



# PHILJA E-Alerts

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## JUDGES

- **Grave Misconduct; Dishonesty; Falsification of Official Documents**

Misconduct has been defined as any unlawful conduct, on the part of the person concerned with the administration of justice, prejudicial to the rights of the parties or to the right determination of the cause. It implies wrongful, improper, or unlawful conduct, not a mere error of judgment, motivated by a premeditated, obstinate or intentional purpose, although it does not necessarily imply corruption or criminal intent, and must have a direct relation to and be connected with the performance of the public officer's official duties amounting either to maladministration or willful, intentional neglect, or failure to discharge the duties of the office.

On the other hand, dishonesty has been defined as "intentionally making a false statement on any material fact, or practicing or attempting to practice any deception or fraud in securing his examination, appointment, or registration. [It] is a serious offense which reflects a person's character and exposes the moral decay which virtually destroys his honor, virtue, and integrity. It is a malevolent act that has no place in the judiciary, as no other office in the government service exacts a greater demand for moral righteousness from an employee than a position in the judiciary."

Proceeding from these definitions, the Court agrees that respondent deliberately and calculatedly lied in her answers to the subject questions in her two PDS to conceal the truth and make it appear that she is qualified for the judgeship position which she now holds. Indeed, it is inconceivable for her not to have been aware of any of the pending cases against her since an administrative case filed against her had been pending before the DOJ since October 23, 2003, or long before she submitted her application with the JBC. Had she disclosed this material fact in her October 28, 2005 PDS, the JBC may have disqualified her from nomination for judgeship, or disregarded her application. Because of this intentional omission, the judiciary may have lost someone truly deserving of the judgeship post. Moreover, when she filed her November 6, 2006 PDS, respondent was already clearly aware of the pending charges against her before the Ombudsman, *i.e.*, OMB-V-C-XX-XXXX-D, OMB-V-C-YY-YYYY-D, and OMB-V-C-ZZ-ZZZZ-D, all of which appear to have been filed, at most, in the early part of 2006, and received by the Ombudsman on March 24, 2006 through the March 16, 2006 Indorsement of the Regional State Prosecutor. In several cases, the Court has held that a duly accomplished PDS is an official document and any false statements made in one's PDS is ultimately connected with one's employment in the government. An employee making false statement in his or her PDS becomes liable for falsification.

Respondent, as a member of the Bar, is presumed to be a learned individual, who knew, and is in fact expected to know, exactly what the subject questions called for, what they mean, and what repercussions will befall her should she make false declarations thereon. Obviously, she knew that she was committing an act of dishonesty, but nonetheless decided to proceed with this action, in her October 28, 2005 PDS, and even tenaciously repeated the same in her November 6, 2006 PDS submitted after she had been appointed to the judiciary.

Worse, notwithstanding the several opportunities given to her (through her May 28, 2007 and February 6, 2008 compliances and during the investigation of the nullification case), respondent did not explain, in disregard of the Court's directive, why no disciplinary action should be taken against her for not disclosing in the subject PDS the fact that she has been formally charged and has pending cases. Instead, she attempted to wriggle her way out of her predicament by maintaining that the cases against her had been dismissed or outrightly not given due course. She even argued and insisted that these charges were motivated by ill will and were initiated for the purpose of humiliating her and putting her under public contempt and ridicule. Finally, she adamantly denied committing perjury in her PDS and insisted that she has all of the qualifications and none of the disqualifications for appointment to the judiciary.

In this regard, the executive judge aptly observed that respondent indeed missed the point of the investigation. Whether or not the cases were already dismissed and whatever motive impelled the complainants and petitioners to file these cases against her were completely irrelevant as the questions: *"Is there any pending civil, criminal or administrative (including disbarment) case or complaint filed against you pending in any court, prosecution office, or any other office, agency or instrumentality of the government or the Integrated Bar of the Philippines?," "Have you ever been charged with or convicted of or otherwise imposed a sanction for the violation of any law, decree, ordinance or regulation by any court, tribunal, or any other government office, agency or instrumentality in the Philippines or in foreign country, or found guilty of an administrative [offense] or imposed any administrative sanction?"* (in the October 28, 2005 PDS), and *"Have you ever been formally charged?"* (in the November 6, 2006 PDS) simply called for information on cases filed against her at any time in the past or in the present, regardless of their current status, *i.e.*, whether decided, pending, or dismissed/denied for any reason. x x x

The Court found respondent guilty of grave misconduct, dishonesty and falsification of official documents for which she was ordered dismissed from the service with forfeiture of all retirement benefits, except accrued leave credits and with prejudice to reemployment in any branch or agency of the government, including government-owned or controlled corporations. **[A.M. No. MTJ-08-1717 (Formerly OCA IPI NO. 07-1911-MTJ), August 29, 2017]**

- **Conduct Unbecoming a Judge**

Indeed, the CJC mandates all members of the bench to be models of propriety at all times. Canon 4 thereof provides:

**CANON 4  
PROPRIETY**

Propriety and the appearance of propriety are essential to the performance of all the activities of a judge.

