



Republic of the Philippines
Supreme Court
Manila

EN BANC

ANONYMOUS COMPLAINT
AGAINST CLERK OF COURT
V ATTY. ZENALFIE M.
CUENCO, COURT
INTERPRETER CHRISTIAN V.
CABANILLA, COURT
STENOGRAPHERS FILIPINAS
M. YABUT and SIONY P.
ABCEDE, and LOCALLY-
FUNDED EMPLOYEE ALELI
DE GUZMAN, all of the
Regional Trial Court, Branch 72,
Malabon City, and OFFICER
VANISSA L. ASIS of the
Philippine Mediation Center.

A.M. No. P-10-2812
[Formerly OCA IPI No. 10-3420-P]

Present:

PERALTA, C.J.,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
GESMUNDO,
REYES, J. JR.,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ,
DELOS SANTOS,
GAERLAN, and
BALTAZAR-PADILLA,* JJ.

Promulgated:

August 18, 2020

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DECISION

Per Curiam:

This is an administrative case against trial court employees, who, among other offenses, were found to have falsified daily time records (DTRs), attended school during office hours, and lacked the required skills expected of one's position.

* On official leave.

The Facts

In an undated Letter-Complaint¹ from the *Taongbayan ng Pilipinas*, respondents Clerk of Court V Atty. Zenalfie M. Cuenco (Atty. Cuenco), Court Interpreter Christian V. Cabanilla (Cabanilla), Stenographers Filipinas M. Yabut (Yabut) and Siony P. Abcede (Abcede), Local Government-Funded employee Aleli De Guzman (De Guzman), and Mediation Officer Vanissa L. Asis (Asis; collectively, respondents) were the subject of various irregularities in the Malabon City Regional Trial Court (Malabon RTC), Branch 72, as follows.

1. Siya [Atty. Cuenco] po ay isang corrupt ng Branch 72, RTC, Malabon City sapagkat lahat po na dokumento na may pirma niya ay may bayad at walang resibo. Siya po ay may kasabwat na tauhan ng isang detailed ng Munisipyo ng Malabon na si Aleli de Guzman at isang kabit ng pulis ng Malabon. Ginagawa rin po nila ang nasabing opisina na isang law office, kaya po sila ay kumikita ng walang gastos.
2. Pumapasok po ang nasabing abogada sa gusto niyang oras at ito po ay labag sa batas na nakasaad sa kanyang DTR.
3. Pinahihintulutan din po niya ang kanyang Court Interpreter na pumasok sa eskwela ngunit naka-in sa opisina at ito ay hindi alam ng Judge ang gawain niyang ito sapagkat pinahahalili niya ang Legal Researcher kapag may hearing na nagaganap na nasabing hukuman.
4. Pinahihintulutan din po niya ang isang Court Stenographer na si Ms. Siony Abcede na huwag magduty sa mga hearing na nagaganap sapagkat hati sila ng suweldo nito. Ang stenographer na ito ay hindi marunong magsteno na isang requirement para maging stenographer, pero siya ay isang pang permanent status. Paano po ito nangyari at pinayagan ng katas-taasang Hukuman. Di ba unfair naman ito sa tunay na mga stenographers?
5. Pinahihintulutan din po niya na magkaroon ng sugalan sa nasabing opisina sapagkat ang kanyang mga empleyadong lalaki ay kasali dito at iba pang empleyado ng ibang branch ng RTC, Malabon City.
6. Pinahihintulutan din po niya ang isa niyang empleyado na si Filipinas M. Yabut na pumasok sa gusto niyang oras at kung kailan gustong bumalik sa opisina araw-araw ito.
7. Pinahihintulutan din po niya ang isang staff ng Mediation na si Vaniss Asis na magdala ng lalaki at gamitin ang Chamber ng Judge upang sila ay duon manatili at maglambingan dito.
8. Lahat po na mga ebidensiyang pera [ay] ginagamit niya sa pansariling kapakanan at ang mga [shabu] na ebidensiya ay nawawala.²

¹ Rollo, pp. 3-4.

² Id.

The Office of the Court Administrator (OCA) indorsed the Letter-Complaint to Malabon RTC Executive Judge Emmanuel D. Laurea (Judge Laurea) for discreet investigation and report.³

Judge Laurea's Report

In his May 26, 2010 Report,⁴ Judge Laurea narrated the following findings:

1. On February 22, 2010, Stenographers Ma. Eloisa D. Bueno (Bueno) and Mary Ann R. Buzon (Buzon) of Malabon RTC, Branch 72 informed Judge Laurea that Atty. Cuenco required them to sign an agreement⁵ of no objection to Abcede not going on duty as stenographer during court hearings. They expressed their reluctance to be a part of this irregularity; thus, they did not sign the agreement. When summoned, Abcede verbally admitted to Judge Laurea that she has no stenographic skills although she holds the position of a stenographer.⁶
2. Atty. Cuenco allowed some court employees to be absent or late for work and not reflect it in their DTRs.
 - a. First, she allowed Court Interpreter Cabanilla to attend classes during office hours, while the legal researcher took on Cabanilla's work. Judge Laurea instructed the Officer-in-Charge of the Security Guards (Security OIC), Elegio A. Adaza,⁷ to verify Cabanilla's attendance from April 28, 2010 to May 7, 2010. Judge Laurea was informed that Cabanilla did not report for work during the said period. However, the attendance logbook for March 31, 2010 to May 12, 2010 showed that Cabanilla reported for work during that period, except on May 6, 2010.⁸

Judge Laurea obtained a copy of Cabanilla's registration cards from Our Lady of Fatima University, and it revealed that his classes were from 8:00 a.m. to 5:00 p.m., Mondays to Fridays, for most part of the year, particularly during summer. However, he had a near perfect

³ Id. at 15.

⁴ Id. at 6-14. Judge Laurea's Report was supported by sworn statements of court employees in Malabon RTC, Branch 72 and a report from the officer-in-charge of the security guards.

⁵ Id. at 18.

