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[A.M. No. SCC-95-2. March 31, 1998]

OFFICE OF THE COURT ADMINISTRATOR, *complainant*, *vs.* **JUDGE AMER BARA-ACAL,** *respondent.*

SYNOPSIS

A letter from "The Concerned Citizens of Tawi-Tawi" charged respondent, Presiding Judge at Shari'a Circuit Court of Bongao, Tawi-Tawi, of failure to report to his official station. Initial and discreet investigation disclosed that respondent had not been reporting regularly for work and that no regular trial and hearing was ever conducted by respondent. Formal investigation also showed that although respondent regularly received his monthly salary and submitted certificates of service, he seldom went to his assigned station. These were disclosed by testimonies of employees in respondent's sala. Further investigation disclosed that employees of MCTC, Bongao, Tawi-Tawi had never seen respondent in his sala. Respondent denied the charges of absenteeism and submitted affidavits of his employees who, however, changed their statements in his favor.

Respondent Judge is guilty of absenteeism. His mere denial of the charge and the self-serving affidavits of his employees are not enough to rebut the statements given by independent and disinterested witnesses regarding his failure to report to his office. The charges of absenteeism are compounded by the fact that respondent submitted Certificates of Service for 1994 indicating that he had never been absent from office, which act constitutes falsification of official documents. Respondent's dishonesty in misrepresenting to the Court his actual service rendered is serious misconduct, which cannot be countenanced. Respondent Judge is dismissed from the service with prejudice to reinstatement in the government service in any capacity, and with the concomitant forfeiture of all earned or accrued retirement and other benefits.

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SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; ABSENTEEISM AND FALSIFICATION OF OFFICIAL DOCUMENT CONSTITUTE GRAVE MISCONDUCT; CASE AT BAR.** — In respondent's case, the charges of absenteeism against him are compounded by the fact that he submitted Certificates of Service for 1994 indicating that he had never been absent from office, which act constitutes falsification of official documents. Respondent's dishonesty in misrepresenting to the Court his actual service rendered is serious misconduct, which cannot be countenanced. By his blameworthy conduct, he has tainted the image of the judiciary and no longer deserves to be a member thereof. Inasmuch as he has indubitably shown that he is loath, for whatever reason, to report for work and discharge his judicial duties, the Court is not disinclined to release him completely and absolutely from said duties. *WHEREFORE*, Judge Amer Bara-acal, of the Shari'a Circuit Court, Bongao, Tawi-Tawi is hereby *DISMISSED* from the service with prejudice to reinstatement in the government service in any capacity, and with the concomitant forfeiture of all earned or accrued retirement and other benefits.

2. **ADMINISTRATIVE LAW; PUBLIC OFFICE; JUDICIARY; ALL THOSE INVOLVED IN THE ADMINISTRATION OF JUSTICE MUST LIVE UP TO THE STRICTEST STANDARDS OF HONESTY AND INTEGRITY.** — Judges should bear in mind that those involved in the administration of justice from the highest to the lowest level must live up to the strictest standards of honesty and integrity in the public service.

R E S O L U T I O N

PER CURIAM:

A letter signed by "The Concerned Citizens of Tawi-Tawi," dated July 15, 1994, was sent to the office of Chief Justice Andres Narvasa bringing to his attention the alleged failure of Judge Amer Bara-acal to report to his official station at the Shari'a Circuit Court, Bongao, Tawi-Tawi.

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The letter was sent for "Discreet Investigation" by the Office of the Court Administrator (OCA) to Judge Carlito Eisma, RTC, Branch 13, Zamboanga City, to determine the veracity of the said anonymous complaint.

On October 28, 1994, Judge Carlito Eisma directed his Legal Researcher II, Abu B. Talipan, of RTC, Branch 13, Zamboanga City to conduct a discreet investigation. The latter reported to Judge Eisma that, according to information received from several persons, namely: (1) the stenographer of the Shari'a Circuit Court; (2) the Staff Assistant II; (3) the Clerk of Court; and (4) the Provincial Chief; Office of Muslim Affairs, respondent Judge had indeed not been reporting regularly for work. The stenographer further stated that from the time he assumed his office on June 1994 to November 1994, Judge Bara-acal never appeared in their office.

On June 26, 1995, the OCA sent a telegram to the Clerk of Court of respondent's station requesting copies of decisions and resolutions by their court from January to May 1995 and the court's calendar for 1994 up to the early part of 1995. In reply, Mr. Alykhan T. Amilbangsa sent four orders issued by respondent on October 2, 1994, November 7, 1994, November 16, 1994 and May 3, 1995. Likewise submitted was the court's calendar showing a total of six (6) settings. Based on said records, it appears that no regular trial and/or hearing was ever conducted by the respondent.

On February 6, 1996, the report of Mr. Abu B. Talipan was treated by the Court as an administrative complaint against Judge Amer Bara-acal. Upon being asked to comment on the administrative complaint against him, respondent denied the allegations therein and moved for its dismissal.

