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EN BANC

[A.M. No. 99-9-11-SC. March 10, 2000]

Re: Disciplinary Action against Ricardo Baniel III, Clerk III, Office of the Reporter, Supreme Court

SYNOPSIS

Respondent Ricardo Baniel III, Clerk III of the Office of the Reporter did not report for work from March 29, 1999 to April 22, 1999. Despite such absences, respondent put a perfect attendance in his Daily Time Record (DTR). It was only on June 1, 1999, after his unreported absences were being looked into did he belatedly file his corresponding application for leave. When respondent was required to explain why his DTR reflected a perfect attendance, respondent averred that he lost his Identification Card (ID) before March 29, 1999, and it could have been found by one of his enemies who swiped it in the chronolog machine in order to destroy his name and reputation.

The respondent had not convinced the Court how an enemy could do something beneficial to his supposed adversary. His claim that an enemy would swipe the ID of his adversary daily just to evidence the latter's presence in the office because in so doing, the adversary would, in the process, gain an advantage over him, financially and professionally, is not backed up by normal experience. The adversary would then be able to receive his salary without any stain or blot on his record of service. He has not persuaded the Court that a person would embark upon such a nefarious scheme merely to favor an enemy or adversary. Respondent Ricardo Baniel III was found guilty of malfeasance and was accordingly sentenced to two (2) months suspension without pay.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; TO SWIPE DAILY THE LOST IDENTIFICATION CARD OF AN ENEMY IN THE CHRONOLOG MACHINE FOR THE PURPOSE OF**

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MALIGNING HIM IS TOO INCREDIBLE TO DESERVE FAITH AND CREDIT. — The theory of respondent that he lost his ID before March 29, 1999 and that an enemy of his must have picked it up to be swiped in the chronolog machine, for the purpose of maligning him (respondent) is too incredible to deserve faith and credit. He has not convinced the Court how an enemy could do something beneficial to his supposed adversary. His claim that an enemy would swipe the ID of his adversary daily just to evidence the latter's presence in the office because in so doing, the adversary would, in the process, gain an advantage over him, financially and professionally, is not backed up by normal experience. The adversary would then be able to receive his salary without any stain or blot on his record of service. He has not persuaded the Court that a person would embark upon such a nefarious scheme merely to favor an enemy or adversary.

2. **POLITICAL LAW; ADMINISTRATIVE LAW; ADMINISTRATIVE CHARGES; MALFEASANCE; ABSENCES NOT INDICATED IN DAILY TIME RECORD; CASE AT BAR.** — What aggravates the culpability of the respondent is the undeniable fact that he did not file beforehand his Application for Leave corresponding to the period of his subject absences. His application for leave was only filed on June 1, 1999, after his questioned absences were being investigated and inquired into. It is thus obvious that respondent had planned his said absences without any intention of indicating the same in his DTR. Respondent could not have accomplished such a reprehensible objective without the collusion and indispensable participation of the person who actually swiped the ID of respondent in the chronolog machine, to make sure that the respondent would be reflected as present, and would received his regular salary during the period of his absences. Obviously, such a misrepresentation could not have been resorted to without the conformity or request of the respondent himself.

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RESOLUTION

PURISIMA, *J.*:

How does an enemy treat an adversy? Will an enemy do something beneficial to his adversary? Or is an enemy one who almost always inflicts harm upon his adversary? These and other questions are to be answered in this simple and uncomplicated administrative case.

Ricardo Baniel III ("respondent"), Clerk III of the Office of the Reporter, did not report for work from March 29, 1999 to April 22, 1999. Despite such absences during the aforesaid period, however, he put a perfect attendance in his DTR.[1] Respondent did not file an Application for Leave ("Application") before his subject absences started. It was only on June 1, 1999,[2] after his unreported absences were being looked into did he belatedly file his corresponding application for leave.

When asked why his DTR reflected a perfect attendance, respondent theorized that what appeared in his DTR must have been the handiwork of his enemies. He averred that he lost his identification card ("ID") before March 29, 1999, and the same ID could have been found by one of his enemies who then swiped his subject ID in the chronolog machine so as to destroy his (respondent's) name and reputation.[3]

After a thorough investigation, during which respondent was afforded an opportunity to ventilate his defense, the Complaints and Investigation Division ("CID") of the Office of Administrative Services of the Court found respondent guilty of gross violation of pertinent Civil Service Laws, office rules and regulations on the use of electronic bundy clock.[4] Thus, the CID recommended respondent's suspension for one (1) month without pay.

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[1] See DTRs, *Rollo*, pp. 9-10.

[2] See Application for Leave, *Rollo*, p. 17.

[3] See Letter dated July 30, 1999, *Rollo*, pp. 11-12.

[4] Memorandum dated September 17, 1999, p. 3.

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After a careful study, the Court upholds the aforesaid findings and recommendation of the CID as to the guilt of respondent. Respondent himself admitted that from March 29, 1999 to April 22, 1999, he was really absent but he failed to explain why his DTR covering the period of his subject absences showed that he was present during the entire period of his absences in question. Such happening or scenario could only signify that somebody was swiping the ID of respondent in the chronolog machine.

The theory of respondent that he lost his ID before March 29, 1999 and that an enemy of his must have picked it up to be swiped in the chronolog machine, for the purpose of maligning him (respondent) is too incredible to deserve faith and credit. He has not convinced the Court how an enemy could do something beneficial to his supposed adversary. His claim that an enemy would swipe the ID of his adversary daily just to evidence the latter's presence in the office because in so doing, the adversary would, in the process, gain an advantage over him, financially and professionally, is not backed up by normal experience. The adversary would then be able to receive his salary without any stain or blot on his record of service. He has not persuaded the Court that a person would embark upon such a nefarious scheme merely to favor an enemy or adversary.

What aggravates the culpability of the respondent is the undeniable fact that he did not file beforehand his Application for Leave corresponding to the period of his subject absences. His application for leave was only filed on June 1, 1999, after his questioned absences were being investigated and inquired into. It is thus obvious that respondent had planned his said absences without any intention of indicating the same in his DTR. Respondent could not have accomplished such a reprehensible objective without the collusion and indispensable participation of the person who actually swiped the ID of respondent in the chronolog machine, to make sure that the respondent would be reflected as present, and would receive his regular salary during the period of his absences. Obviously, such a misrepresentation could not have been resorted to without the conformity or request of the respondent himself.

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Considering that the malfeasance complained of is respondent's first, the Court is of the sense that the recommended penalty therefor of one (1) month suspension without pay should suffice.

WHEREFORE, respondent Ricardo Baniel III is hereby found GUILTY of the malfeasance charged against him and is accordingly sentenced to two (2) months suspension without pay, with stern warning that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Buena, Gonzaga-Reyes, Ynares-Santiago, and *De Leon, Jr., JJ.*, concur.

Bellosillo, J., no part due to relationship to respondent.

Pardo, J., on official leave.

EN BANC

[A.M. No. 99-9-12-SC. March 10, 2000]

DR. ROSA J. MENDOZA, *petitioner, vs.* **RENATO LABAY OF THE MEDICAL ANCILLARY DIVISION,** *respondent.*

SYNOPSIS

Respondent Renato Labay, Utility Worker I, of the Medical Ancillary Division of the Supreme Court, was charged in a letter-complaint by Dr. Rosa J. Mendoza, Chief, Medical Services, for inefficiency in the Performance of Official Duties and For Habitual Tardiness and Absenteeism. After due investigation, the Office of the Administrative Services recommended that