**SECTION 1.** Judges shall avoid impropriety and the appearance of impropriety in all of their activities.

x x x x

**SEC. 6.** Judges, like any other citizen, are entitled to freedom of expression, belief, association and assembly, but in exercising such rights, they shall always conduct themselves in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.

In the present case, respondent judge's insulting statements during the preliminary conference and in his pleadings before the Court are obviously offensive, distasteful, and inexcusable. Certainly, while respondent judge's concern on the misrepresentation committed

by complainant before the RTC is understandable, he should not have disregarded the rules on proper decorum at the expense of the integrity of the court.

As correctly observed by the OCA in its Memorandum, respondent judge failed to exercise caution in his speech, keeping in mind that his conduct in and outside the courtroom is always under constant observation. The Memorandum in part states:

[Respondent judge] acted inappropriately when he repeatedly badgered [complainant] about how the latter was able to “convince” the RTC, Manila and secure a reversal of his decision. [Respondent judge] did not even attempt to hide his sarcasm and hold back his irritation towards [complainant] when he indiscriminately and unashamedly used the word “stupid” in his Supplemental Rejoinder and referred to [complainant] as “petty, dull and slow thinking” and “pathological or compulsive liar” in his Comment on the Supplemental Complaint.

The Court found respondent guilty of conduct unbecoming a judge and fined him in the amount of P5,000 with a stern warning that a repetition of the same or similar act shall be dealt with more severely. **[A.M. No. 17-1905 (Formerly OCA IPI No. 13-2582-MTJ), August 30, 2017]**

- **Conduct prejudicial to the best interest of the service**

**CANON 6  
COMPETENCE AND DILIGENCE**

Competence and diligence are prerequisites to the due performance of judicial office.

**SECTION 1.** The judicial duties of a judge take precedence over all other activities.

**SECTION 2.** Judges shall devote their professional activity to judicial duties, which include not only the performance of judicial functions and responsibilities in court and the making of decisions, but also other tasks relevant to the judicial office or the court’s operations.

The Court has stressed time and again that “decision-making is the primordial xx x duty of a member of the [bench].” “No other [task] can be more important than decision-making x x x.” In the case of trial courts, the conduct of hearings is unquestionably an important component of their decision-making process and, conversely, all other official tasks must give way thereto. Hence, for a judge to allow an activity, and an unofficial one at that, to take precedence over the conduct of hearings is totally unacceptable. It is a patent derogation of Sections 1 and 2 of Canon 6 and a blatant disregard of the professional yardstick that “all judicial [officials and] employees must devote their official time to government service.”

Additionally, respondent judge’s habit of watching television during office hours violates Section 7 of the same Canon 6 which requires judges “not to engage in conduct incompatible with the diligent discharge of judicial duties.” Watching *telenovelas* surely dissipates away respondent judge’s precious time in the office, which, needless to say, has an adverse effect on the prompt administration of justice. Such activity is by all means counter-productive to the due performance of judicial duties.

For the afore-stated violations, the Court finds respondent judge guilty of conduct prejudicial to the best interest of the service. “Conduct prejudicial to the best interest of [the] service x x x pertains to any conduct that is detrimental or derogatory or naturally or probably bringing about a wrong result; it refers to acts or omissions that violate the norm of public accountability and diminish—or tend to diminish—the people’s faith in the Judiciary.” As correctly stated by OCA, respondent judge’s “audacity to delay—and even interrupt—court

trials and hearings just to satisfy her obsession for soap operas [is w]ithout a doubt [a] reprehensible conduct [which] lowers the people’s respect for the judiciary.” **[A.M. No. RTJ-17-2507 (Formerly OCA IPI NO. 14-4329-RTJ), October 9, 2017]**

