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SECOND DIVISION

[A.C. No. 610-MJ. July 25, 1975]

GEORGE P. SUAN, *complainant, vs.* **MUNICIPAL JUDGE DELSANTO RESUELLO OF ALLEN, NORTHERN SAMAR,** *respondent.*

SYLLABUS

POLITICAL LAW; CIVIL SERVICE; FALSIFICATION OF TIME RECORDS; FALSIFICATION OR IRREGULARITIES IN THE KEEPING OF TIME RECORDS WILL RENDER THE GUILTY OFFICER OR EMPLOYEE LIABLE TO REMOVAL FROM THE SERVICE OR TO OTHER APPROPRIATE DISCIPLINARY ACTION, WITHOUT PREJUDICE TO CRIMINAL PROSECUTION AS THE CIRCUMSTANCES WARRANT.— The matter of keeping accurate records of attendance of employees or officers of the government entitled to leave, is one of supreme importance. Section 4 of Rule XV of the Revised Civil Service Rules provides that each head of Department or agency shall require a daily record of attendance of all officers and employees under him, to be kept in the proper form. Falsification or irregularities in the keeping of time records will render the guilty officer or employee liable to removal from the service or to other appropriate disciplinary action, without prejudice to criminal prosecution as the circumstances warrant. The form referred to wherein the daily record of attendance must be kept, is Bureau of Civil Service Form No. 48. (See Bureau of Civil Service Circular No. 74, dated January 29, 1919). Pursuant to Circular No. 68, dated October 28, 1946, of the Department of Justice, Municipal Judges are required to observe office hours as the other officers and employees of the government. They are also required to fill up M.C. Form No. 1 (Revised) which is a certification that they have decided all motions, as well as civil and criminal cases, which have been under submission for decision or determination for a period of ninety (90) days or more (Section 5 of Republic Act No. 296, as amended) and a Daily Time Record (the same as C. S. Form No. 48) containing a "true and correct report of hours of work performed, record

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of which was made daily at the time of arrival at and departure from office."

RESOLUTION

ANTONIO, *J.*:

Respondent Municipal Judge Delsanto Resuello of Allen, Northern Samar, is charged with (1) gross negligence in the performance of his official duties; (2) falsification of his Daily Time Records; (3) undue favoritism in favor of certain accused persons; (4) undue interference in a criminal case; and (5) for having been charged with two criminal offenses in the Office of the Provincial Fiscal of Northern Samar, to wit: (a) illegal operation of a private wharf; and (b) theft of a "martinete" (steel hammer).

Respondent denied Charges 1, 2, 3 and 4 and claimed that the two criminal charges filed with the Fiscal's Office were "fabricated" by the complainant, to disqualify him from hearing a case of theft (*People vs. Esgallera, et al.,* Criminal Case No. 1958) wherein the accused are the men of complainant.

After conducting a formal investigation, the Investigating Judge found that Charges 1, 3, 4 and 5 have not been substantiated by the evidence and recommended respondent's exoneration from said charges. In connection with Charge No. 2, he found that respondent prepared his daily time records uniformly, purporting to show that he has rendered service from 8:00 a. m. to 12:00 noon every working day. It appears, however, that "respondent had undertimes on July 11, 1969, August 8, 1969, August 19, 1969, November 17. 1970, more particularly on August 8, 1969, August 19, 1969, and November 17, 1970, where he has undertimes of fifty (50) minutes, twenty-five (25) minutes and one (1) hour and five (5) minutes, respectively; also most probably on October 28, 1969. There is no evidence that he has reported these undertimes." However, the Investigating Judge found that respondent "did not do so willfully but due to his habit in making it always appear in his daily time record from 8:00 a.m. to 12:00 noon due to this belief, to which the

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undersigned does not subscribe, that provided he has rendered the required 4-hour service, the hours of service stated in his Daily Time Record is a mere formality." Respondent testified that since his sala was only eighteen (18) meters from the Court of First Instance he usually returns immediately to his courtroom after a few minutes in the latter court and on those dates when he does not complete four hours session in his court in the morning, he makes this up by holding sessions in the afternoon. No evidence was submitted to contradict this statement.

Both the Investigating Judge and the Judicial Consultant, however, took strong exceptions to the view that the filling up of the time records was a mere formality and that respondent need not enter his actual time of arrival and departure therein, as long as he rendered at least four (4) hours of service daily required of him by law.

The matter of keeping accurate records of attendance of employees or officers of the government entitled to leave, ;s one of supreme importance. Section 4 of Rule XV of the Revised Civil Service Rules provides that each head of Department or agency shall require a daily record of attendance of all officers and employees under him, to be kept in the proper form. Falsification or irregularities in the keeping of time records will render the guilty officer or employee liable to removal from the service or to other appropriate disciplinary action, without prejudice to criminal prosecution as the circumstances warrant. The form referred to wherein the daily record of attendance must be kept, is Bureau of Civil Service Form No. 48. (See Bureau of Civil Service Circular No. 74, dated January 29, 1919). Pursuant to Circular No. 68, dated October 28, 1946, of the Department of Justice, Municipal Judges are required to observe office hours as the other officers and employees of the government. They are also required to fill up M.C. Form No. 1 (Revised) which is a certification that they have decided all motions, as well as civil and criminal cases, which have been under submission for decision or determination for a period of ninety (90) days or more (Section 5 of Republic Act No. 296, as amended) and a Daily Time Record (the same as C. S. Form No. 48) containing a "true and correct report of hours

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of work performed, record of which was made daily at the time of arrival at and departure from office."

Conceding respondent's good faith, he has, however, acted imprudently and negligently in the premises.

Accordingly, respondent is sentenced to pay a fine equivalent to his one (1) month salary as municipal judge and warned that henceforth, should he not prepare his daily time record in accordance with his actual time of arrival and departure, a more drastic sanction shall be imposed.

Fernando (Chairman), Barredo, Aquino, and *Concepcion, Jr., JJ.*, concur.

EN BANC

[A.C. No. 936. July 25, 1975]

FERMINA LEGASPI DAROY, LYDIA LEGASPI and AGRIPINO LEGASPI, *complainants, vs.* **ATTORNEY RAMON CHAVES LEGASPI,** *respondent.*

SYLLABUS

1. **LEGAL AND JUDICIAL ETHICS; ATTORNEYS; ATTORNEY-CLIENT RELATIONSHIP; DUTIES TO CLIENT.**— Money collected by a lawyer in pursuance of a judgment in favor of his clients is held in trust and must be immediately turned over to them.

2. **ID.; ID.; ID.; ID.; ID.; A MEMBER OF THE BAR WHO CONVERTS THE MONEY OF HIS CLIENT TO HIS OWN BENEFIT THROUGH FALSE PRETENSES IS GUILTY OF DECEIT, MALPRACTICE AND GROSS MISCONDUCT.**— "The relation between an attorney and his client is highly fiduciary in its nature and of a very delicate, exacting and confidential character,