⁶ Id. at 6:

⁷ Id. at 7.

⁸ Id.

attendance in court for 2009. His February 2010 DTR showed that he was on leave for that month, except on February 1, 18, and 19.⁹

Judge Laurea observed that: (1) there were handwritten entries in Cabanilla's DTRs for March, April, July, and August 2009 and March 2010; (2) Cabanilla's signature in his March 2010 DTR appeared to be different from his usual signature; and (3) the entries were in Atty. Cuenco's handwriting.¹⁰

Judge Laurea opined that Atty. Cuenco cannot feign ignorance on the DTRs' irregularities and Cabanilla's absences for months and years, because she was the immediate supervisor. Judge Laurea found out that Cabanilla graduated in BS Nursing from Our Lady of Fatima University in April 2010. The university would not have allowed Cabanilla to graduate if he incurred several absences in school and in his hospital duties.¹¹

- b. Second, Atty. Cuenco allowed Stenographer Yabut to come to and leave work anytime she pleased. Judge Laurea also asked the Security OIC to verify Yabut's attendance. It was discovered that Yabut was tardy and it was not reflected in her DTR. Judge Laurea noted that Yabut was the only stenographer who signed the agreement.¹²
3. Atty. Cuenco kept all criminal records locked up to the exclusion of Criminal Records Clerk-in-Charge Leo Angelo Provido (Provido). The few individuals who had limited access were Abcede, De Guzman, and Asis. Judge Laurea noted that this is highly irregular considering that the Malabon RTC, Branch 72 is a special drugs court.¹³
4. Abcede and De Guzman attended to the accused and their families regarding the posting of bail and setting of hearings, which are all subject to Atty. Cuenco's approval. It was reported that: (a) favorable or speedy action and early settings were granted if consideration was paid; and (b) Atty. Cuenco and De Guzman took interest on archived cases, with De Guzman coordinating with the police for the arrest of the accused, who would later be released upon payment of consideration. Judge Laurea remarked that surveillance and entrapment are necessary to obtain evidence on these allegations.¹⁴

⁹ Id.
¹⁰ Id. at 7-8.
¹¹ Id.
¹² Id. at 8.
¹³ Id.
¹⁴ Id. at 9.

5. The allegation of gambling was unverifiable due to the lack of witnesses.¹⁵
6. Buzon narrated an incident when the then Presiding Judge Benjamin Aquino instructed her to get an evidence. However, Atty. Cuenco told her that it was missing. To avoid the judge's anger, they made it appear that the evidence was turned over to the Philippine Drug Enforcement Agency (PDEA). Buzon also reported that Atty. Cuenco removed actual buy-bust money from the records after the accused had been acquitted, and did not return to the police officers.¹⁶

The OCA's Report

In its June 23, 2010 Report, the OCA found *prima facie* evidence to hold respondents administratively liable and place them under indefinite suspension pending resolution of this case. The OCA then assembled a team to conduct an inventory of the court exhibits due to allegations of evidence tampering and misappropriation.¹⁷

The OCA directed all respondents to comment on the Letter-Complaint and Judge Laurea's Report, while De Guzman was ordered to return to her mother unit, finding that her detail to the Malabon RTC, Branch 72 was not approved.¹⁸

In the July 21, 2010 Resolution, the Court approved and adopted the OCA's recommendations.¹⁹ In the August 4, 2010 Resolution, the Court required the respondents to file their respective comments.²⁰ Atty. Cuenco, Cabanilla, Abcede, and Yabut moved for reconsideration of their indefinite suspension without pay,²¹ which the Court denied with finality in its January 10, 2011 Resolution.²²

Comments on the Letter-Complaint and Judge Laurea's Report

1. Atty. Cuenco denied all the allegations against her. According to her, she only required the presentation of official receipts from the Office of the

¹⁵ Id.

¹⁶ Id. at 10-11.

¹⁷ Id. at 128.

¹⁸ Id. at 128-129.

¹⁹ Id. at 130-131.

²⁰ Id. at 133.

²¹ Id. at 136-172.

²² Id. at 615-616.

Clerk of Court before acting on the requests for certifications.²³ Her attendance and that of Cabanilla and Yabut are in order. It was the former presiding judge who signed Cabanilla's DTR beginning April 2009, and who directed the legal researcher to assume Cabanilla's duties as court interpreter whenever he was absent. Also, Cabanilla's school registration cards only showed the subjects enrolled and the schedule, but did not prove that he was present in school at all times. Cabanilla also applied for leaves of absence and half-days to attend his class.²⁴

Atty. Cuenco admitted that Abcede had no stenographic knowledge; thus, she called for a meeting with the stenographers and they agreed that the rest of them would go on duty on rotational basis. She denied forcing anyone to sign an agreement, or that she had a share in Abcede's salary.²⁵

Atty. Cuenco denied authorizing De Guzman to handle bail bonds as it was designated to the criminal records clerk-in-charge. Neither did De Guzman manage the court calendar and records,²⁶ nor had access to the criminal case records. All criminal case records were kept in a locked cabinet, where she and the criminal records clerk-in-charge have the keys. Abcede had access to the records only because it was incidental to her duty.²⁷

Atty. Cuenco denied taking the buy-bust money and the illegal drugs used as court exhibits, as they were turned over to the PDEA.²⁸ She also denied any gambling activities in the court, or that she converted it into a law office, or that she allowed Asis to stay in the chamber with her boyfriend.²⁹

2. Cabanilla acknowledged that it was through the leniency of the former presiding judge that he was able to finish BS Nursing while employed as court interpreter. He admitted that since the school was nearby, there were instances when he left the court to attend classes and returned afterwards. It was also the former presiding judge who designated the legal researcher to act as court interpreter on occasions when he was absent. He claimed that he used up all his leave credits resulting to leave without pay from January to July 2010.³⁰

²³ Id. at 202.
²⁴ Id. at 205-207.
²⁵ Id. at 208.
²⁶ Id. at 212.
²⁷ Id. at 215.
²⁸ Id. at 213-215.
²⁹ Id. at 210-212.
³⁰ Id. at 289-291.

