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against Justice del Castillo are "hypocrites"; the needling over a small matter such as submission of a dummy *vis-à-vis* the original signed copies; and the apparent effect that the submission of the Statement had on the Court – all of these betray a Court that is bent on seeing itself redeemed not by hard and honest work, with the undertaking of proper remedial actions for when a member is in breach of ethics, but by showing who, in the land of lawyers, has power.

It is with sadness that I view the issuance of the "show cause" order embodied in the majority Resolution and dissent therefrom.

EN BANC

[A.M. No. P-07-2358. October 19, 2010]
(Formerly A.M. No. 06-4-138-MTC)

ISABEL D. MARQUEZ, Clerk of Court, Municipal Trial Court, Caba, La Union, *complainant, vs.* **JOCELYN C. FERNANDEZ, Stenographer, Municipal Trial Court, Caba, La Union,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; COURT PERSONNEL; DISHONESTY; SUBMISSION OF A FALSIFIED DOCUMENT TO COVER UP SEVERAL UNAUTHORIZED ABSENCES, A CASE OF.— We have no doubt that Fernandez deserves to be sanctioned. Her habitual tardiness and absenteeism, coupled with her submission of a falsified document to cover up some of her absences, do not speak well of her fitness for employment in the public service, especially in the judiciary. While she had injured her arm and the injury caused her attendance problems, there were indications that

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not all these problems were traceable to her injuries. xxx Upon proof of a submitted falsified document, she carried the burden of proving that she did not commit the serious administrative offense of dishonesty. Although the falsification itself may not be enough basis to sanction Fernandez for lack of definitive proof that she did it, we cannot ignore the gross dishonesty involved in her submission of a falsified document to cover up several unauthorized absences. This reason prevents us from approving the OCA recommendation to accord her leniency and to impose on her a lesser penalty. "Dishonesty," as we said in *Office of the Court Administrator v. Bermejo*, "is a serious offense which reflects a person's character and exposes the moral decay which virtually destroys his honor, virtue and integrity." Due to her dishonest act, Fernandez has become unfit to remain in the judiciary.

2. ID.; ID.; ID.; CIVIL SERVICE RULES; GRAVE OFFENSES; DISHONESTY; PUNISHABLE BY DISMISSAL FOR THE FIRST OFFENSE.— Under Civil Service Rules, dishonesty is classified as a **grave offense** punishable by dismissal for the first offense. Quite obviously, the penalty imposable for habitual tardiness and absenteeism is subsumed to the penalty of dismissal.

D E C I S I O N

***PER CURIAM*:**

We resolve the present administrative complaint dated December 10, 2004[1] brought by Isabel D. Marquez (*Marquez*), Clerk of Court, Municipal Trial Court, Caba, La Union against Stenographer Jocelyn C. Fernandez (*Fernandez*) of the same court, for frequent unauthorized absences or tardiness, and falsification of public document. The complaint was filed with Executive Judge Rose Mary R. Molina-Alim (*Judge Molina-Alim*), First Judicial Region, Regional Trial Court, Branch 33, Bauang, La Union.

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[1] *Rollo*, pp. 82-83.

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The facts, well set out in the memorandum/report of the Office of the Court Administrator (*OCA*) dated May 10, 2007,[2] are summarized below.

The Complaint

Marquez alleged that Fernandez's daily time records (DTRs) from September to November 2004 showed that she had incurred tardiness/undertime almost everyday. In a memorandum she issued on October 3, 2004, Marquez asked Fernandez to explain her tardiness/undertimes. She answered she had health problems due to her fractured arm. Marquez sent Fernandez another memorandum dated November 2, 2004,[3] but received no reply; a second memorandum dated December 1, 2004[4] merited a reply where Fernandez again claimed that she was having health problems.

Marquez found Fernandez's explanation unsatisfactory; she dismissed it as a half-truth that does not justify her frequent tardiness/undertime as Fernandez looked strong and healthy. She claimed that Fernandez was often seen roaming the court's premises and the municipal hall where their office is located.

Additionally, the clerk of court alleged that Fernandez incurred unauthorized absences for three (3) months or from September to November 2004.[5] Marquez noted that while Fernandez indicated in her DTRs that she was on vacation leave, there were no prior notices for the leaves as required by the rules.

In November 2004, Fernandez submitted a medical certificate stating that she was treated at the Ilocos Training and Regional Medical Center[6], San Fernando City, La Union on "November 5, November 22 to 26; and November 30, 2004 and need medical attention for 20 days." Verification with the hospital however,

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[2] *Id.* at 141-146.

[3] *Id.* at 85.

[4] *Id.* at 87.

[5] *Id.* at 86 and 90.

[6] *Id.* at 92.

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revealed that Fernandez was examined and treated at the hospital only on November 5, 2004.[7] It was obvious that Fernandez introduced details which were not in the original certification the hospital issued on November 26, 2004.