- **Gross Misconduct**

To decongest court dockets and enhance access to justice, the Court through A.M. No. 01-10-05-SC-PHILJA approved the institutionalization of mediation in the Philippines through court-annexed mediation. Along with this, structures and guidelines for the implementation of court-annexed mediation were put in place. Trial courts, therefore, cannot just indiscriminately refer for mediation any case to just anybody. For one, there are cases which shall and shall not be referred to court-annexed mediation. For another, mediatable cases where amicable settlement is possible must be referred by the trial courts to the PMC, who in turn, shall assist the parties in selecting a mutually acceptable mediator from its list of duly accredited mediators. Here, Criminal Case No. 2005-XXXX involving frustrated homicide is apparently not a mediatable case. Clearly on this score alone, respondent judge had already violated A.M. No. 01-10-05-SC-PHILJA. Worse, respondent judge entrusted the settlement of the case to the court stenographer, who obviously was not a qualified, trained, or an accredited mediator. It must be emphasized that while courts and their personnel are enjoined to assist in the successful implementation of mediation, A.M. No. 01-10-05-SC-PHILJA does not authorize them to conduct the mediation themselves. Mediation of cases can only be done by individuals who possess the basic qualifications for the position, have undergone relevant trainings, seminars-workshops, and internship programs and were duly accredited by the court as mediators. These are to ensure that the mediators have the ability to discharge their responsibility of seeing to it that the parties to a case consider and understand the terms of a settlement agreement. Unlike therefore when the mediation is facilitated by an accredited mediator, there is great danger that legal rights or obligations of parties may be adversely affected by an improper settlement if mediation is handled by an ordinary court employee.

The above important points could not have been unwittingly missed out by respondent judge. As opined by the OCA, respondent judge could not feign ignorance of A.M. No. 01-10-05-SC-PHILJA since the Philippine Judicial Academy frequently conducts “conventions and seminars for judges and clerks of court nationwide regarding the implementation of court-annexed mediations and judicial dispute resolutions.” To the mind of the Court, respondent judge knowingly made the wrongful referral because her indolence got the better of her. Indeed, this wanton disregard and mockery of the proper procedure in mediation of cases, as correctly held by the OCA, was tantamount to misconduct. **[A.M. No. RTJ-17-2507 (Formerly OCA IPI NO. 14-4329-RTJ), October 9, 2017]**

- **Violation of Supreme Court circulars, rules and directives**

In *Executive Judge Apita v. Estanislao*, the Court had the occasion to explain that:

While the [2002 Revised Manual for Clerks of Court which defines the general functions of all court personnel in the judiciary] provides that court personnel may perform other duties the presiding judge may assign from time to time, said additional duties **must be directly related to, and must not significantly vary from, the court personnel’s job description.** x x x

Section 7, Canon IV of the Code of Conduct for Court Personnel expressly states that court personnel shall not be required to perform any work outside the scope of their job description, thus:

SEC. 7. Court personnel shall not be required to perform any work or duty outside the scope of their assigned job description.

The rationale for this is as follows:

This rule is rooted in the time-honored constitutional principle that public office is a public trust. Hence, all public officers and employees, including court personnel in the judiciary, must serve the public with utmost responsibility and efficiency. **Exhorting court personnel to exhibit the highest sense of dedication to their assigned duty necessarily precludes requiring them to perform any work outside the scope of their assigned job description, save for duties that are identical with or are subsumed under their present functions.**

Clearly here, respondent violated Supreme Court circulars, rules and directives when she delegated to the Process Server the duties of the Clerk III. As explained by the OCA, the duties of a Clerk III are not directly related to and significantly vary from those of a Process Server, viz.:

The duties of a Clerk III differ significantly from those of a Process Server. A Clerk III's job is basically clerical in nature and requires him to be always in the office to assist the clerk of court in maintaining the integrity of the docket books of the court. A Process Server, on the other hand, has the primary duty of serving court processes such as subpoenas, summons, court orders and notices, thus, necessitating him to be mostly out of the office and in the field personally serving and/or mailing court processes. Hence, it would be incongruent to assign a Process Server with duties pertaining to that of a Clerk III since it would tie him down in the office to the detriment of his own work accomplishment. Evidently, a Clerk III's duties are not directly related to, and significantly vary from, the functions of a Process Server. Such arrangement diminishes the court personnel's professional responsibility and peak efficacy in the performance of their respective roles in the administration of justice.

Finding respondent judge guilty of gross misconduct, conduct prejudicial to the best interest of the service and violation of Supreme Court rules, directives and circulars, she was fined in the amount of P40,000 to be deducted from whatever retirement pay and other benefits which may be due her. **[A.M. No. RTJ-17-2507 (Formerly OCA IPI NO. 14-4329-RTJ), October 9, 2017]**

## **CLERKS OF COURT**

- **Grave Misconduct; Conduct unbecoming of a court personnel**

The following provisions of A.M. No. 03-06-13-SC, are relevant, viz.:

### **CANON I FIDELITY TO DUTY**

**SECTION 1.** Court personnel shall not use their official position to secure unwarranted benefits, privileges or exemptions for themselves or for others.

X X X X

### **CANON III CONFLICT OF INTEREST**

X X X X

**SEC. 2.** Court personnel shall not:

X X X X

- (b) Receive tips or other remunerations for assisting or attending to parties engaged in transactions or involved in actions or proceedings with the Judiciary.

**CANON IV**  
**PERFORMANCE OF DUTIES**

x x x x

**SEC. 5.** Court personnel shall not recommend private attorneys to litigants, prospective litigants, or anyone dealing with the Judiciary.

