



Issue 21-2
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JUDGE

- **Dishonesty, immorality and violation of Supreme Court rules, directives and circulars**

Respondent judge did not deny the allegation that he is cohabiting with a woman other than his legal wife. He admitted he is only separated *de facto* from his legal wife, who is currently cohabiting with another man abroad. He calls their current situation as being both *in pari delicto* or equally at fault. By this, he impliedly admitted that he is cohabiting with a woman other than his legal wife just the same as his wife is also living with another man abroad. Worse, he made false representation in pertinent papers, including government or official records, indicating “separated” as his civil status when in fact his marriage still subsists there being no judicial declaration of nullity or annulment of their marriage yet. With audacity, he contends that this event in his life did not affect his work as a judge.

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Immorality is not limited to sexual matters but also includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, and dissoluteness; or is willful, flagrant or shameless conduct showing moral indifference to opinions of respectable members of the community, and an inconsiderate attitude towards good order and public welfare.

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Respondent judge, by his own admission, is clearly guilty of immorality. Certainly, it is morally reprehensible for respondent judge, a married man, to maintain intimate relations and cohabit with a woman other than his legal wife. His actions reflect upon his utter disregard of public opinion of the reputation of the judiciary which he represents. He failed to live up to the moral standards expected of everyone in the judiciary. His act of maintaining a relationship and cohabiting with a woman other than his legal wife brought the judiciary into mockery. His acts tainted the judiciary’s integrity for it is highly inconceivable how an immoral man can qualify as a magistrate.

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As discussed by the OCA in its Report and Recommendation, several Administrative Circulars and OCA Circulars mandate that trial court sessions shall be from 8:30 A.M. to 12:00 noon and 2:00 P.M. to 4:30 P.M. from Monday to Friday. Surely, respondent judge failed to comply with this.

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It is important to note that it is the primordial duty of judges to decide cases justly and expeditiously. In *Concerned Lawyers of Bulacan v. Villalon-Pornillos*, judges were again reminded that circulars prescribing hours of work are not just empty pronouncements. They are there for the purpose of promoting efficiency and speed in the administration of justice, and requiring prompt and faithful compliance by all concerned.

In order to efficiently and expeditiously dispose of cases, judges must fully utilize the court's official time to conduct trials and hearings. With respondent judge's predicament of holding hearings only twice a month, he is likely to introduce undue delay in the disposition of cases in his court. As a consequence, party litigants' right to speedy disposition of their cases will be violated.

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As revealed by the Clerk of Court and Clerk II of MCTC, X, Masbate, respondent judge reports to court only twice a month, on the 3rd and 4th Monday of every month—their hearing days. Interestingly, this was not refuted by respondent judge. Thus, respondent judge is deemed to have effectively admitted that he only reports to the court twice a month just as the hearings in his court are scheduled twice a month only.

Administrative Circular No. 14-2002, provides that an employee is considered habitually absent if the employee incurred unauthorized absences exceeding the 2.5 days allowed per month for three months in a semester or at least three consecutive months during the year.

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Each month has at least 20 working days. It was unreasonable for respondent judge to have decided for himself to report to court, and conduct hearings, only twice a month. The number of his absences was way more than his attendance in court. Respondent judge's habit of reporting to court twice a month only is clearly prejudicial to his duty to timely and expeditiously dispose of cases as well as to the general administration of justice.

Given respondent judge's failure to deny the charge of habitual absenteeism against him and coupled with the findings of the Investigating Judge, and based on the statements of the Clerk of Court and Clerk II of MCTC, X, Masbate, that he reports to court only on hearing days which were scheduled only twice a month, the Court finds it well established that respondent judge is guilty of habitual absenteeism.

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It has already been established above that for the period of April 2015 to June 2016, respondent judge reported to work only twice a month. This makes him absent for at least 18 days per month during said period. The above certification from the Employees' Leave Division, OAS, OCA, however, states that respondent judge incurred a total of only 17 ½ days of approved leave of absences for the entire period of April 2015 to June 2016. The logical conclusion is that the above-cited certification did not reflect respondent judge's actual number of absences due to his own act of making untruthful statements in his own Certificates of Service. He did not state the fact that he reported to work only twice a month from April 2015 to June 2016. This is falsification of official documents, to which respondent judge is administratively liable. We stress that falsification of an official document is also punishable under the Revised Penal Code.