Fernandez's Answer

In a memorandum dated December 14, 2004, Judge Molina-Alim directed Fernandez to answer the complaint.[8]

Fernandez submitted her answer on February 1, 2005.[9] She expressed dismay that Marquez could not understand the reason behind her frequent tardiness and undertimes, as well as her absences. She explained that it was due to "mental anxiety" arising from her medical problems, brought about by the bone fracture in her lower left arm that caused her extreme pain and mental stress. She sought treatment at the Ilocos Training and Regional Medical Center, but the treatment was not successful as she developed an infection and was cautioned that her arm might require amputation if the infection spread. She was told it could even be fatal. She claimed that she pleaded with Marquez to excuse her from reporting for work until she had fully recovered, but Marquez ignored her plea.

On the alleged falsification of her medical certificate, Fernandez admitted that she had herself examined and treated on November 5, 2004, for which she was given a medical certificate for that day only. She claimed that Marquez insisted that the certificate be changed to indicate the specific days covering her healing period. For this reason, she returned to the medical center, but her attending physician was not around at the time; the nurse on duty at the orthopedic department of the center named "Rose" told her to just type on the certificate the period when she was getting medical attention and this could be signed later on; she carried out the nurse's suggestion, but because of Marquez's pressure on her to submit the certification,

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[7] *Id.* at 94.

[8] *Id.* at 99.

[9] *Id.* at 102-104; memo to Judge Molina-Alim dated January 26, 2005.

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she forgot to have the certificate signed by the nurse before submitting the document to Marquez.

Marquez's Reply

Fernandez's answer elicited a quick reply from Marquez.[10] She stressed that while there is no doubt that Fernandez's problem is medical in nature in light of the bone fracture she suffered, it was inconceivable that, she was in pain and suffering from anxiety from July to December 2004 considering that, she received reports that Fernandez was just gallivanting around Caba, La Union on the days that she was absent; also, upon verification, the hospital where Fernandez was treated had given her the information that Fernandez had refused to obey and had neglected orders for the proper treatment of her bone fracture. Marquez believed that Fernandez's claim of constant pain and mental anxiety was simply a pretext to justify her frequent tardiness and habitual absenteeism. In a span of six (6) months, Marquez pointed out, Fernandez incurred ninety-three and a half (93 ½) days of absences.

On the issue of falsification of a public document, Marquez noted that a comparison of the copy of the medical certificate issued by the Ilocos Training and Regional Medical Center and the one Fernandez submitted showed the insertions Fernandez made in her copy of the certificate, thus making her liable for falsification.

Judge Molina-Alim's Investigation

Judge Molina-Alim conducted her own investigation of the complaint and upon its conclusion rendered a Resolution (dated February 28, 2006).[11] The judge found Fernandez liable for: (1) absenteeism and tardiness and, (2) falsification of a public document. Judge Molina-Alim recommended that Fernandez be dismissed from the service for falsification of her medical certificate, the penalty of six (6) months for habitual absenteeism and tardiness being "mooted" by the penalty of dismissal.

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[10] *Id.* at 114-115; memo to Judge Molina-Alim dated February 2, 2005.

[11] *Id.* at 2-17.

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Judge Molina-Alim referred her resolution, together with the case records, to the OCA for action.[12]

The OCA Evaluation and Related Incidents

The OCA concurred with Judge Molina-Alim's recommendation that Fernandez be held liable as charged. However, it recommended that Fernandez be merely suspended for one year without pay. It regarded Fernandez's medical problems and her admission of guilt as factors mitigating her liability. It also recommended that the complaint be re-docketed as a regular administrative matter.

On July 11, 2007, the Court resolved to: (1) take note of the submission of the parties; (2) re-docket the present complaint as a regular administrative matter; and (3) require the parties to manifest if they were willing to submit the case for resolution on the basis of the records.[13] The Court also noted the OCA report of May 10, 2007.[14]

On October 17, 2007, Marquez submitted the case for resolution.[15] Fernandez failed to do so, notwithstanding the Court's reiteration of its directive, prompting the Court to dispense with her manifestation.[16]

The Court's Ruling

Except for the imposable sanction, we adopt the OCA evaluation whose relevant portions we quote with approval, as follows:

> The crux of the charge against respondent Fernandez is her habitual tardiness and absenteeism, and falsification of public document or dishonesty. Civil Service Memorandum Circular No. 23, Series of 1998 provides that:
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> > Any employee shall be considered habitually tardy if he incurs tardiness, regardless of the member of minutes, ten (10) times a month for at least two consecutive months during the year.

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[12] *Id.* at 1.

[13] *Id.* at 149.

[14] *Supra* note 2.

[15] *Id.* at 151.

[16] *Id.* at 157; resolution dated September 8, 2008.

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Under Memorandum Circular No. 4, Series of 1991, of the Civil Service Commission, an officer or employee in the civil service shall be considered habitually absent if he incurs unauthorized absences exceeding the allowable 2.5 days monthly leave credits under the leave law for at least three (3) months in a semester or at least three (3) consecutive months during the year.