He denied that Atty. Cuenco allowed him to tamper with his DTRs to make it appear that he was present in court while attending his classes. He also disagreed with the security guard's report that he was absent from April 28 to May 7, 2010, because he was on duty at that time and even signed ahead of his officemates. He explained that his 8:00 a.m. to 5:00 p.m. class schedule was for enrolment purposes only and was not followed. The classes were divided into three batches: 8:00 a.m. to 12:00 noon, 1:00 p.m. to 5:00 p.m., and 5:00 p.m. to 9:00 p.m. During his third and fourth year in school, he attended the last batch of class or none at all.³¹

He denied not returning to court on May 18, 2010 when he attended Atty. Cuenco's wedding reception. He maintained that he and Abcede returned immediately before 12:00 noon, but he forgot to sign in because he could not find the logbook. He only signed in when he returned to work several days later. He also denied taking part in any gambling activity in court.³²

3. Abcede admitted that she initially knew stenography, but she eventually forgot it because the then presiding judge assigned her to do clerical work. After the latter's retirement, a staff meeting was held and she was told to resume her stenographic duties. She ignored it because it has been a long time since she performed such duties. It was agreed that the other stenographers would take over her duties on rotational basis. She denied admitting to Judge Laurea that she had no knowledge in stenography, and that she divided her salary with Atty. Cuenco. However, she confirmed that she and Cabanilla returned to court after attending the wedding reception of Atty. Cuenco, but their co-workers could not have seen them because they were in another room.³³
4. Yabut corroborated the agreement among stenographers and she acceded to it so as not to disrupt the court operation. The court calendar would show that Abcede did not perform a single stenographic duty from 2002 to July 2010. She denied that she would only report for work if she has stenographic duty, and contended that she was neither late nor absent from April 28 to May 5, 2010.³⁴

The records do not show that De Guzman and Asis filed their comments despite order to do so. After receiving the respondents'

³¹ Id. at 293-295.

³² Id. at 292.

³³ Id. at 184.

³⁴ Id. at 167-168.

comments, the Court resolved to refer the matter to the OCA for evaluation, report and recommendation.³⁵

The OCA's Supplemental Report

The OCA organized a team to conduct an inventory and investigation on the reported irregularities in the Malabon RTC, Branch 72, presided by Acting Judge Carlos M. Flores. The team made the following conclusions in its August 19, 2010 Memorandum:³⁶

- (a) The attendance of Clerk of Court Atty. Cuenco, Court Interpreter Cabanilla and Court Stenographers Abcede and Yabut are tainted with fabricated/inaccurate entries, as reflected in their DTRs and the court's attendance logbook[.]
- (b) With assistance from the personnel of the Management and Information Systems Office (MISO), and as witnessed by Clerk of Court Esmeralda Dizon of the Office of the Clerk of Court-RTC, Malabon City, it was discovered that the contents of the computer officially issued by the Court to RTC, Branch 72 contained *draft pleadings* for private litigants that have pending cases with the said branch, RTC Branch 73, Malabon City, the Office of the City Prosecutor of Navotas and Malabon City, and the People Law Enforcement Board, Caloocan City.
- (c) The Application for Leave dated March 29, 2010 of Cabanilla does not bear his true signature.³⁷

The OCA reported that two court employees, Process Server Percival S. Ponciano (Ponciano) and Sheriff Rodolfo V. Tongco (Tongco), executed sworn statements corroborating the allegations against the respondents.³⁸

In Ponciano's sworn statement, he recounted that sometime in October 2009, Cabanilla instructed him to bring the DTR and the court attendance logbook to Polo Valenzuela Hospital, where he was on duty as a student-nurse. Upon receiving the DTR and the court attendance logbook, Cabanilla signed in. This was done with Atty. Cuenco's consent.³⁹

On the other hand, Tongco confirmed that Cabanilla was a BS Nursing student at Our Lady of Fatima University from 2006 to 2010. He

³⁵ Id. at 616.

³⁶ Id. at 638-657.

³⁷ Id. at 639.

³⁸ Id. at 655-656.

³⁹ Id. at 655, 768.

related that there were occasions that he saw Cabanilla attend court hearings in his nursing uniform.⁴⁰

Both Ponciano and Tongco confirmed that they have never seen Abcede perform her duties as court stenographer in actual court hearings. Ponciano also revealed that Atty. Cuenco prepared an agreement that the other stenographers had no objection to Abcede not appearing in court hearings. When Buzon and Bueno refused to sign the agreement, they had a falling out with Atty. Cuenco.⁴¹

The OCA recommended that the respondents be ordered to comment on the anonymous complaint, Judge Laurea's Report, and the OCA's Supplemental Report.⁴²

Comments on the OCA's Supplemental Report

1. Atty. Cuenco contested the accuracy of the security guard's logbook, specifically the entries on April 28 and May 28, 2010. The logbook entry on April 28, 2010 showed that the security guard relied on the janitor's information on her arrival time. The logbook entry on May 28, 2010 indicated that she left the court with De Guzman on board a tricycle. She alleged that she arrived at 8:00 a.m. in court, then went to the Supreme Court, and returned to the RTC at 4:30 p.m. to log out. She averred that the security guard was not always in his post whenever she arrived in the morning. She asserted that since the logbook was placed at the security guard's table and due to heavy workload, she was unable to update her DTR daily.⁴³

She denied authorizing anybody to bring the logbook to Cabanilla at Polo, Valenzuela Hospital so he could log in. She confirmed that he studied BS Nursing while employed as court interpreter. She admitted that: (1) on March 31, 2010, she wrote on the logbook on Cabanilla's behalf, and (2) on April 23, 2010, she wrote "half-day" in Cabanilla's name in the logbook to prevent insertion. She did so because he left in a hurry, and as clerk of court, she believed she was authorized to do so.⁴⁴

⁴⁰ Id. at 655, 770-771.

