



PHILJA E-Alerts

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JUDGES

• Insubordination

The Court however agrees with the OCA that respondent judge's failure to submit the required Comment reveals a failure to live up to the standards required of a government employee for failing to comply with the Court's orders.

Section 9, Rule 140 of the Rules of Court provides that violation of Supreme Court's rules, directives and circulars is considered as a less serious offense. Since respondent judge has been previously found guilty of Undue Delay in the Rendition of Judgment in A.M. No. RTJ-14-2373 (formerly OCA IPI No. 10-3533-RTJ) and A.M. No. RTJ-10-2233 and has been fined in the amount of P5,000 in each case, the Court agrees with the OCA that a fine in the amount of P11,000 is warranted under the circumstances.

X X X X

Respondent judge was found guilty of insubordination under Section 9, Rule 140 of the Rules of Court, and was directed to pay a fine of P11,000. He was sternly warned that a repetition of the same or similar offense shall be dealt with more severity by the Court. **[A.M. No. RTJ-18-2536 (Formerly OCA IPI No. 15-4396-RTJ), October 10, 2018]**

• Undue delay in resolving the pending motions to lift the orders of default

The public's faith and confidence in the judicial system depends largely on the judicious and prompt disposition of cases and other matters pending before the courts. No less than the Constitution mandates all lower courts to decide or resolve cases or matters within three months from their date of submission. Also, Section 5, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary which took effect on June 1, 2004 directs judges to "perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness."

There is no doubt that respondent judge failed to resolve within the reglementary period the two motions filed by complainant to lift the orders of default. Respondent judge's assertion that he could not be held administratively liable because the deferment of the denial of the prohibited motions to give the parties the opportunity to settle their dispute is an exercise of his judicial discretion is untenable. While it is true that the wisdom behind the referral of the civil cases to the Philippine Mediation Center for mediation and the Judicial Dispute Resolution (JDR) by respondent judge is generally beyond the jurisdiction of the OCA to determine, the OCA will not shy away from its responsibility to report to the Court matters involving the conduct of the judge in the performance of the duties of his office and his observance of the New Code of Judicial Conduct.

The motions to lift the default orders were filed on June 24, 2013. Respondent judge had until September 22, 2013 to act on the motions. Respondent judge did not resolve the motions but referred the cases for mediation and for JDR proceedings in August 2013 and November 2013, respectively. Assuming that respondent judge was correct in deferring the resolution of the motions until after the result of the mediation and JDR proceedings, there was delay in the resolution of the motions after the failed JDR in February 2014. As aptly noted by complainant, it took respondent judge another six months to decide the pending motions.

Clearly, respondent judge failed to discharge his duty to promptly resolve the two motions within the required period. Consequently, he should be held administratively liable for gross inefficiency.

A judge cannot choose his deadline for deciding cases pending before him. It is his sworn duty to administer justice without undue delay under the time-honored precept that justice delayed is justice denied. The present clogged dockets on all levels of our judicial system cannot be cleared unless each and every magistrate earnestly, painstakingly and faithfully complies with the mandate of the law. The need to impress upon judges the importance of deciding/resolving cases promptly and expeditiously cannot be stressed enough, for delay in the disposition of cases and matters undermines the people's faith and confidence in the judiciary.

x x x x

Respondent judge was found guilty of undue delay in resolving the pending motions to lift the orders of default in Civil Case Nos. CV-XXX-YY and CV-AAA-BB. Respondent judge was reprimanded with a warning that a repetition of the same or similar infraction will be dealt with more severely by the Court. **[A.M. No. RTJ-18-2541 (Formerly OCA IPI No. 14-4301-RTJ), November 14, 2018]**

COURT EMPLOYEES

- **Gross misconduct**

Courts are regarded by people with high respect and any form of misbehavior within their vicinity tends to diminish their sanctity and dignity. The conduct and behavior of every person connected with the dispensation of justice, from a presiding judge to staff, must always be characterized with propriety and decorum. In the case at bar, respondent's reprehensible acts failed to meet this standard. His acts constitute gross misconduct.