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The Court ordered respondent judge dismissed from the service for dishonesty with forfeiture of retirement benefits except accrued leave credits, and perpetual disqualification for reemployment in any government agency or instrumentality, including any government-owned and controlled corporation or government financial institution, effective immediately. He was likewise found guilty of immorality for which he was ordered to pay a fine of P40,000 within 30 days from Notice; and guilty of maintaining irregular calendar of court hearings (violation of Supreme Court rules, directives and circulars) for which he was ordered to pay a fine of P20,000 within 30 days from Notice. **[A.M. No. MTJ-18-1914, September 15, 2020]**

CLERK OF COURT II

- **Failure to immediately deposit the various judiciary funds (violation of Administrative Circular No. 35-2004, as amended); failure to timely submit monthly report of collections, deposits and withdrawals (violation of OCA Circular No. 113-2004)**

Time and again, the Court has stressed that the behavior of all employees and officials involved in the administration of justice—from judges to the most junior clerks—is circumscribed with a heavy responsibility. Their conduct must be guided by strict propriety and decorum at all times.

OCA Circular No. 113-2004 dated September 16, 2004 mandates that the Monthly Reports of Collections and Deposits for the JDF, SAJ, and FF should be sent not later than the 10th day of each succeeding month to the Chief Accountant, Accounting Division, FMO, OCA.

Moreover, Administrative Circular No. 35-2004, as amended, dated August 20, 2004 requires that the daily collections of funds in the Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court, MCTC, Shari’a District Court and Shari’a Circuit Court should be deposited everyday with the nearest LBP branch, or if depositing daily is not possible, deposits for the fund shall be at the end of every month, provided, however, that whenever collections for the fund reach P500, it shall be deposited immediately even before the period above-mentioned.

Being a court personnel holding the position Clerk of Court II, respondent clerk of court was expected to comply with the foregoing circulars by faithfully submitting his monthly reports and by remitting his judiciary collections accordingly. However, respondent clerk of court failed to do so. Record shows that respondent clerk of court incurred shortages on his FF, JDF, SAJF, and MF collections x x x

The above shortages were restituted by respondent clerk of court on January 3, 2019. Also, respondent clerk of court incurred a P106 shortage on his COCGF-Old collections from May 2003 to November 10, 2003. He was able to retribute it on July 19, 2019.

Being the custodians of court funds and revenues, clerks of court have always been reminded of their duty to immediately deposit the various funds received by them to the authorized government depositories pursuant to Administrative Circular No. 35-2004, as amended, dated August 20, 2004; and to timely submit their Monthly Report of Collections, Deposits, and Withdrawals conformably with OCA Circular No. 113-2004 dated September 16, 2004. For the delayed deposit of his judiciary collections and the late submission of his financial reports, respondent clerk of court was indubitably remiss in his duties as branch Clerk of Court II of the MCTC.

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In this case, the Court takes into consideration respondent clerk of court’s full restitution of his collections leaving no outstanding accountabilities. The Court also notes that he fully cooperated with the audit team during the investigation of his infractions by submitting

his Monthly Report of Collections, Deposits, and Withdrawals without any irregularities, tampering, or falsifications. To the Court's mind, these acts amount to remorse and taking full responsibility for the infractions he committed, and thus, may be duly appreciated in imposing a penalty.

The Court found respondent clerk of court guilty of violation of Administrative Circular No. 35-2004, as amended; and violation of OCA Circular No. 113-2004 for which he was fined in the amount of P50,000 with a stern warning that a repetition of the same or similar acts shall be dealt with more severely. **[A.M. No. 20-06-18-MCTC, September 29, 2020]**

SHERIFF

- **Failure of respondent to commit himself exclusively to the business and responsibilities of his office during working hours**

In the instant case, while there was no delay in the implementation of the writ that would warrant administrative sanctions for gross neglect of duty and gross inefficiency on the part of respondent sheriff, the facts were undisputed that respondent sheriff undertook the registration of the Certificate of Sale with the RD, a function that was no longer respondent sheriff's duty.

Further, respondent sheriff admitted that he tried to fulfill his undertaking by going to the RD on numerous occasions. It must be noted that respondent sheriff could only fulfill his undertaking with complainant during his official time because just like the trial courts, RDs are government offices having the same office hours.

For not committing himself exclusively to the business and responsibilities of his office during working hours, respondent sheriff should be reprimanded.

Pertinent thereto, court employees must be reminded that "(t)he conduct and behavior of court personnel should be characterized by a high degree of professionalism and responsibility, as they mirror the image of the court. Specifically, court personnel must strictly observe official time to inspire public respect for the justice system. x x x. (A)ll court employees, being public servants in an office dispensing justice, must always act with a high degree of professionalism and responsibility. Their conduct must not only be characterized by propriety and decorum, but must also be in accordance with the law and court regulations. To maintain the people's respect and faith in the judiciary, court employees should be models of uprightness, fairness and honesty. They should avoid any act or conduct that would diminish public trust and confidence in the courts."