⁴¹ Id. at 655-656, 769-770.

⁴² The OCA also recommended that Sheriff Tongco be included as respondent, because they found irregularities in his attendance. However, during the pendency of the case, Tongco died without filing his comment. Thus, in the January 11, 2016 Resolution, the Court resolved to adopt the OCA's recommendation and dismissed the charges against Tongco for lack of due process and substantial evidence. Id. at 656, 1223-1225, 1540.

⁴³ Id. at 1020-1021.

⁴⁴ Id. at 1034.

She disowns most of the pleadings found in her computer, except for the motion for reconsideration of a police officer. She explained that the motion had to be transferred to her computer because the flash drive where it was contained was attached to the police officer's car key. She insisted that all court employees have access to her computer, including De Guzman, who admitted preparing the pleadings at home and printing them in the office. De Guzman saved the pleadings in her computer for printing and emailing purposes.⁴⁵

She maintained that she played no other role in the stenographers' agreement to assume Abcede's workload since she lacks stenographic skills. She also inherited the problem on Abcede's lack of skill when she was appointed in 2005.⁴⁶

2. Cabanilla alleged that he wrote the entries in the DTRs for March, April, July, and August 2009. He apologized for believing that the DTR may be written by anyone as long as these were copied from the court attendance logbook.⁴⁷

He averred that the signature appearing in the logbook on April 23, 2010 was his, but the time "12:00 out" was not. It was written by Atty. Cuenco without his consent. He did not log out on that day because he could not locate the logbook and had to leave immediately. He denied filling out a leave form on March 29, 2010 and was surprised that he had one when in fact he was present at work. He also disowned the signature appearing in the logbook on March 31, 2010 and maintained that he did not authorize anyone to sign on his behalf. However, he admitted that his July 1-13, 2010 DTR did not contain a single entry when the investigating team arrived. It was a common practice that court employees sign the logbook upon arrival and departure and the entries were to be transferred on the DTR on the 15th and last day of the month.⁴⁸

He assailed the entries in the security guard's logbook for being inconsistent and unreliable. There is only one guard on duty for the whole RTC compound, making it impossible for him to monitor and record the precise arrival and departure time of all court employees. He clarified that: (1) in those entries appearing that he arrived at 1:00 p.m., the guard could have thought that he just arrived when in fact he merely bought lunch across the court; (2) he was present on April 29, 2010 as evidenced by his notes on the court calendar and his signature on the

⁴⁵ Id. at 1025.

⁴⁶ Id. at 1029.

⁴⁷ Id. at 1120.

⁴⁸ Id. at 1122-1123.

certificate of arraignment; (3) he signed the logbook on April 28 to 30, 2010 ahead of half of the court staff; (4) he was present from April 28 to June 29, 2010 as he was the interpreter on duty during the hearings every Monday, Thursday and Friday; (5) on May 11, 14, and 18, 2010, he signed in ahead of Yabut, who arrived at midday, but the guard recorded that he arrived later than Yabut; (6) he was present on June 7, 2010 as he signed in ahead of Buzon and as evidenced by the minutes of the court proceedings; and (7) he was also present on June 17, 2010 as he signed in ahead of Atty. Cuenco.⁴⁹

He admitted studying BS Nursing, but contended that the school was lenient to second coursers and gave them the opportunity to choose their class schedules. He reiterated that the schedules on the registration card do not reflect the actual class schedules as the professors change it from time to time.⁵⁰

He submitted a flash drive containing a video of Criminal Records Clerk-in-Charge, Provido, punching in and out six DTRs belonging to the staff of Branch 72.⁵¹

3. Abcede reiterated her earlier comments that: (1) she initially had stenographic skills, but forgot them since she performed clerical work; (2) she did not share her salary with Atty. Cuenco; and (3) she did not make a verbal admission to Judge Laurea as to her lack of stenographic skills. As for her attendance on June 15, 2010, she explained that she went to the Supreme Court and returned in the afternoon, but the guard may not have noticed her.⁵²
4. Yabut claimed that she was present on May 21, 24-25, and 31, June 2, 7, 11, 17, and 21, 2010. In fact, she was the stenographer on duty on June 17, 2010. On July 13, 2010, she admitted that she accomplished her DTR in the morning as she had to take care of her sick child. She conceded that there were times when she failed to log in and would only sign in the following day because she had to attend to her children.⁵³
5. De Guzman averred that after the former judge's retirement party, the staff went their separate ways and no drinking spree took place.⁵⁴

⁴⁹ Id. at 1125-1128.

⁵⁰ Id. at 1132.

⁵¹ Id. at 1134.

⁵² Id. at 1153-1161.

⁵³ Id. at 1184-1185.

⁵⁴ Id. at 1188.

The records again do not show that Asis filed her comment. On March 2, 2012, Atty. Cuenco filed a resignation letter,⁵⁵ which was accepted by the Court in a Notice dated August 14, 2012, without prejudice to the outcome of this case.⁵⁶ The Court then referred the case to the OCA for evaluation, report, and recommendation.⁵⁷

The OCA's January 26, 2015 Report

1. Irregularities/Falsification in the DTR

The OCA's own investigation confirmed Judge Laurea's finding that: (1) the handwritten entries in Cabanilla's DTRs for March, April, July and August 2009 and March 2010 were strikingly different from his usual penmanship; (2) Cabanilla's signature in his March 2010 DTR was also different from his customary signature; and (3) the handwritten entries in Cabanilla's DTRs were stunningly similar to Atty. Cuenco's.⁵⁸

The OCA ascertained that the act violated OCA Circular No. 7-2003, which requires that the entries in the DTR should be a personal act of the holder. It also amounts to dishonesty, falsification of public documents, and misconduct. Although Cabanilla disowned the entries, the subsequent affixing of his signature meant that he consented to the falsification resulting to conspiracy between him and Atty. Cuenco.⁵⁹ The falsification of the DTR to cover absenteeism and tardiness constitutes gross dishonesty and gross misconduct, which Atty. Cuenco and Cabanilla are guilty of.⁶⁰

2. Court Attendance Logbook and the Security Guard's Logbook

Atty. Cuenco impugned the accuracy of the guard's monitoring. The OCA opined that the monitoring was not expected to be flawless, as a margin of error was considered. An employee was considered absent if there was no entry of his/her arrival. Here, there were several dates of no records of Atty. Cuenco's arrival and departure, but the court's logbook indicated that she was present. Atty. Cuenco offered no explanation for the disparity between the logbooks of the guard and of the court. The OCA sustained the integrity of the guard's logbook in the absence of showing that the alleged inconsistency was patently gross.⁶¹

⁵⁵ Id. at 1235.