On August 14, 1996, the Court resolved to refer the case to Judge Salvador A. Memoracion, RTC, Branch 85, Isabela, Basilan for investigation, report and recommendation. After interviewing the personnel of the Shari'a Court, Judge Memoracion reported that respondent seldom went to his station in Bongao, Tawi-Tawi, although he regularly received his monthly salary.

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Furthermore, he reported that respondent's certificates of service for the period January 1994 - April 1994 and June 1994 - October 1994 were a total falsity as respondent never rendered regular service.

On October 16, 1996, the Court referred the case again to Judge Memoracion for a more thorough investigation.

During the second investigation, the following employees of the MCTC, Bongao, Tawi-tawi, stated that they were longtime residents of Bongao and that they had *never* seen respondent in the said place to wit:

(1) Mrs. Julieta Morales, 45 years old, Court Stenographer;

(2) Miss Rapia Ikkao, 44 years old;

(3) Mr. Abdal-Azing Amilbangsa, Sr., Clerk of Court; and

(4) Mr. Guillermo Morales, 42 years old, Process Server.

The employees of the Shari'a Court, who had earlier said that they never saw respondent in the said court, however, changed their statements. It was obvious that their turnaround was due to the respondent's talking to them. However, Judge Memoracion concluded that the statements of the employees of the MCTC were more credible than those of the employees of the Shari'a Court who personally told him, when he interviewed them previously on June 26, 1996, that respondent never reported to the office and was always in his hometown in Malondo, Davao del Sur. Judge Memoracion stated that the fact that they later repudiated their statements weakens their credibility.

The Court, after a careful review of the case, is of the opinion that the facts on record show respondent Judge guilty of absenteeism. His mere denial of the charge and the self-serving affidavits of his employees are not enough to rebut the statements given by independent and disinterested witnesses regarding his failure to report to his office.

The Interim Rules and Guidelines implementing Batas Pambansa Blg. 129, promulgated on January 11, 1983, provides:

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"5. *Session hours.* — Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts shall hold daily session from Monday to Friday from 8:30 a.m. to 12:00 noon and from 2:00 to 4:30 p.m.

6. Duty during weekends and holidays. — All Executive Judges, whether in single sala courts or multiple sala stations shall assign, by rotation, Metropolitan Trial Judges, Municipal Trial Judges and Municipal Circuit Trial Judges within their respective territorial areas to be on duty on Saturdays from 8:00 a.m.to 1:00 p.m. assisted by a skeletal force, also on rotation, primarily to act on petitions for bail and similar matters.

On Saturday afternoons, Sundays and non-working holidays, any Judge may act on bailable offenses conformably to the provisions of Section 7, Rule 112 of the Rules of Court.

All executive Judges, whether in a single sala shall remain on duty on Saturday afternoon.

7. Motion day.— Except those motions requiring immediate action, all motions should be scheduled for hearing on Friday afternoons, or if Friday is a non-working day, in the afternoon of the next business day."

These provisions were issued to insure maximum efficiency of the trial court and the speedy administration of justice. Thus, it is imperative that judges be present during office hours, unless there is a valid excuse for them to be absent.

In respondent's case, the charges of absenteeism against him are compounded by the fact that he submitted Certificates of Service for 1994 indicating that he had never been absent from office, which act constitutes falsification of official documents. Respondent's dishonesty in misrepresenting to the Court his actual service rendered is serious misconduct, which cannot be countenanced.

Under Memorandum Circular No. 30 of the Civil Service Commission dated July 20, 1989, falsification of an official document is considered a grave offense which warrants the penalty of dismissal. On the other hand, the penalty for

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absenteeism or "frequent unjustified absences without leave"[1] is either suspension from office without salary and other benefits for one (1) to two (2) months and twenty nine (29) days or a fine of not less that ₱10,000.00 but not more than ₱19,999.00.[2]

In the instant case, respondent judge, was not merely absent on occasion but it was more of a regular practice on his part as to constitute abandonment of his official station. To compound his misconduct, he submitted falsified certificates of service to make it appear that he regularly reported for work. By his blameworthy conduct, he has tainted the image of the judiciary and no longer deserves to be a member thereof.

Judges should bear in mind that those involved in the administration of justice from the highest to the lowest level must live up to the strictest standards of honesty and integrity in the public service.[3] Inasmuch as he has indubitably shown that he is loath, for whatever reason, to report for work and discharge his judicial duties, the Court is not disinclined to release him completely and absolutely from said duties.

WHEREFORE, Judge Amer Bara-acal, of the Shari'a Circuit Court, Bongao, Tawi-Tawi is hereby *DISMISSED* from the service with prejudice to reinstatement in the government service in any capacity, and with the concomitant forfeiture of all earned or accrued retirement and other benefits.

SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Martinez, Quisumbing, and *Purisima, JJ.,* concur.

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[1] Rule 140, Section 3, 4 and 5, Rules of Court, as amended by Supreme Court resolution dated November 22, 1990.

[2] Rule 140, Section 10, Rules of Court.

[3] *Mejia v. Panaan*, 160 SCRA 457 (1988).