



PHILJA E-Alerts

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Tel. No: 02 5529524 Fax No: 02 5529621

E-mail address

philja@sc.judiciary.gov.ph
research_philja@yahoo.com

Website address

<http://philja.judiciary.gov.ph>

PHILIPPINE JUDICIAL ACADEMY

Justice Adolfo S. Azcuna
Chancellor

Dean Sedfrey M. Candelaria
*Head, Research, Publications
and Linkages Office*

Atty. Ma. Melissa R. Dimson-Bautista
Editor

Editorial, Research and Circulation
*Research, Publications
and Linkages Office*

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CLERKS OF COURT

- **Grave Misconduct; Gross Neglect of Duty**

Under Administrative Circular No. 3-2000, the duty of the clerk of court is to receive JDF collections in their respective courts, issue the proper receipts and maintain a separate cash book properly marked as "CASH BOOK FOR JUDICIARY DEVELOPMENT FUND." The clerk of court shall then deposit such collections every day and render the proper Monthly Report of Collections and Deposits for said Fund within 10 days after the end of every month. Section 3-C of the JDF and SAJ procedural guidelines in Administrative Circular No. 35-2004, as amended, provides that the daily remittance of JDF and SAJ collections is required.

OCA Circular No. 50-95 provides that all collections from bail bonds, rental deposits and other fiduciary collections shall be deposited with the Land Bank of the Philippines by the clerk of court concerned. The deposit must be made within 24 hours from receipt. In localities where there are no Land Bank of the Philippines branches, fiduciary collections shall be deposited by the clerk of court with the provincial, city or municipal treasurer.

To implement these circulars, OCA Circular No. 113-2004 requires clerks of court to submit monthly reports for three funds: JDF, SAJ, and FF.

In the present case, respondent not only failed to fully comply with her duty as Clerk of Court based on the provisions of law, but likewise continuously ignored the reminders and stern warnings of the OCA and the Court to submit the missing Monthly Financial Reports. Even if she partially complied on some months, the June 15, 2011, December 14, 2011, February 13, 2013 and October 23, 2013 Court Resolutions still went unheeded and she deliberately failed to submit the Monthly Financial Reports. Evidently, respondent committed the grave offense of grave misconduct for her obstinate refusal to comply with the repeated directives of the Court requiring her to submit the Monthly Financial Reports.

In *Office of the Court Administrator v. Ganzan*, the Court stated that a resolution of the Court should not be construed as a mere request and should be complied with promptly and completely.

In *Alday v. Cruz, Jr.*, the Court reiterated that directives issued by this Court are not to be treated lightly, certainly not on the pretext that one has misapprehended the meaning of said directives. Effective and efficient administration of justice demands nothing less than a faithful adherence to the rules and orders laid down by this Court.

In *Office of the Court Administrator v. Reyes*, a clerk of court was dismissed for his propensity to defy the directives of the Court. The Court stated that such attitude betrays not only a recalcitrant streak of character, but also disrespect for the lawful orders and directives of the Court.

In *Grefaldeo v. Lacson*, the Court held that respondent's obstinate refusal to abide by the lawful directives of the Court must similarly be taken to mean as her own utter lack of interest to remain with, if not her contempt of, the system to which she unfittingly belongs.

For her inexcusable non-submission of the Monthly Financial Reports, respondent is also guilty of gross neglect of duty.

x x x x

In this case, respondent, despite repeated directives from the Court to submit the Monthly Financial Reports, deliberately ignored the Resolutions showing her manifest indifference to the serious repercussions of her omissions. Respondent's repeated failure to submit the Monthly Financial Reports, without any explanation or justification, clearly constitutes gross neglect of duty.

x x x x

The Court consistently reminds that those in the Judiciary serve as sentinels of justice, and any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it. The Judiciary demands the best possible individuals in the service and it had never and will never tolerate nor condone any conduct which violates the norms of public accountability, and diminishes, or even tends to diminish, the faith of the people in the justice system. Thus, the Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards an effective and efficient administration of justice, thus tainting its image in the eyes of the public.

Accordingly, in A.M. No. P-14-3230, the Court finds respondent guilty of grave misconduct for her defiance and stubbornness to obey legitimate directives of this Court and gross neglect of duty for non-submission of the Monthly Financial Reports, both of which are classified as grave offenses under Section 46(A), Rule 10 of the Revised Rules on Administrative Cases in the Civil Service with the corresponding punishment of dismissal from the service. **[A.M. Nos. P-11-2959 and P-14-3230, February 6, 2018]**

SHERIFFS

- **Conduct Unbecoming a Court Employee**

It must be stressed that employees of the Judiciary should be living examples of uprightness not only in the performance of official duties but also in their personal and private dealings with other people so as to preserve the good name and standing of the courts in the community at all times. Indeed, the image of a court of justice is mirrored by the conduct, official or otherwise, of its personnel from the judge to the lowest of its rank and file who are all bound to adhere to the exacting standard of morality and decency in both their professional and private actions. They are expected to accord respect to the person and the rights of another; and their every act and word should be characterized by prudence, restraint, courtesy and dignity.

