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failure to discharge the duties of said judge. Thus in *Amosco vs. Magro*,[11] this Court said:

"x x x Misconduct in office has a definite and well-understood legal meaning. By uniform legal definition, it is a misconduct such as affects his performance of his duties as an officer and not such only as affects his character as a private individual. In such cases, it has been said at all times, it is necessary to separate the character of the man from the character of the officer * * * It is settled that misconduct, misfeasance, or malfeasance warranting removal from office of an officer, must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office * * *."

WHEREFORE, the two (2) administrative complaints against the respondent, Judge Enrique B. Inting, Administrative Matters Nos. 1810-CTJ and 1995-CTJ, are hereby DISMISSED for lack of merit.

SO ORDERED.

Teehankee (Chairman), Makasiar, Guerrero, De Castro, and *Melencio-Herrera, JJ.*, concur.

EN BANC

[A.M. No. 10469-MC. June 29, 1979]

EXECUTIVE JUDGE J. CESAR SANGCO, *complainant, vs.* **BIENVENIDO G. PALILEO,** *respondent.*

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[11] Administrative Matter No. 439-MJ. 73 SCRA 107.

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SYLLABUS

ADMINISTRATIVE LAW; COURT PERSONNEL; WHEN HABITUAL ABSENCES AND UNDERTIMES MAY AMOUNT TO MISCONDUCT AND GROSS INSUBORDINATION; CASE AT BAR.— Respondent's misconduct and dereliction to duty are prejudicial to the service and by his incorrigible and obstinate refusal to comply with the orders of his superiors to report for work regularly, he has shown willful and gross insubordination. For these offenses, a civil service employee may be dismissed from the service in accordance with civil service rules and regulations. Respondent, although a janitor in the City Court of Manila, is as much duty-bound to serve with the highest degree of responsibility, integrity, loyalty and efficiency as all other public officers and employees, all of them being held accountable to the people. And to give effect to the constitutional mandate on the accountability of public officers and employees, the disciplining authority must impose disciplinary action on any and all forms of official misconduct which undermine the trust and faith of the people to those in the public office.

RESOLUTION

GUERRERO, *J.:*

In a letter dated January 12, 1979, Executive Judge Cesar S. Sangco of the City Court of Manila brought to the attention of this Court the administrative misconduct of respondent Bienvenido G. Palileo, a Janitor in the Office of the Clerk of Court, City Court of Manila, wherein Judge Sangco pointed out that despite the letter-notice dated July 12, 1977 of then Executive Judge Avelino M. Constantino in which respondent was given 72 hours to explain why he should not be administratively disciplined for his habitual absences and undertimes, and notwithstanding respondent's assurance in his letter-answer dated July 19, 1977 not to incur further absences and undertimes, he reneged in his promise as evinced by the following records of frequent absences and undertimes subsequent thereto:

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MONTH	*ABSENCES (working days)*	*UNDERTIMES*
1978		
January	9	13 Hours - 30 Min.
February	13 & 24	19 Hours - 45 Min.
March	3, 9, 13, 16 to 26, 30 & 31	17 Hours - 05 Min.
April	3, 4, 11, 12, 16 to 30	1 Hour - 57 Min.
May	2, 3, 12, 19, 24 to 26, 29, 30	9 Hours - 12 Min.
June	None	
MONTH	*ABSENCES (working days)*	*UNDERTIMES*
July	None	
August	1 to 4, 7, 8, 14, 17, 21 & 24	11 Hours - 15 Min.
September	4, 5, 6, 13, 15,18, 27, 28	10 Hours
October	3, 9, 11, 14, 16,17, 18, 24, 26 to 29	7 Hours - 53 Min.
November	6, 13, 14, 16	7 Hours - 14 Min.
December	1, 5, 6, 8, 13 to 15, 22, 26 to 29	6 Hours - 09 Min.
1979		
January	1 to 8, 11	1 Hour - 50 Min.