With the aforecited explicit provisions of the Code, respondent's acts are a clear stray from the straight and narrow, a transgression of the strict norm of conduct prescribed for and expected from court employees.

In an attempt to exculpate herself from liability, respondent averred that assisting ABC in obtaining a TSN is not an act of dishonesty or impropriety as she, at one point, also assisted the complainants in withdrawing their cash bond. According to her, extending assistance to party litigants is part of a public servant's job.

We are not swayed. For one, it is not only her act of helping/assisting ABC which was established. It was found that, with such assistance, a purported advanced court order was released, that she procured lawyers for a party litigant which is specifically prohibited by the Code, and that she gave updates and advice regarding the case in favor of a party litigant. Meddling in a case pending before a court where she was not assigned and in which she had no relevance whatsoever is suspicious. Worse, it was also established that she was receiving consideration and/or remuneration therefor.

As correctly held by the Court in the case of *Holasca v. Pagunsan, Jr.*:

[This Court has always reminded court employees to] be wary when assisting persons with the courts and their cases. While they are not totally prohibited from rendering aid to others, they should see to it that the assistance, whether involving acts related to their official functions or not, does not in any way compromise the public's trust in the justice system.

Without doubt, respondent's actions damaged the integrity of the service, jeopardized the public's faith in the impartiality of the courts, and eroded the public's respect for the institution. Meeting with a party litigant, giving undue assistance thereto, and receiving consideration therefor, are acts definitely constitutive of grave misconduct, impropriety, and conduct unbecoming of a court employee, which altogether is a grave offense that entails an equally grave penalty. What is more, it did not escape this Court's notice that respondent had previously been held administratively liable in A.M. No. RTJ-XX-XXXX (Formerly OCA IPI No. YY-YYYY-RTJ) for falsification of official document with regard to her daily time record—another exhibition of respondent's dishonorable conduct, which has no place in the Judiciary.

The Court found respondent guilty of grave misconduct and conduct unbecoming a court personnel for which she was ordered dismissed from the service, with prejudice to reemployment in any government office, branch or instrumentality, including government-owned or government-controlled corporations with forfeiture of all benefits, except for accrued leave credits. [**A.M. No. P-17-3754 (Formerly OCA IPI No. 14-4285-P), September 26, 2017**]

**LEGAL RESEARCHER**

• **Dishonesty**

In the instant case, it is apparent that respondent miserably failed to live up to the above-mentioned standard. By his own admission, respondent, purportedly out of pity, punched in XYZ's DTR card in the morning of July 24, 2012 after learning that the latter will be late because

she was taking care of her sick child. However, despite his proffered justification for his action, We find that respondent violated OCA Circular No. 7-2003 dated January 9, 2003, to wit:

In the submission of Certificates of Service and Daily Time Records (DTRs)/Bundy Cards by Judges and court personnel, the following guidelines shall be observed:

1. After the end of each month, every official and employee of each court shall accomplish the Daily Time Record (Civil Service Form No. 48)/Bundy Card, indicating therein ***truthfully and accurately the time of arrival in and departure from the office.*** x x x

Clearly, as provided by the above-mentioned circular, every court official and employee must truthfully and accurately indicate the time of his or her arrival at and departure from the office. The failure of an employee to reflect in the DTR card the actual times of arrival and departure not only reveals the employee's lack of candor but it also shows his/her disregard of office rules.

Equally important is the fact that this Court has already held that the punching in of one's daily time record is a personal act of the holder. It cannot and should not be delegated to anyone else. Thus, in this case, respondent's act of punching in another employee's DTR card was in violation of OCA Circular No. 7-2003.

Furthermore, by respondent's act of punching in XYZ's DTR card, he also, in effect, made it appear as though XYZ personally punched in her DTR card and, at the same time, made the card reflect a log-in time different from the actual time of arrival. The act of punching in another employee's DTR card falls within the ambit of falsification. It is patent dishonesty, which inevitably reflects on respondent's fitness as an employee to continue in office and on the level of discipline and morale in the service. More so, when Section 4, Rule XVII (on Government Office Hours) of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws also provides that falsification or irregularities in the keeping of time records will render the guilty officer or employee administratively liable.

We have repeatedly held that dishonesty is a malevolent act that has no place in the Judiciary. We have defined dishonesty as the "(d)isposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray." Falsification of daily time records is an act of dishonesty, for which respondent must be held administratively liable.

The Court found respondent guilty of dishonesty and ordered him suspended from service for one month, with a warning that a repetition of the same or similar offense shall be dealt with more severely. ***[A.M. No. P-13-3170 (Formerly OCA IPI No. 12-3931-P), September 18, 2017]***