrued leave credits, with prejudice to reemployment in any branch or instrumentality in the government, including government-owned and controlled corporations. He was likewise **DIRECTED** to pay the amount of interest which the Court failed to earn had the collections been deposited on time. The Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator, was **DIRECTED** to determine the exact amount of interest which respondent is liable for. (A.M. No. P-06-2167, June 27, 2006)

Clerk of Court; Dishonesty, Grave Misconduct and conduct prejudicial to the best interest of service:

In a long line of cases, we have ruled that mere withdrawal of the administrative charges by complainant does not necessarily result in the dismissal of the complaint and will not free respondent from his administrative liability if warranted by the evidence. For administrative actions are not made to depend upon the will of the complainant who, for one reason or another, condones a detestable act. The court is not bound by the unilateral act of a complainant who desists from prosecuting a case involving the discipline of respondents under its administrative supervision.

Time and again, this Court has emphasized the heavy burden and responsibility of court personnel. They have been constantly reminded that any impression of impropriety, misdeed or negligence in the performance of their official functions must be avoided. Thus, the Court does not hesitate to condemn and sanction such improper conduct, act or omission of those involved in the administration of justice that violates the norm of public accountability and diminishes or tends to diminish the faith of the public in the Judiciary.

Respondent clerk of court was declared **GUILTY of conduct prejudicial to the best interest of the service** and was **SUSPENDED for SEVEN (7) MONTHS without pay**. He was sternly warned that a repetition of the same act will be dealt with more severely. (A.M. No. P-01-1478, December 13, 2006)

Court Stenographer; Delay in Submission of TSN's:

A court stenographer performs a function essential to the prompt and fair administration of justice. The conduct of every person connected with the administration of justice, from the presiding judge to the lowliest clerk, is circumscribed with a heavy burden of responsibility. All public officers are accountable to the people at all times. Their duties and responsibilities must be strictly performed. As administration of justice is a sacred task, this Court condemns any omission or act which would tend to diminish the faith of the people in the judiciary. Every employee or officer involved in the dispensation of justice should be circumscribed with the heavy burden of responsibility and their conduct must, at all times, be above suspicion. A public office is indeed a public trust, and a court stenographer, without doubt, violates this trust by failing to fulfill his duties.

Herein respondent was found **GUILTY** of simple neglect of duty. He was **FINED** in the amount of Two Thousand Pesos (P2,000.00) with a **STERN WARNING** that a repetition of the same or similar offense in the future shall be dealt with more severely. (A.M. No. P-06-2269, December 20, 2006)

Clerk; Frequent Unauthorized Absence and Habitual Tardiness:

Sec. 23(q), Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 (Rules) provides that "[A]n 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 (3) months in a semester or at least three (3) consecutive months during the year." Paragraph (c) of the same section provides that "[A]n employee shall be considered habitually tardy if he incurs tardiness, regardless of the number of minutes, ten times a month or at least two (2) months in a semester or at least (2) consecutive months during the year."

Under the Rules, frequent unauthorized absences, loafing or frequent unauthorized absences from duty during regular office hours shall be punishable by suspension for six (6) months and one (1) day to one (1) year for the first offense, and by dismissal for the second offense. On the other hand, habitual tardiness is punishable by reprimand for the first offense, suspension for one (1) day to thirty (30) days for the second offense, and dismissal for the third offense.

Herein respondent was found **GUILTY** of Frequent Unauthorized Absences and Habitual Tardiness and is hereby **SUSPENDED** for a period of Six (6) months Without Pay, with **WARNING** that subsequent infraction shall be dealt with more severely. (A.M. No. P-06-2284, December 19, 2006)

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