



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **21 June 2021** which reads as follows:*

“A.M. No. P-21-020 (Office of the Court Administrator v. Jonathan F. Lazaro, Clerk of Court III, Metropolitan Trial Court of Mandaluyong City, Branch 98) [Formerly A.M. No. 20-01-09-MeTC (In Re: Habitual Tardiness of Jonathan F. Lazaro, Clerk of Court III, Metropolitan Trial Court of Mandaluyong City, Branch 98)]. – The Court **NOTES** the Comment¹ dated July 27, 2020 of Jonathan F. Lazaro (Lazaro), Clerk of Court (COC) III, Metropolitan Trial Court (MeTC) of Mandaluyong City, Br. 98, admitting his tardiness and explaining that he was under the honest belief that he had a fifteen (15)-minute grace period to arrive in court, and that he was never notified that there is no such grace period.

The present case stemmed from a Report² dated January 20, 2020 of Ryan U. Lopez (Lopez), Officer-in-Charge of the Employees’ Leave Division (ELD), Office of Administrative Services (OAS), Office of the Court Administrator (OCA), stating that based on his Daily Time Records (DTR) for 2019,³ Lazaro was **tardy** twelve (12) times in January, eleven (11) times in February, and fourteen (14) times in March.⁴

In his Comment, Lazaro explained that: (a) he already admitted to these infractions in Administrative Matter No. 19-04-23-MeTC (now A.M. No. P-20-4036) wherein he was likewise charged with and found guilty of Habitual Tardiness for the months of January, February, March, April, July, August, September, October, and November 2018; (b) he was under the honest belief that he had a fifteen (15)-minute grace period to arrive in court as shown in his DTR which indicated that he consistently arrived at work between 8:00 a.m. and 8:15 a.m.; and (c) he was never notified that there was no allowance for a grace period. Thus, he prayed for the dismissal of the present case arguing that its subject matter is a mere continuation of the same issue of tardiness in A.M. No. 19-04-23-MeTC for which he was already penalized. He further claims that the act of treating the

¹ *Rollo*, pp. 7-9.
² *Id.* at 3 and 23.
³ *Id.* at 4-5.
⁴ *Id.* at 3-5.

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present case as a separate administrative matter is like splitting hairs, which is oppressive and unjust since the infractions were committed under a single continuous period, *i.e.*, January 2018 to March 2019, but he was only notified of his mistakes on June 4, 2019, the date he received the 1st Indorsement dated May 10, 2019 in A.M. No. 19-04-23-MeTC. He emphasizes that after receipt of said Indorsement, he no longer committed the same infraction, and has no intention of disregarding the reprimand and warning in his previous administrative sanction.⁵

In a Report⁶ dated January 28, 2021, the OCA recommended that: (a) the Report dated January 20, 2020 of Lopez, Officer-in-Charge, ELD, OAS, OCA, be re-docketed as a regular administrative matter against Lazaro; and (b) Lazaro be found guilty of Habitual Tardiness in the months of January, February, and March 2019 and, accordingly, fined in the amount of ₱5,000.00 and sternly warned that a repetition of the same or any similar offense shall be dealt with more severely.⁷

The OCA found that Lazaro's excuses were not sufficient to exculpate him from Habitual Tardiness in light of the Supreme Court's pronouncement in A.M. No. 00-06-09-SC.⁸ Lazaro's honest belief that he had a fifteen (15)-minute grace period to arrive in court was not an acceptable excuse for his tardiness. Further, it did not give credence to Lazaro's argument that his tardiness in 2019 in the months of January, February and March was a continuing offense for which he should only be penalized once. Civil Service Memorandum Circular No. 23, series of 1998 provides that any employee shall be considered habitually tardy if he incurs tardiness, regardless of the number of minutes, ten (10) times a month for at least two (2) months in a semester or at least two (2) consecutive months during the year. Thus, Lazaro's tardiness in 2018 is separate from any tardiness incurred in 2019, and will not preclude any disciplinary action against him for other counts of tardiness. Nevertheless, pursuant to the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS),⁹ considering that there was lack of proof that the operations of the court were prejudiced by Lazaro's tardiness, his infraction falls under the category of plain tardiness, a light offense punishable by reprimand for the first offense, suspension of one (1) to thirty (30) days for the second, and dismissal from service for the third. Since Lazaro was already penalized for habitual tardiness, the penalty of suspension is justified under the circumstances. Further, under Rule 10, Section 47 (1) of the 2017 RACCS, the disciplining authority may allow payment of fine¹⁰ in place of suspension when the respondent

⁵ Id. at 23-24 and 15-18.

⁶ Id. at 23-25. Signed by Court Administrator Jose Midas P. Marquez.

⁷ Id. at 25.

⁸ *Re: Imposition of Corresponding Penalties for Habitual Tardiness*, 484 Phil. 480, 485-486 (2004); In the recent case of *OCA v. Flores*, A.M. No. P-20-4028, January 6, 2020, the Court ruled that by being habitually tardy, the concerned court employees have fallen short of the stringent standard of conduct demanded from everyone connected with the civil services, especially the administration of justice since punctuality being a virtue, absenteeism and tardiness are impermissible; and family conditions, domestic and financial concerns are not sufficient reasons to excuse habitual tardiness; *rollo*, p. 24.

⁹ Civil Service Commission Resolution No. 1701077 promulgated on July 3, 2017.