⁵⁶ Id. at 1491.

⁵⁷ Id.

⁵⁸ Id. at 1517.

⁵⁹ Id.

⁶⁰ Id. at 1518.

⁶¹ Id. at 1518-1591.

Cabanilla presented the court calendar and certificate of arraignment to dispute the security guard's report on his absence from April 28 to May 7, 2010. The OCA did not give credence to his evidence, because they are not conclusive proof of his presence on that day. A court calendar is usually prepared before the scheduled hearing and a certificate of arraignment is made after the hearing. Further, he failed to impute any malicious motive on the guard in declaring his absences. Thus, the guard enjoys the presumption of regularity in the performance of his duty. The guard is an impartial person who has no interest in the outcome of the investigation.⁶²

Cabanilla argued that it was impossible for the guard to monitor precisely the arrival and departure time of all employees. The OCA contended that the guard was specifically instructed to monitor only the four respondents, Atty. Cuenco, Cabanilla, Abcede, and Yabut. Further, he made no effort to dispute the disparity between the guard's logbook and the court's logbook on several dates, including an occasion wherein he stayed only for four minutes. The OCA also did not believe him when he alleged that at times he signed ahead of Yabut, because it is possible that a blank space was intentionally left for him.⁶³ It was also unbelievable for him to aver that he could not find the logbook, which should be in a conspicuous place and accessible to all employees.⁶⁴

The OCA also did not give merit to Yabut's assertion that she was neither late nor absent from April 28 to May 5, 2010. The guard's report revealed that she arrived late in the morning and in the afternoon on those dates. It was also reported that in May and June 2010, she incurred several absences and discrepancies in her arrival and departure time. Her own admission that she failed to log in and out because she attended to her children contradict her assertion that her attendance was in order.⁶⁵

As for Abcede, the OCA found out that she logged out at 12:24 p.m. on June 15, 2010 with no indication that she returned afterwards. However, her logbook entry indicated that she logged in and out on time.⁶⁶

Despite the respondents' denial, the OCA determined that there were proofs of falsification of DTRs, which constitutes dishonesty. Thus, the respondents should be held administratively liable.⁶⁷

⁶² Id. at 1519-1520.

⁶³ Id.

⁶⁴ Id. at 1520.

⁶⁵ Id.

⁶⁶ Id.

⁶⁷ Id. at 1521.

3. Cabanilla's Conflicting School and Work Schedules

The OCA found Cabanilla's averments untenable, because the registration cards are the best evidence and cannot overcome his self-serving claim. The school registration cards showed that from the second semester of 2006 to the second semester of 2009, his class schedules coincided with his work schedules. Further, he did not present documents, such as certification or actual class schedule from the school or professor, to prove his claim. More so, his long record of absences, tardiness, and half-days contradict his claim that his class schedule was from 5:00 p.m. to 9:00 p.m. It was also observed that if indeed there was no conflict in schedules, there would be no reason to ask for the leniency of the former presiding judge. While the OCA acknowledged that court employees may pursue personal development and improvement, it should be done without sacrificing public service.⁶⁸

4. Abcede's Lack of Knowledge in Stenography

The OCA resolved that Abcede's admission in her Comment as to her lack of effort to refresh her stenography skills and Yabut's corroboration rendered her inept to perform her duties as stenographer. From her appointment in 1993, she has been defrauding the Court by receiving her salary without performing her expected functions. Her actuations amount to incompetence and dishonesty, and her employment should be discontinued.⁶⁹

5. Pleadings of Litigants in the Court Computer

The OCA explained that the act of reviewing a litigant's pleading, as Atty. Cuenco claimed, is not within her job description as clerk of court. Doing so compromised the integrity and impartiality expected from a court personnel.⁷⁰

As for De Guzman, the OCA held that, even if she used her own printer, she prepared and printed the pleadings using the court computer and during office hours. Therefore, she used the court's resources for personal gain.⁷¹

⁶⁸ Id. at 1522-1523.

⁶⁹ Id. at 1523.

⁷⁰ Id. at 1524.

⁷¹ Id.

6. Other Charges

The OCA dismissed the other charges for lack of sufficient evidence.⁷²

7. Penalties

The OCA concluded that the following acts amount to gross dishonesty, falsification of official documents, and/or grave misconduct: (1) falsifying the court's logbook and DTRs; (2) making numerical entries in a co-employee's DTRs; (3) forging another employee's signature in his DTR and leave form; (4) attending classes during office hours; and (5) not performing the functions for which one was hired and compensated to do.⁷³

Considering that Atty. Cuenco resigned, the penalty of dismissal could no longer be imposed on her. The OCA recommended the forfeiture of all retirement benefits, excluding accrued leave credits, and her perpetual disqualification for employment in any branch or instrumentality of the government, including government-owned or controlled corporations.⁷⁴

As for Cabanilla, Abcede, and Yabut, the OCA recommended their dismissal from the service, cancellation of eligibility, forfeiture of all retirement benefits, excluding accrued leave credits, and perpetual disqualification for employment in any branch or instrumentality of the government, including government-owned or controlled corporations.⁷⁵

As for De Guzman, the OCA recommended reprimand as a penalty since this is her first offense, with a warning that a repetition of the same or similar act shall merit a more severe penalty.⁷⁶

The Issue Presented

Whether or not the respondents should be held administratively liable for the irregularities in the Malabon RTC, Branch 72.