The Court, upon the recommendation of the OCA, resolved to dismiss, for lack of merit, the administrative complaint against respondent sheriff, for gross neglect of duty and gross inefficiency; but reprimanded him for not committing himself to the business and responsibilities of his office during working hours. He was also sternly warned that a repetition of the same or similar offense shall be dealt with more severely by the Court. **[OCA IPI No. 17-4660-P, September 28, 2020]**

STENOGRAPHER

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

After a judicious perusal of the records, the Court hereby adopts the factual findings of the OCA, but modifies respondent stenographer's administrative liability, as will be explained hereunder.

Misconduct is defined as the violation of an established and definite rule of action, a forbidden act, a dereliction from duty, an unlawful behavior, willful in character, improper and wrong. It is well to clarify, however, that to constitute an administrative offense, misconduct **should relate to or be connected with the performance of the official functions and duties** of a public officer. Without the nexus between the act complained of and the discharge of duty, the charge of misconduct shall necessarily fail.

In this regard, case law instructs that where the misconduct committed was not in connection with the performance of duty, the proper designation of the offense should not be [m]isconduct, but rather, [c]onduct [p]rejudicial to the [b]est [i]nterest of the [s]ervice. While there is no hard and fast rule as to what acts or omissions constitute the latter offense, jurisprudence provides that the same “deals with [the] demeanor of a public officer which ‘tarnishe[s] the image and integrity of his/her public office.’” Examples of acts or omissions constituting [c]onduct [p]rejudicial to the [b]est [i]nterest of the [s]ervice are as follows: seeking the assistance of an elite police force for a purely personal matter; changing the internet protocol (IP) address on a work computer to gain access to restricted websites; fencing in a litigated property in order to assert ownership; brandishing a gun and threatening the complainants during a traffic altercation; participating in the execution of a document conveying complainant’s property which resulted in a quarrel in the latter’s family; and forging some receipts to avoid the employee’s private contractual obligations.

Here, the Court agrees with the OCA’s findings that respondent stenographer received the amount of P16,000 from complainant with the promise that she will promptly deliver the same to the bank in satisfaction of the latter’s judgment obligation. However, despite the lapse of more than one year from her receipt thereof and the short walking distance between the court and the bank, she failed to deliver the amount and only did so after she was threatened with an administrative complaint. Notably, she did not proffer any justifiable explanation for her failure to deliver the money and worse, because of the delay in its delivery to the bank, the judgment obligation already earned interests and penalties. Evidently, her actions were not only improper, but also violative of the norm of public accountability for which she should thus be held administratively liable.

Nonetheless, respondent stenographer’s foregoing acts could not amount to administrative misconduct, as it is not within her duties as a court stenographer to collect or receive any amount from any party-litigant even during or after the termination of the case. Rather, the Court finds respondent stenographer liable for [c]onduct [p]rejudicial to the [b]est [i]nterest of the [s]ervice. As illustrated by the above-mentioned examples, her acts of receiving the money and making complainant believe that she will deliver the payment of the judgment obligation but failed to do so tarnished the image and integrity of her public office. Complainant entrusted the payment of the judgment obligation to her because she is a court employee who had assured that the same will be delivered to the bank. Thus, her failure to fulfill such promise and timely deliver the money to the bank reflected badly not only on her integrity, but more importantly, diminished the faith of the people in the Judiciary, thereby prejudicing the best interest of the administration of justice.

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As a final word, this Court has often stressed that the conduct required of court personnel, from the presiding judge to the lowliest of clerk, must always be beyond reproach and circumscribed with the heavy burden of responsibility as to let them be free from any suspicion that may taint the judiciary. All court personnel are expected to exhibit the highest sense of honesty and integrity not only in the performance of their official duties but also in their personal and private dealings with other people to preserve the Court’s good name and standing. This is because the image of a court of justice is minored in the conduct, official or

otherwise, of the men and women who work there. Thus, any impression of impropriety, misdeed or negligence must be avoided.

The Court found respondent stenographer guilty of conduct prejudicial to the best interest of the service. She was suspended for a period of 6 months and 1 day without pay, with warning that a repetition of the same or similar act would warrant a more severe penalty.
[A.M. No. P-20-4055 (Formerly OCA IPI No. 16-4544-P), September 14, 2020]