Under the Revised Rules on Administrative Cases in the Civil Service, gross misconduct is a grave offense punishable by dismissal from service on the first offense. The penalty of dismissal includes other accessory penalties: the forfeiture of retirement benefits and the perpetual disqualification from holding any other public office.

x x x x

In the case at bar, respondent's act of having sexual intercourse with complainant against her will constitutes gross misconduct, aggravated by two circumstances: the victim was a minor and it was committed in the Hall of Justice. Thus, the harshest penalty must be imposed upon respondent.

Respondent was dismissed from service for gross misconduct with forfeiture of all retirement benefits and disqualification from being reinstated or appointed in any public office, including government-owned or controlled corporations. **[A.M. No. HOJ-08-02, October 2, 2018]**

- **Gross neglect of duty; Conduct prejudicial to the best interest of the service**

In the present case, it is undisputed that respondent did not return to his post after his physical therapy at the PGH and that he failed to report for work from November 19 to 22, 2013. He, however, claims that a family emergency clouded his judgment preventing him from properly notifying or informing his superiors. Respondent insists that his failure to inform his superiors was not intentional. Thus, it is readily apparent that he was already remiss in the faithful performance of his duty as a security guard because he left his post unmanned after he failed to report back for work.

x x x x

Regardless of respondent's intention, his inattention at the very least constitutes simple neglect of duty as he could have easily communicated to his superiors that he could no longer report back for work had he exercised sufficient diligence. In fact, he could have personally informed his superiors of the family emergency considering that the PGH is merely a stone's throw away from the CA.

After a careful perusal of the records, however, the Court finds that respondent is guilty of gross neglect of duty—not merely simple neglect of duty. Based on the documents from the PGH presented by complainant, respondent never actually attended his scheduled therapy session because the last time he received treatment was on November 5, 2013. He asked permission from complainant to leave his post because he had to go to PGH but he did not attend his planned treatment. Respondent had to make up a ruse for him to leave his station and never came back. This evinces that his act of leaving his post and neglecting his duty was intentional or willful and not merely out of inadvertence or carelessness.

In any case, respondent being guilty of gross neglect of duty or simple neglect of duty would yield the same result—dismissal from service. Gross neglect of duty, as a grave offense, is punishable by dismissal from service while simple neglect of duty may also lead to a severance from service if it is for a second offense. In *Court of Appeals by: COC Marigomen v. Manabat, Jr.*, respondent was already found guilty of simple neglect of duty for accidentally discharging his service firearm. In the abovementioned case, he was suspended for one month and one day and was warned that a repetition of the same or similar offense shall be dealt with more severely.

Moreover, respondent is also guilty of Conduct Prejudicial to the Best Interest of the Service. It is true that there is no concrete description of what specific acts constitute the said offense but abandonment of office and failure to report back for work without prior notice had been deemed as such. In respondent's case, his failure to report back for work after his alleged therapy session and lack of notice to his superiors that he could not report for work constitute Conduct Prejudicial to the Best Interest of the Service. Due to the lack of sufficient manpower, his post was left unmanned during the times he failed to report for work.

Respondent's flimsy excuse cannot exonerate him from any liability because they were unjustified and unreliable. x x x

Further, respondent's length of service does not serve to mitigate any possible sanction which may be levied on him. Length of service is an alternative circumstance which can reduce or possibly even aggravate the penalty, depending on the circumstances of the case.

Here, respondent had been in government service for 17 years. However, his stint with the government had been far from perfect as he had been previously disciplined. As abovementioned, respondent was even previously found guilty of Simple Neglect of Duty by the

Court. His unsatisfactory service record is highlighted even more by the fact that he had been sanctioned or penalized by the CA for numerous infractions in the past. x x x

Respondent was found guilty of gross neglect of duty and conduct prejudicial to the best interest of the service. He was dismissed from the service, with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits and perpetual disqualification from reemployment in the government service. **[A.M. No. CA-18-35 (Formerly A.M. OCA IPI No. 17-260-CA-P), November 27, 2018]**