⁷² Id.
⁷³ Id. at 1525.
⁷⁴ Id. at 1526-1527.
⁷⁵ Id. at 1527.
⁷⁶ Id.

The Court's Ruling

The Court upholds Judge Laurea's findings and affirms the OCA's recommendations with modifications.

OCA Circular No. 7-2003 dated January 9, 2003 states the policy on *Certificates of Service and Daily Time Records (DTRs)/Bundy Cards of Judges and Personnel of the Lower Courts* as follows:

After the end of each month, every official and employee of each court shall accomplish the Daily Time Record (Civil Service Form No. 48)/Bundy Card, indicating therein truthfully and accurately the time of arrival in and departure from the office.

In *Samonte v. Roden*,⁷⁷ the Court held that court employees must reflect their true arrival and departure times in the DTR, and must do so personally.

x x x [E]very court official and employee must truthfully and accurately indicate the time of his or her arrival at and departure from the office. The failure of an employee to reflect in the DTR card the actual times of arrival and departure not only reveals the employee's lack of candor but it also shows his/her disregard of office rules.

Equally important is the fact that this Court has already held that the punching in of one's daily time record is a personal act of the holder. It cannot and should not be delegated to anyone else.

Here, Judge Laurea and the OCA both determined that Atty. Cuenco made handwritten entries on Cabanilla's DTR and the latter consented to it by affixing his signature. The Court agrees with the OCA that the acts amount to serious dishonesty, falsification of official documents, and grave misconduct. The Court also observed that Atty. Cuenco and Cabanilla committed other acts of dishonesty and misconduct.

Atty. Cuenco made it appear in the court logbook that she was present on June 1, 2, and 28, 2010, but there was no record of her arrival and departure in the guard's logbook. She also did not dispute the discrepancies between the court's logbook and the guard's logbook on April 30, 2010; May 4-6, 11-14, 17-21, 24-26, and 31, 2010; June 7, 11, 17, 21-22, 24-25, and 29, 2010.⁷⁸ She also admitted reviewing the pleading of a litigant, which compromised the integrity and impartiality expected from a court personnel.

⁷⁷ 818 Phil. 289, 295 (2017).

⁷⁸ *Rollo*, pp. 1498-1500.

She also violated Section 5, Canon III of the Code of Conduct for Court Personnel (CCCP) which provides:⁷⁹

SEC. 5. The full-time position in the Judiciary of every court personnel shall be the personnel's primary employment. For purposes of this Code, "primary employment" means the position that consumes the entire normal working hours of the court personnel and requires the personnel's exclusive attention in performing official duties.

As for Cabanilla, he failed to conclusively prove that he was present on April 28 to May 7, 2010, and he did not dispute the guard's report that he was absent on May 4, 24-26, and 31, 2010; and June 2, 7, 10-11, 17, 21, 23, and 29, 2010.⁸⁰ More seriously, he attended school during office hours; thus, depriving the government and the public of the expected service. Just like Atty. Cuenco, Cabanilla clearly disregarded the tenet embodied in Section 5, Canon III, above-quoted.

The OCA's investigation showed that there were other court employees who committed dishonesty and misconduct. *First*, the guard reported that (1) Yabut arrived late in the morning and in the afternoon from April 28 to May 5, 2010; (2) she was absent on May 21, 24-25, and 31, 2010 and June 2, 7, 11, 17, and 21, 2010; and (3) there were discrepancies in her arrival and departure times on May 6-7, 11-14, 17-20, 26-27, 2010 and June 1, 15, 18, 22, 24-25, and 28, 2010. These reports were contrary to Yabut's claim that she was either present or on time on those dates.⁸¹

Second, Abcede was found to have logged out at 12:24 p.m. on June 15, 2010 and did not return in the afternoon. This report differed from her allegation that she logged in and out on time.⁸² She also lacked the required skills expected of a stenographer. The Court concurs with the OCA's evaluation that her actuations amount to incompetence and dishonesty.

Third, the OCA determined that De Guzman used the court computer to prepare and print pleadings of litigants, which is a violation of reasonable office rules and regulations.⁸³

Since this case involves several offenses of dishonesty and misconduct, the Court reiterates its previous pronouncements to remind

⁷⁹ Id. at 1523. See A.M. No. 03-06-13-SC.

⁸⁰ Id. at 1500-1503.

⁸¹ Id. at 1503-1505.

⁸² Id. at 1506.

⁸³ Id.

court employees of the behavior expected of them as men and women of the Judiciary.

On misconduct and dishonesty, the case of *Duque v. Calpo*⁸⁴ tells us the following:

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. It is intentional wrongdoing or deliberate violation of a rule of law or standard of behavior and to constitute an administrative offense, the misconduct should relate to or be connected with the performance of the official functions and duties of a public officer. In order to differentiate gross misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, and not a mere error of judgment, or flagrant disregard of established rule, must be manifest in the former.

On the other hand, dishonesty means "a disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity, lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray."

Here, the investigations conducted by Judge Laurea and the OCA revealed that respondents Atty. Cuenco, Cabanilla, Abcede, and Yabut blatantly violated the established office circular and the Code of Conduct, and had been doing so for a long period of time. They violated Section 3, Canon IV of the CCCP, which states that *court personnel shall not alter, falsify, destroy or mutilate any record within their control*. This includes the DTR.

As Clerk of Court, Atty. Cuenco is expected to lead in the observance of office rules. Yet she and Cabanilla conspired to falsify the entries in the DTRs. As the immediate supervisor of the rest of the court employees, she cannot claim ignorance on the irregularities in their attendance and their whereabouts during office hours. She abused her authority by being lenient to selected court employees. For these, she should be held liable for serious dishonesty, grave misconduct, and falsification of official documents.

