



PHILJA E-Alerts

The PHILJA Electronic Alerts is published by the Research, Publications and Linkages Office of the Philippine Judicial Academy, with office at the 3rd Floor of the Supreme Court Centennial Building, Padre Faura Street corner Taft Avenue, Manila.

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*

Issue 16-09
September 2016

CLERKS OF COURT

• Grave Misconduct; Dishonesty

The Court defines misconduct as a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer. As distinguished from simple misconduct, the element of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in a charge of grave misconduct.

In the present case, both the OCA and the Investigating Justice found that respondents A and B certified as true copies spurious annulment decisions issued by Judge C. There is no question as to their guilt as the records speak for itself. The records clearly show that the 27 cases, which were certified as true copies by respondent A, were not in the court dockets nor have they been filed before the trial court. Respondent B also certified as true copies two decisions, which did not appear in the court dockets. As custodians of court records in RTC Branches 14 and 15, respondents A and B should have known that there were no existing records that could have served as basis for the issuance of the certificates.

A certificate is a written assurance, or official representation, that some act has or has not been done, or some event occurred, or some legal formality has been complied with. To certify is to attest to the truthfulness of the document. Without the records to verify the truthfulness and authenticity of a document, no certification should be issued.

Thus, respondents A and B should not have attested to the truthfulness of the decisions issued by Judge C knowing that there were no records to verify its truthfulness, as the decisions were not even in the court dockets. Their acts of authenticating and certifying as true and correct spurious decisions issued by Judge C undoubtedly constitute grave misconduct as those acts manifest clear intention to violate the law or to flagrantly disregard established rule.

Their acts also amount to dishonesty, which is defined as “disposition 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.” Their acts further amount to a breach of Canon IV of the Code of Conduct for Court Personnel which states that: “Court personnel shall at all times perform official duties properly and with diligence. They shall commit themselves exclusively to the business and responsibilities of their office during working hours.”

Since respondents A and B had already retired and resigned from the service respectively, the court imposed upon them a fine of P40,000 each, with forfeiture of all retirement benefits and privileges except accrued leave credits, and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations. **[A.M. No. P-13-3137, August 23, 2016]**

- **Gross Neglect of Duty**

Section 8, Rule 122 of the Rules of Court pertinently states that:

SEC. 8. *Transmission of papers to appellate court upon appeal.* – Within five days from the filing of the notice of appeal, the clerk of the court with whom the notice of appeal was filed must transmit to the clerk of court of the appellate court the complete record of the case, together with said notice. The original and three copies of the transcript of stenographic notes, together with the records, shall also be transmitted to the clerk of the appellate court without undue delay. The other copy of the transcript shall remain in the lower court.

It appears that the respondent was only able to transmit the complete records of Criminal Case No. TMCR-038-08 to the CA on February 23, 2015—more than a year after the complainant filed his notice of appeal on November 4, 2013. Thus, it cannot be gainsaid that the respondent was indeed remiss in her duty as a clerk of court. The respondent’s failure to transmit the records of Criminal Case No. TMCR-038-08 to the CA for one year and three months is unreasonably long; it unquestionably amounts to gross neglect of duty, considering that the case involves the right of an accused to appeal his conviction to the CA.

The respondent’s excuse of heavy workload deserves scant consideration. The Court notes that trial courts are indeed heavily laden with workload due to the number of cases filed and pending before them. It does not, however, serve as a convenient excuse to evade administrative liability; otherwise, every government employee faced with negligence and dereliction of duty would resort to that excuse to evade punishment, to the detriment of the public service.

Time and again, the Court has reminded court personnel to perform their assigned tasks promptly and with great care and diligence considering the important role they play in the administration of justice. Any delay in the administration of justice, no matter how brief, deprives litigants of their right to a speedy disposition of their case. It undermines the public’s faith in the judiciary.

For her delay in transmitting to the Court of Appeals the record of Criminal Case No. TMCR-038-08, respondent was found guilty of gross neglect of duty and was fined in the amount of P15,000, with a warning that a repetition of the same or similar act shall be dealt with more severely. **[A.M. No. P-16-3515, August 10, 2016]**

CLERKS

- **Habitual Tardiness**

Respondent’s justification for his habitual tardiness deserves scant consideration. We have previously held that moral obligations, the performance of household chores, traffic problems, health conditions, and domestic and financial concerns are not sufficient causes to excuse habitual tardiness.

