



PHILJA E-Alerts

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JUDGES

- **Dishonesty**

The Office of the Court Administrator (OCA) finds that respondent judge should be held liable for dishonesty. In “In the Matter of: Anonymous Complaint for Dishonesty, Grave Misconduct, and Perjury Committed by Judge AA (in his Capacity as the then Fourth Provincial Prosecutor of Libmanan, Camarines Sur,” A.M. No. RTJ-16-2452, March 9, 2016) the Court declared:

A careful perusal of the wording of the question “Have you ever been charged?” would show that it solicits an answer that pertains to either past or present charge, whether it was already dismissed or not. Judge AA should have known fully well the consequences of making a false statement in his PDS. Being a former public prosecutor and a judge now, it is his duty to ensure that all the laws and rules of the land are followed to the letter. His being a judge makes the act all the more unacceptable. Clearly, there was an obvious lack of integrity, the most fundamental qualification of a member of the judiciary.

The instant administrative case is no different from the aforementioned administrative matter. Respondent judge was made aware that an administrative complaint was filed against him and was required to submit his counter-affidavit. Despite this, he failed to follow up the status of the administrative complaint and failed to disclose the information in his PDS submitted before the JBC. As a former public prosecutor, he ought to know the consequences of his failure to disclose in his PDS, which was made under oath, any material information required by the JBC for his judgeship application.

Finding respondent guilty of dishonesty, he was fined in the amount of P20,000 with a stern warning that a repetition of the same or similar act shall be dealt with more severity by the Court. **[A.M. No. MTJ-17-1895 (Formerly OCA I.P.I. No. 15-2810-MTJ), April 5, 2017]**

- **Contempt of Court**

It is plain to see that the investigation being conducted by the PNP and the NBI, assuming there is any, is moving at a snail’s pace. The loss was discovered in March 2001 and yet, up to now, after more than 15 years, these agencies have not yet submitted a report or even any updates on their investigation. Respondent judge should have realized that the reason why this Court directed him to make his own inquiry was precisely because it does not appear likely that the PNP and the NBI would soon be coming up with their reports.

Respondent judge insists on relying on the excuse that the PNP and the NBI have not yet submitted the reports on their respective probes. This excuse would have been valid in 2001 or

maybe 2002 but definitely not today. He has been waiting for those reports since August 17, 2001 when he reported to this Court that the investigation to be conducted by the police is the best way to determine responsibility for the loss and that the police had requested the NBI to conduct a lie detector test on the staff of Branch XX. Because of this manifestation, this Court backed off a bit and, instead of reiterating the previous directive for him to conduct his own investigation, it merely required him to inform this Court as to the status of the investigation. He failed to comply, reasoning that he has yet to receive any report from the PNP and the NBI. This was already in 2012. This Court then directed him to once again conduct his own investigation. Again, he failed to comply and insisted that he was waiting for the results of the polygraph tests conducted by the NBI. This was in 2014.

It is evident that respondent judge ignored or took very lightly the directive from this Court to conduct his own investigation. He should have realized that it was because of the inaction of the PNP and NBI that he was required by this Court to pursue his own investigation and yet he persisted on waiting for the results of their investigations, thus defeating the purpose of this Court's directive. He showed a total lack of resolve in complying with the Court's directive since up to now he is still willing to wait for those reports from the PNP and the NBI. Significantly, in the Resolution dated June 2, 2008, he was already reminded and warned by this Court that as an officer of the Court, he must be "vigilant and responsible in reporting any matter related to the administration of justice to the Supreme Court."

For his failure to comply with Court's directive, respondent judge was cited in contempt of court and was imposed a fine in the amount P5,000. *[A.M. No. 01-5-295-RTC, April 19, 2017]*

CLERKS OF COURT

- **Dishonesty; Failure to comply with the Court's rules and guidelines relating to judiciary funds**

Further, the audit team noted that this was not the first time respondent clerk of court failed to follow the proper procedures and guidelines in the handling of the collection, deposit and withdrawal of judiciary funds. In an earlier report dated May 14, 2009, respondent was already reminded to strictly adhere to the Supreme Court circulars on the handling of funds. The team also cited respondent's previous infractions of cancelling three copies of O.R. No. 6480654 to make it appear that A's cash bond was uncollected before finally admitting what actually happened. Even though she has returned the amount of shortages, this did not extinguish her administrative liability because of the fiduciary nature of her functions as clerk of court. Accordingly, the audit team recommended that respondent be meted with a fine of P20,000. The OCA approved and recommended the audit team's findings in the Memorandum dated July 24, 2015.