In *Arabani, Jr. v. Arabani*,⁸⁵ the Court held that office hours should be devoted to the performance of official functions. Section 1, Canon IV of the CCCP provides that *court personnel shall at all times perform official duties properly and with diligence. They shall commit themselves exclusively to the business and responsibilities of their office during working hours*. However, respondents Cabanilla, Abcede, and Yabut violated the canon.

⁸⁴ A.M. No. P-16-3505, January 22, 2019.

⁸⁵ 806 Phil. 129 (2017).

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Section 1, Canon IV of the CCCP mandates that court personnel shall commit themselves *exclusively* to the business and responsibilities of their office during working hours. Court personnel should strictly observe the prescribed office hours and the efficient use of every moment thereof to inspire public respect for the justice system. Thus, court officials and employees are at all times behooved to *strictly* observe official time because the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the last and lowest of its employees.

Here, Cabanilla admitted that he was enrolled in a nursing course while employed as court interpreter, and there were occasions that he left the court to attend classes. He also claimed that the former judge was lenient with him as he pursued his education. There were documentary and testimonial evidence to prove that he was absent at work and yet his DTRs showed otherwise. The pieces of evidence and his admissions point to the conclusion that he finished BS Nursing at the expense of the government and the public. His actions amount to serious dishonesty, grave misconduct, and falsification of official documents.

As for Abcede, not only did she commit dishonesty in her attendance, she was also remiss in the non-performance of her duties as stenographer for years. She admitted that she already forgot stenography because the former judge assigned her to do other clerical work. However, after the retirement of the former judge, she did nothing to regain the skills required of a stenographer. She ignored Atty. Cuenco's directive to resume her duties as stenographer. Her conduct constitutes incompetence and serious dishonesty.

As for Yabut, records show that she was absent and tardy on several occasions, but her DTR shows otherwise. For these, she is guilty of serious dishonesty and falsification of official documents, which carries the penalty of dismissal from the service. However, the records also disclosed that she admitted her infraction and expressed deep remorse for it. She explained that she could not afford to hire a house helper and she was constrained to take care of her school-aged children. At lunchtime, she had to go home and bring lunch for those coming home from school and bring food to those who will attend school in the afternoon. Her family situation constrained her to time-in late after lunch, to leave early before dismissal, and time-out the following day.⁸⁶ It appearing that this is her first offense and there is no connivance with the other respondents, the Court finds that the penalty of suspension for six months is sufficient.

⁸⁶ *Rollo*, pp. 1516, 1520.

In *Office of the Court Administrator v. Cabrera-Faller*,⁸⁷ the Court extended leniency and showed compassion to the erring court employees.

[W]e have always taken advantage of every opportunity to show compassion and leniency in the imposition of administrative penalties on erring court employees. This is because work is as much a source of one's dignity as it is of one's income. While this Court will never tolerate any act of wrongdoing in the performance of duties, it would not be remiss in its mandate, should it extend just one more chance for court employees to improve their ways.

Sadly, the Court cannot grant the same leniency to the other respondents who are found guilty of grave offenses with deliberate intent to violate civil service rules. Specifically, it appears that there is collusion between Atty. Cuenco and Cabanilla as to the latter's attendance in order to accommodate his class schedule. There is also connivance between Atty. Cuenco and Abcede in intentionally assigning the other stenographers to sit on duty to conceal the latter's lack of stenography skills. The offenses of these respondents have robbed the court and the public of much needed service, warranting the penalty of dismissal.

As for De Guzman, the Court sustains the OCA's findings that she violated reasonable office rules and regulations for using the court computer and printer to prepare and print pleadings for the litigants. The records disclose that in a Memorandum dated June 8, 2010, Atty. Caridad A. Pabello, OCA Chief of Office, Office of Administrative Services, confirmed that the Court did not approve De Guzman's detail.⁸⁸ In a Resolution dated July 21, 2010, the Court ordered De Guzman to return to her mother unit.⁸⁹ In her Comment dated August 19, 2010, De Guzman stated that she was no longer connected with the Malabon RTC, Branch 72 and any other government institution as she purportedly resigned.⁹⁰

While De Guzman was never an employee of the Court, still she committed violations of the court's reasonable office rules and regulations when she used the court computer and printer to prepare and print pleadings for the litigants. Her actions may be considered as improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice," thus, a ground for indirect contempt. While the Court cannot exercise administrative supervision over her since, based on the records, her detail to the said RTC was not even approved, therefore, she is not a court employee, still she must be held accountable for her acts of

⁸⁷ A.M. No. RTJ-11-2301, A.M. No. RTJ-11-2302, A.M. No. 12-9-188-RTC, January 16, 2018, 851 SCRA 207, 308.

⁸⁸ *Rollo*, p. 128.

⁸⁹ *Id.* at 130-132.

⁹⁰ *Id.* at 1526.

disrespect towards the Judiciary. Also, since according to De Guzman she is no longer connected with any government institution, a recommendation of referral to the local government unit would not serve any practical purpose. For this reason, the Court deems it proper to refer De Guzman's case to the Presiding Judge of Malabon RTC, Branch 72 and direct said Judge to commence contempt proceedings against De Guzman. The findings in this administrative case may be taken cognizance of by said court in the contempt proceedings.

As for Asis, the Court observed that in the OCA's Report dated January 26, 2005, her name was not mentioned or the allegations against her discussed. However, the OCA recommended that the other charges should be dismissed for lack of sufficient evidence. The Court resolves that those allegations in the complaint that were not tackled in the OCA's Report shall be dismissed.