In the present case, respondent's act of slapping the shoulder of complainant, and his use of improper and intemperate words and his threat against her should not be countenanced. Without a doubt, such acts tarnished not only the image and integrity of the public office but also the public perception of the very image of the Judiciary of which he was a part of. Respondent must be reminded that government service is people-oriented where high-strung behavior and belligerent attitude cannot be allowed.

Time and again, this Court has reminded all employees that discourtesy and disrespect have no place in the Judiciary. Boorishness and overbearing behavior can only bring their office to disrepute and erode public respect. As stated, professionalism, respect for the rights of

others, good manners and right conduct are expected from all judicial officers and employees at all times as the image of the Judiciary is necessarily mirrored in their actions. Thus, any scandalous behavior or any act that may erode the people's esteem for the Judiciary is unbecoming of an employee, and tantamount to simple misconduct.

Moreover, the Court takes note of the fact that respondent left the office during office hours without securing the necessary permission from his superiors. Respondent admitted that he was in ABC Store on July 27, 2015 at around 3:00 o'clock in the afternoon. His explanation that he was in the area serving summons when he needed to meet his wife supposedly to give her money for their cooking gas, is bereft of merit. During the hearing conducted on May 19, 2017, respondent admitted that he was not armed with a written authority to travel when he allegedly served the summonses and court processes, and could not even remember the cases for which these summonses were issued x x x.

x x x x

It bears stressing that judicial officials and employees must devote their official time to government service. They must strictly observe the prescribed office hours and the efficient use of every moment thereof for public service if only to recompense the government and ultimately the people who shoulder the cost of maintaining the Judiciary and to inspire public respect for the justice system.

x x x x

The Court notes that this is not the first time that respondent has been administratively charged. In A.M. No. P-07-2313, respondent was found guilty of conduct unbecoming of a government employee for deliberately bumping and hitting the left breast of complainant therein. He was suspended for a period of two months and was sternly warned that a repetition of the same or similar act would be dealt with more severely. Despite such warning, respondent repeated the same act. Hence, the ultimate penalty of dismissal should be imposed. **[A.M. No. P-18-3792 (Formerly OCA IPI No. 16-4579-P), February 20, 2018]**

UTILITY WORKERS

- **Habitual Absenteeism; Conduct Prejudicial to the Best Interest of the Service; Insubordination**

A civil servant is considered habitually absent when "he or she incurs 'unauthorized absences exceeding the allowable 2.5 days monthly leave credit under the law for at least three months in a semester or at least three consecutive months during the year.'" To stress, mere failure to file leave of absence does not by itself result in any administrative liability. However, unauthorized absence is punishable if the same becomes frequent or habitual. In turn, absences become habitual when an officer or employee in the civil service exceeds the allowable monthly leave credit (2.5 days) within the given time frame.

In this case, respondent duly filed official leave for his absences in September, October, and November 2014. Nonetheless, it cannot escape our attention that by December 2014, until the filing of this complaint and the period thereafter, he already went on AWOL. Thus, pursuant to the foregoing rules on absenteeism, respondent was guilty of habitual absenteeism as he evidently exceeded the authorized number of days that he may absent himself.

x x x x

Here, respondent is similarly guilty of habitual absenteeism and conduct prejudicial to the best interest of the service. Like in *Re: AWOL of Ms. Bantog, Re: Habitual Absenteeism of Marcos*, and *Sarceno*, respondent deserves not just the dropping of his name from the rolls. His

disservice to the Judiciary gives the Court sufficient reason to dismiss him and declare him ineligible for public service hereafter.

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Respondent was twice directed by the OCA to comment on this charge against him. However, despite receipt of notice, he did not file any comment on the Complaint. By such inexcusable refusal to comment despite ample opportunity to do so, respondent had waived his right to defend himself, and had shown appalling disrespect of the Court's authority as well as its rules and regulations.

In *Clemente v. Bautista*, the Court ruled that the directive to comment on a case filed against a court employee is not an empty requirement. The OCA's directives, and those of its deputies are issued pursuant to the administrative supervision of the Court. They are not mere requests but are directives that must be timely and fully complied with. As such, the indifference to and disregard of such orders constitute insubordination. Hence, for his failure to file his comment despite notice to do so, respondent committed insubordination, which in turn is punishable by suspension for one month and one day to six months for the first violation. However, considering the foregoing discussion, respondent's suspension is rendered impractical. Thus, the Court deems it appropriate to instead order him to pay a fine equivalent to three months worth of his salary.