Likewise, Judge Sangco underscored the fact that on December 13, 1978, he issued an Office Memorandum bearing the same date ordering respondent to report for work immediately and to explain within 72 hours why no disciplinary action could be taken against him for repeated misdemeanors, and although said Memorandum was received by respondent on December 15 which was a Friday and he reported the following Monday (December 18), it was not until December 20, which was way past the deadline given him that he submitted his letter of explanation. To make matters worse, starting December 22, 1978 which was only two days after having submitted his explanation with a promise "to avoid further absences in the future just to show my sincerity and my devotion to my task in the Office," he again absented himself from work continuously up to January 8 and on January 11, 1979, without even filing the required application for leave of absence, much less advising

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the office the reason for his absence, which misconduct of respondent, the Executive Judge considers as not only a flagrant violation of Civil Service Law and Rules punishable under Presidential Decree No. 6, but also a misdemeanor bordering on insubordination and contempt. Considering that former Executive Judge Avelino M. Constantino had already warned respondent that a more severe and sterner action would be taken against him for continued acts of indifference to official duty and having persistently acted in defiance of the aforecited warning, Executive Judge J. Cesar Sangco strongly recommended that respondent's services as Janitor in the City Court of Manila, be terminated immediately in the interest of public service.

By resolution dated February 2, 1979, We referred Executive Judge Sangco's letter-complaint to Judge Leocadio Magat, Jr. of the City Court of Manila, for investigation, report and recommendation. On April 5, 1979 by 1st Indorsement, Judge Magat submitted his Investigation Report which reads thus:

"Having opted to submit to a formal investigation of the complaint (respondent's letter dated February 20, 1979), Mr. Palileo was given a chance to secure the services of a counsel and after two postponements, the undersigned conducted a formal hearing of this case on March 21 and March 26, 1979.

Mrs. Rose San Pedro, A Senior Clerk of the City Court of Manila testified and submitted documentary evidences to show that or several dates for the month of January 1978, respondent Mr. Palileo incurred a total undertime of 13 hours and 30 minutes; that for the month of February, he incurred a total undertime of 19 hours and 45 minutes; for the month of March, 17 hours and 5 minutes; for the month of April, one hour and 54 minutes; for the month of May, 9 hours and 12 minutes; for the month of June, 1 hour; for the month of July, 4 hours and 46 minutes; for the month of August, 11 hours and 15 minutes; for the month of September, 10 hours; for the month of October, 7 hours and 53 minutes; for the month of November, 7 hours and 14 minutes; for the month of December, 6 hours and 9 minutes and for the month of January, 1 hour and 50 minutes; that respondent incurred absences on February 13 and 24, 1978, March 9 and 13, 1978, April 3, 4, 11, 12, 1978 and April 16 to 30, May 2, 3, 12, 19, 24, 26, 29 and 30, 1978, August 1 to 4, 1978, August 7, 8, 14, 17, 21 and 24 and

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on other dates thereafter (Exhs. A-M). Witness testified that the absences incurred by the respondent were covered by approved application for either sick leave or vacation leave which were filed after the respondent went on leave (T.S.N., March 21, 1976, p. 6); that the attention of the respondent has been called either orally or verbally by the head of office (Exhs. N-R); that on December 30, 1978, an office memorandum was issued to the respondent by the Executive Judge, Hon. J. Cesar Sangco requiring the respondent to explain within 72 hours why no disciplinary action should be taken against him for his repeated misdemeanors (Exh. R); that on December 20, 1978, respondent filed a letter explanation with a promise to avoid future absences but two days after, he again become absent continuously until January 5, 1979; that on July 12, 1977, then Executive Judge, Hon. Avelino M. Constantino also sent a memorandum to the respondent herein for the same purpose (Exh. N) and the respondent admitted his frequent absences (Exh. O) and explained that it was caused by his stomach ailment which oftentimes was accompanied by dizziness; that Hon. Constantino found his explanation to be unsatisfactory and a memorandum admonishing the respondent was issued on August 1, 1977 (Exh. P).

The respondent, Mr. Bienvenido Palileo, a janitor of the City Court of Manila since 1976, testified that during his absences, he asked the permission of the former Personnel Officer, Mrs. Perez, now deceased, and sometimes he also asked the permission of the present Personnel Officer, Mrs. Cecilia Paez; that for the absences he incurred, he filed the corresponding application for leave therefor; that no application for leave is filed in connection with the several "undertimes" that he incurred which is an office procedure but he testified that he has asked the permission of Mrs. Paez.

It appears from the evidence that the respondent has indeed incurred frequent absences and also tardiness in reporting for duty. The records, however, show that the several absences that the respondent incurred were covered by applications for leave which have been approved by the authorities concerned and therefore authorized. While this may be true, it is believed however, that the respondent is also chargeable for the frequent tardiness and the several undertimes that he has incurred since the same would work prejudice to public service. Being a public servant, it behooves upon him to serve with the highest degree of responsibility, integrity, loyalty and efficiency."