Considering the OCA's recommendations and the results of the investigations, the Court finds the respondents guilty of the following offenses:

RESPONDENT	OFFENSE	PENALTY
1. Atty. Cuenco	Serious dishonesty, grave misconduct, and falsification of official document.	Forfeiture of all retirement benefits, excluding accrued leave credits, and her perpetual disqualification from employment in any branch or instrumentality of the government, including government-owned or controlled corporations. The penalty of dismissal can no longer be imposed because of her resignation.
2. Cabanilla	Serious dishonesty, grave misconduct, and falsification of official document.	Dismissal from the service, cancellation of eligibility, forfeiture of all retirement benefits, excluding accrued leave credits, and perpetual disqualification from employment in any

		branch or instrumentality of the government, including government-owned or controlled corporations.
3. Abcede	Serious dishonesty and incompetence.	Dismissal from the service, cancellation of eligibility, forfeiture of all retirement benefits, excluding accrued leave credits, and perpetual disqualification from employment in any branch or instrumentality of the government, including government-owned or controlled corporations.
4. Yabut	Serious dishonesty and falsification of official document.	Suspension for six months.

In *Boston Finance and Investment Corp. v. Gonzalez*,⁹¹ the Court pronounced the penalty to be imposed for erring court personnel.

On the other hand, as regards other court personnel who are not judges or justices, the CCCP governs the Court's exercise of disciplinary authority over them. It must be pointed out that the CCCP explicitly incorporates civil service rules, viz.:

INCORPORATION OF OTHER RULES

Section 1. All provisions of law, **Civil Service rules**, and issuances of the Supreme Court governing or regulating the conduct of public officers and employees applicable to the Judiciary **are deemed incorporated** into this Code.

Hence, offenses under civil service laws and rules committed by court personnel constitute violations of the CCCP, for which the offender will be held administratively liable. However, considering that the CCCP does not specify the sanctions for those violations, the Court has, in the exercise of its discretion, adopted the penalty provisions under

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A.M. No. RTJ-18-2520, October 9, 2018.

existing civil service rules, such as the RRACCS, including Section 50 thereof.

Accordingly, in cases where a respondent court personnel had committed multiple infractions, the Court has applied Section 50 of the RRACCS. To illustrate, in the recent case of *Paduga v. Dimson*, a sheriff was found guilty of three (3) offenses amounting to conduct prejudicial to the best interest of the service, less serious dishonesty, and simple neglect of duty under the RRACCS. Since there were multiple violations, the Court applied Section 50 of the RRACCS in imposing the penalty of suspension for one (1) year. Similarly, in *Anonymous Complaint against Camay, Jr.*, a utility worker of the Judiciary was found guilty of various serious offenses, and applying Section 50 of the RRACCS, the Court dismissed him from service.

Consistent with these cases, the Court resolves that in administrative cases wherein the **respondent court personnel commits multiple administrative infractions, the Court, adopting Section 50 of the RRACCS, shall impose the penalty corresponding to the most serious charge, and consider the rest as aggravating circumstances.** (Emphases in the original; citation omitted)

Section 50, Rule 10 of the 2017 Rules on Administrative Cases in the Civil Service classifies serious dishonesty, grave misconduct, and falsification of official document as grave offenses, which are penalized by dismissal from the service. Incompetence is likewise a grave offense, but is penalized with suspension for six months and one day to one year for first offense, and dismissal from the service for the second offense.

Following the ruling in *Boston* case, the Court imposes the penalty of dismissal from the service for the most serious offenses, serious dishonesty, grave misconduct, and falsification of official document. The other offenses are aggravating circumstances.

WHEREFORE, the Court finds:

1. Respondent Clerk of Court Zenalfie M. Cuenco of Malabon City Regional Trial Court, Branch 72 **GUILTY** of serious dishonesty, grave misconduct, and falsification of official document. The Court imposes the penalty of **FORFEITURE** of all retirement benefits, excluding accrued leave credits, and her **PERPETUAL DISQUALIFICATION** from employment in any branch or instrumentality of the government, including government-owned or controlled corporations;

2. Respondent Court Interpreter Christian V. Cabanilla of the same court **GUILTY** of serious dishonesty, grave misconduct, and falsification of official document. The Court imposes the penalty of **DISMISSAL** from the service, **CANCELLATION of ELIGIBILITY, FORFEITURE** of all retirement benefits, excluding accrued leave credits, and **PERPETUAL DISQUALIFICATION** from employment in any branch or instrumentality of the government, including government-owned or controlled corporations;
3. Respondent Court Stenographer Siony P. Abcede of the same court, **GUILTY** of serious dishonesty and incompetence. The Court imposes the penalty of **DISMISSAL** from the service, **CANCELLATION of ELIGIBILITY, FORFEITURE** of all retirement benefits, excluding accrued leave credits, and **PERPETUAL DISQUALIFICATION** from employment in any branch or instrumentality of the government, including government-owned or controlled corporations; and
4. Respondent Court Stenographer Filipinas M. Yabut of the same court, **GUILTY** of serious dishonesty and falsification of official document. The Court imposes the penalty of **SUSPENSION** for six (6) months.

As for respondent locally-funded employee Aleli De Guzman, the Court **REFERS** the case to the Presiding Judge of the Malabon City Regional Trial Court, Branch 72 for the commencement of contempt proceedings against her.

The complaint against respondent Vanessa L. Asis is **DISMISSED** for lack of sufficient evidence.

SO ORDERED.

WE CONCUR:



DIOSDADO M. PERALTA
Chief Justice

de separate opinion

ESTELA M. PERLAS-BERNABE

Associate Justice

MARVIC M.V. F. LEONEN

Associate Justice

ALFREDO BENJAMIN S. CAGUIOA

Associate Justice

ALEXANDER G. GESMUNDO

Associate Justice

JOSE C. REYES, JR.

Associate Justice

RAMON PAUL L. HERNANDO

Associate Justice

ROSMARID. CARANDANG

Associate Justice

AMY C. LAZARO-JAVIER

Associate Justice

HENRI JEAN PAUL B. INTING

Associate Justice

RODIL V. ZALAMEDA

Associate Justice

MARIO V. LOPEZ

Associate Justice

EDGARDO L. DELOS SANTOS

Associate Justice

(On Official Leave)

SAMUEL H. GAERLAN

Associate Justice

PRISCILLA J. BALTAZAR-PADILLA
Associate Justice

CERTIFIED TRUE COPY

EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court