Clearly, respondent Fernandez had violated the rule on tardiness and absenteeism. As held by the Court in A.M. No. 00-06-09-SC, moral obligation, performance of household chores, traffic problems, health conditions, domestic and financial concerns are not sufficient reasons to excuse habitual tardiness. By being habitually tardy, employees have fallen short of the stringent standard of conduct demanded from everyone connected with the administration of justice. By reason of the nature and functions of their office, officials and employees of the Judiciary must be role models in the faithful observance of the constitutional canon that public office is a public trust.

Respondent Fernandez's failure to notify her office of her absences is sufficient cause to discipline her. The Civil Service Rules require that in case of absence because of sickness, the employee is required to give a notice of absence to the immediate supervisor and/or the agency head. Since application for leave is filed after the absent employee returns to work, the office concerned should at least be properly notified of the absence due to an illness.

The facts and evidence, coupled with respondent's admission, sufficiently established her culpability. Respondent's use of a false medical certificate constitutes an act of dishonesty under Civil Service Rules. Under Section 23, Rule XIV of the Administrative Code of 1987, dishonesty (par. a) and falsification (par. f) are considered grave offenses warranting the penalty of dismissal from service upon commission of the first offense.

Unauthorized absences are punishable by suspension of six (6) months and one day to one year for the first offense, and the penalty of dismissal for the second offense with the degree of absenteeism and tardiness which would merit the supreme penalty of dismissal characterized as frequent habitual and unauthorized. By her habitual absenteeism respondent has caused inefficiency in the public service.

We have no doubt that Fernandez deserves to be sanctioned. Her habitual tardiness and absenteeism, coupled with her

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submission of a falsified document to cover up some of her absences, do not speak well of her fitness for employment in the public service, especially in the judiciary. While she had injured her arm and the injury caused her attendance problems, there were indications that not all these problems were traceable to her injuries.

Marquez, for instance, revealed that for a three-month period (September to November), she reported for work on time only twice and was on unauthorized absence several times although she was seen at these times at the court premises and at the municipal hall where the court is located;[17] Marquez also received reports that she was just "gallivanting" around the town and in Caba, La Union on the days she was absent.[18] To recall, in a span of six (6) months, Fernandez incurred ninety-three and a half days of absences, or almost 50% of the time.

Fernandez made her situation worse by making it appear that she stayed for treatment of her arm injury in the hospital for several days. The copy of the medical certificate issued by the Ilocos Training and Regional Medical Center showed that Fernandez "was seen/examined treated in this hospital on November 5, 2004." The copy Fernandez submitted to Marquez stated that Fernandez was seen/examined/treated in this hospital on November 5, 2004 to "November 22 to 26 in 30/04."[19] The entry, "22 to 26 in 30/04"[20] was inserted in the original certificate after its issuance — a falsification for which only Fernandez could have been responsible. She explained that it was the nurse "Rose," in the hospital who made the insertion. It was a lame excuse. It could not have been Rose who did it. The insertion was typed with a font smaller than the typed entries in the certificate issued by the hospital. Whether it was Fernandez who falsified the document or somebody else upon her behest is not established in the record. This hanging question, however,

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[17] *Supra* note 1, at 82, last paragraph.

[18] *Id.* at 114, penultimate paragraph.

[19] *Supra* note 7.

[20] *Supra* note 6.

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is not enough to exculpate Fernandez. Upon proof of a submitted falsified document, she carried the burden of proving that she did not commit the serious administrative offense of dishonesty. Although the falsification itself may not be enough basis to sanction Fernandez for lack of definitive proof that she did it, we cannot ignore the gross dishonesty involved in her submission of a falsified document to cover up several unauthorized absences. This reason prevents us from approving the OCA recommendation to accord her leniency and to impose on her a lesser penalty. "Dishonesty," as we said in *Office of the Court Administrator v. Bermejo*,[21] "is a serious offense which reflects a person's character and exposes the moral decay which virtually destroys his honor, virtue and integrity." Due to her dishonest act, Fernandez has become unfit to remain in the judiciary.

Under Civil Service Rules, dishonesty is classified as a **grave offense** punishable by dismissal for the first offense.[22] Quite obviously, the penalty imposable for habitual tardiness and absenteeism is subsumed to the penalty of dismissal.

WHEREFORE, premises considered, Ms. Jocelyn C. Fernandez, Stenographer, Municipal Trial Court, Caba, La Union is found *GUILTY OF HABITUAL TARDINESS, ABSENTEEISM* and *DISHONESTY,* and is *DISMISSED* from the service, with forfeiture of all benefits, except earned leaves, if any.

SO ORDERED.

Corona, C.J., Carpio, Nachura, Leonardo-de Castro, Brion, Peralta, Bersamin, del Castillo, Villarama, Jr., Mendoza, and *Sereno, JJ.,* concur.

Velasco, Jr., J., took no part due to prior action in OCA.

Perez, J., took no part, acted as Court Administrator on the matter.

Carpio Morales and *Abad, JJ.,* on leave.

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[21] A.M. No. P-05-2004, March 14, 2008, 548 SCRA 219.

[22] UNIFORM RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE, Section 52 A(1).