On the basis of his findings, Investigating Judge Leocadio Magat recommended that the penalty of suspension for thirty

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(30) days be meted upon respondent since the offense for which he is being charged is considered as light offense pursuant to Civil Service Law and Rules.

The penalty recommended by the Investigating Judge is too light for the repeated malefactions committed by respondent Palileo. He should be dismissed from the service immediately.

A close examination of the records shows that in 1978 alone, even after he was severely warned and admonished by Executive City Judge Avelino M. Constantino he incurred absences and undertimes as follows:

MONTH	*NO. OF ABSENCES*	*UNDERTIMES*
January	1	18
February	2	17
March	12	8
April	14	2
May	9	4
June	—	4 (Was on rural service from 16 to 30)
July	—	10
August	10	9
September	8	8
October	8	6
November	4	13
December	12	8

We also find in the records proof that respondent had habitually incurred absences and undertimes in the year 1977 to wit:

MONTH	*ABSENCES*	*UNDERTIMES*
January	3	1 hr. 16 min.
February	16, 18 & 25	2 hrs. 36 min.
March	2, 4, 7, 8, 9, 10 & 28	9 hrs. 17 min.
April	1, 13, 14, 15, 22, 25, 28, 29, 30	18 hrs. 49 min.
May	2, 3, 4, 5, 6, 20 & 26	17 hrs. 41 min.
June	1, 2, 17, 23, 28 & 29	17 hrs. 59 min.

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Respondent's explanation for his habitual absences and undertimes due to personal difficulties and family problems are indeed not lawful grounds and valid justifications as found by Judge Constantino in his memorandum to the respondent dated August 1, 1977. His explanation to the memorandum of Judge Sangco dated December 13, 1978 wherein he claims that it was not his intention to absent himself regularly but due to some personal circumstances and personal problems, he could not but help to absent himself from the office to settle these problems, is likewise not satisfactory, and notwithstanding the repeated warnings to the respondent "to refrain from incurring further absences under pain of disciplinary action" and admonitions "to desist from committing further unjustified absences and/or undertimes otherwise more severe and stern action shall be taken for respondent's continued acts of indifference to official duty," the respondent persisted in his absences and tardiness as indicated above.

Respondent claims that for his absences, he asked the permission of the former Personnel Officers, one Mrs. Perez, now deceased, and sometimes the permission of the present Personnel Officer, Mrs. Cecilia Paez who, however, did not testify in the hearing of the case. Although Mrs. Rose San Pedro, Senior Clerk, declared that respondent's unauthorized absences became authorized upon respondent's filing the applications for leave after his return to duty, not even one such application had been submitted as proof that the absences were authorized. In 1978 alone, respondent was absent at various dates or some 80 days which is much beyond the 15 days sick leave and 15 days vacation leave that a government employee is entitled to. Respondent's time records are not even signed by him as shown in Exh. B (Feb. 1-14, 1978), Exh. C (Mar. 1-15, 1978), Exh. D (April 1-15), Exh. E (May 1-15), Exh. F (June 1-15), Exh. J (Oct. 1-15), Exh. K (Nov. 1-15, 1978). We, therefore, reject respondent's claim that his absences were with the permission of his superior officers including his habitual non-observance of office orders.

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Respondent's misconduct and dereliction to duty are prejudicial to the service and by his incorrigible and obstinate refusal to comply with the orders of his superiors to report for work regularly, he has shown willful and gross insubordination. For these offenses, a civil service employee may be dismissed from the service in accordance with civil service rules and regulations.

Respondent, although a janitor in the City Court of Manila, is as much duty-bound to serve with the highest degree of responsibility, integrity, loyalty and efficiency as all other public officers and employees, all of them being held accountable to the people. And to give effect to the constitutional mandate on the accountability of public officers and employees, the disciplining authority must impose disciplinary action on any and all forms of official misconduct which undermine the trust and faith of the people to those in the public office.

WHEREFORE, finding respondent Bienvenido G. Palileo, Janitor in the City Court of Manila, guilty of conduct prejudicial to the best interest of the service and gross insubordination, We hereby impose upon him the penalty of dismissal from the service.

SO ORDERED.

Teehankee, Barredo, Makasiar, Antonio, Aquino, Concepcion Jr., Santos, Fernandez, Abad Santos, De Castro, and *Melencio-Herrera JJ.*, concur.

Fernando, Acting C.J., took no part.