¹⁰ In *Foster v. Santos*, A.M. No. P-17-3627, September 5, 2018, the Supreme Court found a sheriff guilty of simple neglect of duty. By virtue of the above provision of the RACCS, the sheriff was penalized with a fine equivalent to one (1) month salary in lieu of suspension 'to prevent any undue adverse effect on public service which would result if work was left unattended on account of respondent's suspension. Similarly in *Ariñola v. Almodiel*, A.M. No. P-19-3925, January 7, 2019, the Honorable Court fined a court interpreter for simple neglect of duty in the amount of ₱5,000 in lieu of suspension. Lastly, in *Olympia-Geronilla v. Montemayor*, 810 Phil. 1 (2017), a clerk of court was fined ₱10,000.00

discharges frontline functions or deals directly with the public, and when the personnel complement of the office is insufficient to perform the same functions, as with the case of Lazaro who is a COC of the MeTC of Mandaluyong City, Br. 98.¹¹

ISSUE: Whether or not Lazaro is administratively liable for habitual tardiness.

As correctly found by the OCA, Lazaro is administratively liable for Habitual Tardiness punishable using the framework of penalties in the 2017 RACCS, which is incorporated in the Code of Conduct for Court Personnel (CCCP).¹²

It is worth noting that the Court, pursuant to its constitutional mandate to administratively supervise court personnel, issued the CCCP which was intended to apply to all Judiciary personnel who are not justices or judges. The CCCP incorporates the framework of penalties found in the prevailing civil service rules (*i.e.*, the 1999 URACCS, 2011 RRACCS, and the 2017 RACCS).

On October 2, 2018, the Court *En Banc* issued A.M. No. 18-01-05-SC, which amended Rule 140 of the Rules of Court and resolved to, among others, expand its coverage to include ‘personnel of the lower courts.’ Subsequently, on July 7, 2020, the Court further amended Rule 140 and clarified that the rule shall cover the discipline of ‘personnel of the judiciary.’ Thus, Rule 140 now governs the discipline of all court personnel who are not judges or justices for all acts or omissions committed after the effectivity of A.M. No. 18-01-05-SC.

However, for the acts or omissions subject of a pending administrative case committed by a court personnel prior to the Rule 140 amendment, the Court, in *Dela Rama v. De Leon (Dela Rama)*,¹³ held that Rule 140 should retroactively apply unless such application shall be prejudicial to the said court personnel. Thus, applying *Dela Rama*, the Court shall compare: (a) the prevailing civil service rule at the time of the commission of the offense; and (b) Rule 140, and determine which between these rules is less prejudicial to the employee concerned.

Under the 2017 RACCS, which is the prevailing rule material to this case, habitual tardiness which did not cause prejudice to the operations of the office is classified as a light offense punishable by reprimand for the first offense; suspension of one (1) to thirty (30) days for the second offense; and dismissal from the service for the third offense.

On the other hand, under Rule 140, habitual tardiness is classified as a less serious charge punishable by suspension from office without salary and other

in lieu of suspension after she was found guilty of simple neglect of duty. Considering that simple neglect of duty is a less grave offense, while the instant case involves a light offense, it is submitted that a fine of ₱5,000.00 would be appropriate; *rollo*, p. 25.

¹¹ Id. at 24-25.

¹² A.M. No. 03-06-13-SC (June 1, 2004).

¹³ A.M. No. P-14-3240, March 2, 2021.

benefits for not less than one (1) month nor more than three (3) months; or a fine of not less than ₱35,000.000 but not exceeding ₱100,000.00.¹⁴

Here, the present administrative case is considered as Lazaro's second offense since he was previously found guilty of habitual tardiness and meted the penalty of reprimand in A.M. No. P-20-4036 (*formerly* A.M. No. 19-04-23-MeTC). Thus, under the 2017 RACCS, his present offense is punishable by suspension of one (1) to thirty (30) days, while under Rule 140, his offense is punishable by suspension from office without salary and other benefits for not less than one (1) month nor more than three (3) months or a fine of not less than ₱35,000.000 but not exceeding ₱100,000.00. Verily, the 2017 RACCS should apply as this is less prejudicial to Lazaro.

In this regard, under Rule 10, Section 47 (1) of the 2017 RACCS, the disciplining authority may allow payment of fine in place of suspension when the respondent discharges frontline functions or deals directly with the public, and when the personnel complement of the office is insufficient to perform the same functions, as with the case of Lazaro who is a COC of the MeTC of Mandaluyong City, Br. 98. Thus, the OCA findings and recommendation should be adopted and approved.

WHEREFORE, the Court resolves to **RE-DOCKET** this case as a regular administrative matter against Jonathan F. Lazaro, Clerk of Court III of the Metropolitan Trial Court of Mandaluyong City, Branch 98, and hereby finds the latter **GUILTY** of Habitual Tardiness covering the period of three (3) months in 2019 (January, February, and March). He is **ORDERED** to pay a fine in the amount of ₱5,000.00 with a **STERN WARNING** that a repetition of the same or any similar offense shall be dealt with more severely by the Court.

SO ORDERED. (Lopez, J., J., designated additional member per Special Order No. 2822 dated April 7, 2021)."

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court

28 JUL 2021

¹⁴ As amended by A.M. No. 21-03-17-SC, entitled 'AMENDMENTS TO THE FINES PROVIDED IN RULE 140 OF THE REVISED RULES OF COURT,' (May 31, 2021).

COURT ADMINISTRATOR

Hon. Jose Midas P. Marquez (x)

DEPUTY COURT ADMINISTRATOR

Hon. Raul B. Villanueva (x)

Hon. Jenny Lind Aldecoa-Delorino (x)

Hon. Leo T. Madrazo (x)

ASSISTANT COURT ADMINISTRATOR

Hon. Lilian C. Baribal-Co (x)

Hon. Maria Regina Adoracion

Filomena M. Ignacio (x)

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HON. PRESIDING JUDGE (reg)

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