Respondent was found guilty of habitual absenteeism, conduct prejudicial to the best interest of the service, and insubordination and he was ordered dismissed from the service with prejudice to re-employment in any government agency, including government-owned or controlled corporations, and with forfeiture of retirement benefits, except accrued leave credits. He is also meted the penalty of fine equivalent to his salary for three months. **[A.M. No. P-17-3645 (Formerly OCA IPI No. 15-4415-P), January 30, 2018]**

COURT AIDE

- **Grave Misconduct; Serious Dishonesty; Conduct Prejudicial to the Best Interest of the Service; Insubordination**

In this case, complainant and her staff duly established in the inventory list that the drug specimens stored in the vault of the RTC were missing. An examination of the envelopes containing the evidence in the criminal cases showed that the drug exhibits of *shabu* and marijuana were gone. As properly alleged by complainant, the theft of the said pieces of evidence could only be perpetrated after office hours when all the staff have left the courtroom. Notably, it was only respondent as court aide, who had access to the courtroom, where the vault is located, after office hours and during weekends. It is beyond cavil that respondent could easily enter the courtroom unsuspectingly in the guise of cleaning the room. Due to his position, he could access the court's vault, rig its padlock and steal its contents.

Respondent became aware of the status of the cases pending before the RTC because he was the one in charge of arranging the records at the storage area during the court's disposal month for July 2016. Evidently, most of the cases that had missing exhibits were already disposed by the RTC. Respondent deviously targeted these decided cases so that his nefarious deeds would go unnoticed. It was only when Criminal Case No. XXXXX-XXXXX was re-opened for presentation of evidence that the theft of the court's exhibits was exposed. Thereafter, respondent could not be contacted anymore as he hurriedly left his residential address.

Later, it was also discovered that other pieces of evidence, such as the .38 caliber revolver and some cash and pieces of jewelry, were also missing from the vault of the RTC.

Then, on August 16, 2016, respondent was caught selling an unlicensed .38 caliber revolver. Likewise, four pieces of .38 caliber live ammunition and seven pieces of small transparent plastic sachets containing white crystalline substance suspected to be *shabu* were also confiscated from respondent. It was confirmed the seized firearm is a missing exhibit in Criminal Case No. YYYYYY, also pending before the RTC. The arrest of respondent and seizure of the contrabands from his possession reinforced his administrative guilt in stealing the court's exhibits.

Respondent committed grave misconduct because theft of the exhibits in the court's vault and the illegal sale of the pilfered firearm are clear transgressions of the law. There is also an element of corruption because he unlawfully and wrongfully used his position to procure some benefit for himself and to the detriment of the Judiciary.

Respondent is likewise guilty of dishonesty because his misappropriation of the court's evidence demonstrates his disposition to lie, cheat, deceive, defraud, or betray. Manifestly, the dishonest act caused serious damage and grave prejudice to the Government. By stealing the evidence of the court and using the same for his own benefit, respondent likewise committed conduct prejudicial to the best interest of the service because he violated the norm of public accountability which, subsequently diminished the people's faith in the Judiciary.

As to the charge of insubordination, the Court finds it meritorious. In two directives, the OCA required respondent to submit his comment to the complaint but these were unheeded. It must be emphasized that noncompliance with the OCA's directives is tantamount to insubordination to the Court itself. Respondent was then required by the Court to show cause why he should not be administratively dealt with for failure to submit his comment but, again, this fell on deaf ears. In spite of the personal service of the notices to him, he did not comply with the OCA and the Court's directives. Evidently, respondent committed insubordination and the conduct he exhibited constitutes no less than a clear act of disrespect for the authority of the Court.

X X X X

In this case, respondent's theft of the exhibits of the RTC is a grave misconduct in the performance of his official duties, consisting of dishonesty and conduct prejudicial to the best interest of the service, and insubordination against the directives of the OCA and the Court. Taken together, these are grounds for dismissal under the Civil Service Law. All his benefits, excluding his accrued leave credits, must be forfeited and with prejudice to re-employment in any branch or agency of the government.

There is no place in the Judiciary for those who cannot meet the exacting standards of judicial conduct and integrity. This is because the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel. Thus, it becomes the imperative sacred duty of each and every one in the court to maintain its good name and standing as a true temple of justice.

As front liners in the administration of justice, court personnel should live up to the strictest standards of honesty and integrity in the public service, and in this light, are always expected to act in a manner free from reproach. Any conduct, act, or omission that may diminish the people's faith in the Judiciary should not be tolerated. For tarnishing the image and integrity of the bench, respondent's name should be perpetually stripped from the rolls of the men and women of the Judiciary. **[A.M. No. P-16-3530 (Formerly A.M. No. 16-08-306-RTC), March 6, 2018]**