We agree with the findings and recommendation of the OCA and the audit team. In *Office of the Court Administrator v. Nini*, we explained the duties and responsibilities of a clerk of court in administering judiciary funds:

Settled is the role of clerks of court as judicial officers entrusted with the delicate function with regard to collection of legal fees. They are expected to correctly and effectively implement regulations relating to proper administration of court funds. Clerks of court perform a delicate function as designated custodians of the court's

funds, revenues, records, properties and premises. As such, they are generally regarded as treasurer, accountant, guard, and physical plant manager thereof. It is also their duty to ensure that the proper procedures are followed in the collection of cash bonds. Clerks of court are officers of the law who perform vital functions in the prompt and sound administration of justice. Their office is the hub of adjudicative and administrative orders, processes and concerns. Hence, in case of a lapse in the performance of their sworn duties, the Court finds no room for tolerance and is then constrained to impose the necessary penalty to the erring officer. x x x Indeed, the Court zealously aims to safeguard the people's faith in the Judiciary by improving the route by which justice is served. Certainly, an officer who constantly bleats about the complexity of his responsibilities resultantly neglects his duties. Such an officer does not aid in the Judiciary's goal and must then bear the appropriate penalty.

In another case, we remarked that the administration of judiciary funds entails strict compliance with the rules and guidelines provided by this Court through its concerned offices. All responsible officers are expected to strictly follow such guidelines and noncompliance therewith is sanctioned. These stringent rules were crafted to underscore an exacting duty of compliance imposed upon court personnel tasked in handling the funds of the judiciary.

Here, it is clear from the findings of the audit team that irregularities in the administration of court funds were indeed committed. As custodian of court funds and revenues, respondent clerk of court had the duty to immediately deposit the various funds received by them to the authorized government depositories. She is not supposed to keep funds in her custody. Such functions are highlighted by OCA Circular Nos. 50-95 and 113-2004, and SC Administrative Circular No. 35-2004 which mandate clerks of court to timely deposit judiciary collections as well as to submit monthly financial reports on the same. Respondent, however, failed to comply with these, notwithstanding a previous directive from the audit team. Worse, she attempted to hide the fact that she received the bail bond from A, even going as far as cancelling copies of the official receipt, before finally admitting that she gave the money to B. As aptly observed by the audit team, this raises doubt regarding her honesty and integrity. While restitution may be considered as a mitigating circumstance, it does not absolutely relieve her of administrative liability. *[A.M. No. P-15-3375, April 24, 2017]*

UTILITY WORKER

- **Gross neglect of duties; Effect of absence without approved leave**

Section 63, Rule XVI of the Omnibus Rules on Leave, as amended by Memorandum Circular No. 13, Series of 2007, states:

SEC. 63. Effect of absences without approved leave. – An official or employee who is **continuously absent without approved leave for at least 30 working days** shall be considered on absence without official leave (AWOL) and shall be separated from the service or dropped from the rolls without prior notice. x x x.

x x x (Emphasis supplied)

Based on this provision, respondent should be separated from service or dropped from the rolls in view of his continued absence since February 2016.

Indeed, prolonged unauthorized absence causes inefficiency in the public service. A court employee's continued absence without leave disrupts the normal functions of the court. It contravenes the duty of a public servant to serve with the utmost degree of responsibility, integrity, loyalty, and efficiency. The Court stresses that a court personnel's conduct is laden with the heavy burden of responsibility to uphold public accountability and maintain people's faith in the judiciary.

As the presiding judge reported, respondent failed to report for work long before he was arrested. He also exhibited disinterest in diligently fulfilling his assigned tasks. Evidently, his conduct constitutes gross disregard and neglect of his duties. Undeniably, he failed to adhere to the high standards of public accountability imposed on all those in the government service.

For violating the Omnibus Rules on Leave, respondent utility worker was ordered dropped from the rolls and declared his position vacant. ***[A.M. No. 17-03-33-MCTC, April 17, 2017]***