Under Section 52(c)(4) of CSC Memorandum No. 19, Series of 1999, habitual tardiness is penalized as follows:

First Offense	–	Reprimand
Second Offense	–	Suspension of 1–30 days

It must be noted that this is not the first time respondent was penalized for habitual tardiness. *First*, in Resolution dated August 8, 2005 in A.M. 05-7-421-RTC, he was reprimanded and suspended for one (1) month. *Second*, in the Resolution dated June 5, 2013 in A.M. No. 12-9-204-RTC [P-13-3120], he was suspended for 30 days.

Respondent has been repeatedly warned that a repetition of the same or similar offense of habitual tardiness shall be dealt with more severely and yet he committed the same offense for the third time. Clearly, public interest in an efficient and honest judiciary dictates that notice of future harsher penalties should not be followed by another forewarning of the same kind, *ad infinitum*, but by discipline through appropriate penalties. The Court has dismissed employees in the past for habitual absenteeism, lamenting that the offense causes inefficiency in the public service. Habitual tardiness of this frequency must be treated likewise, if we are to maintain the administration of justice orderly and efficient.

Finding respondent guilty of habitual tardiness for the third time, respondent was ordered dismissed from the service with forfeiture of retirement benefits, except accrued leave credits and with prejudice to re-employment in the government service, including government-owned or controlled corporations. **[A.M. No. P-16-3471 (Formerly A.M. No. 15-06-197-RTC), July 26, 2016]**

PROCESS SERVER

- **Grave Misconduct; Falsification; Dishonesty**

There is grave misconduct when the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule are present.

The Code of Conduct for Court Personnel prescribed the norms of conduct which are specific to personnel employed in the Judiciary. The specificity of these norms is due to “the special nature of court personnel’s duties and responsibilities.” The Code provides:

**CANON IV
PERFORMANCE OF DUTIES**

SECTION 1. Court personnel shall at all times perform official duties properly and with diligence. They shall commit themselves exclusively to the business and responsibilities of their office during working hours.

x x x x

SEC. 3. Court personnel shall not alter, falsify, destroy or mutilate any record within their control.

This provision does not prohibit amendment, correction or expungement of records or documents pursuant to a court order.

x x x x

In this case, respondent miserably failed to meet the high ethical standards expected of court employees. His act of falsifying an order of the court to be able to solicit money from the law firm representing a party in the case constituted gross misconduct, as correctly found by the OCA.

The Court also notes that respondent was directed by the Branch Clerk of Court to comment on the complaint but instead of complying, he went on AWOL. A similar directive from the OCA was ignored by him. He sent his letter of resignation to the Court even before he was notified of the directive. He was later reminded of his failure to file his comment on the letter-complaint, but again failed to answer the charges against him.

Respondent's failure to submit his comment constituted clear and wilful disrespect for the OCA and for the Court, which exercised direct administrative supervision over trial court officers and employees. Non-compliance with the OCA directives was tantamount to disrespect for the Court's lawful order and directive. A court employee who deliberately and continuously fails and refuses to comply with the directive of this Court is guilty of gross misconduct.

Respondent undoubtedly committed falsification of an official document when he altered the contents of the court order, dated February 27, 2014, in Cadastral Case No. 14-479 and made it appear that the said case was set for hearing on a certain date but it was actually not so calendared. This falsification to solicit the amount of P1,000 from the law firm on his misrepresentation that the said amount was needed for posting expenses, constituted gross dishonesty that the Court cannot tolerate.

For grave misconduct, falsification and dishonesty, and considering that respondent has already resigned from the service, the Court imposed upon him the accessory penalties of forfeiture of retirement benefits except accrued leave credits, and perpetual disqualification from holding public office in any branch or instrumentality of the government, including government-owned or controlled corporations. **[A.M. No. P-16-3490 (Formerly OCA IPI No. 14-4278-P), August 30, 2016]**