



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 23 February 2022 which reads as follows:

“A.M. No. P-22-046 (Office of the Court Administrator vs. Berryl I. Berondo, Court Stenographer III, Branch 58, Regional Trial Court, San Carlos City, Negros Occidental) [Formerly A.M. No. 19-10-236-RTC (In Re: Habitual Tardiness of Berryl I. Berondo, Court Stenographer III, Branch 58, Regional Trial Court, San Carlos City, Negros Occidental)]. – This resolves the administrative charge against Berryl I. Berondo (Berondo), Court Stenographer III, Branch 58, Regional Trial Court (RTC), San Carlos City, Negros Occidental, for habitual tardiness.

Antecedents

On 20 September 2019, Ryan U. Lopez, Officer-in-Charge, Employees' Leave Division, Office of Administrative Services (OAS), Office of the Court Administrator (OCA), submitted a report,¹ stating that Berondo incurred tardiness in July 2019 [ten (10) times] and August 2019 [ten (10) times].

In the 1st Indorsement² dated 03 October 2019, the OCA directed Berondo to comment on the report within ten (10) days from receipt thereof. Despite receipt of the OCA's Indorsement on 19 November 2019, Berondo failed to submit her comment. The OCA sent Berondo a Tracer³ dated 07 February 2020, reiterating the prior directive to no avail.

The case was thereafter referred to the Judicial Integrity Board (JIB) pursuant to A.M. No. 18-01-05-SC.⁴

¹ *Rollo*, p. 2.

² *Id.* at. 4.

³ *Id.* at 5.

⁴ Entitled “Establishment of the Judicial Integrity Board (JIB) and the Corruption Prevention and Investigation Office (CPIO),” approved on 07 July 2020.

Report and Recommendation of the Judicial Integrity Board

On 05 July 2021, the JIB issued its report and recommendation,⁵ finding Berondo guilty of 1) habitual tardiness for the months of July and August 2019; and 2) insubordination, thus:

ACCORDINGLY, we respectfully RECOMMEND that:

- 1) the REPORT on Habitual Tardiness dated September 20, 2018 of Ryan U. Lopez, Officer-in-charge, Employees Leave Divison, Office of Administrative Services, OCA, be RE-DOCKETED as a regular administrative matter;
- 2) Respondent Berryl I. Berondo, Court Stenographer III, Branch 58, Regional Trial Court, San Carlos City, Negros Occidental, be found GUILTY of Habitual Tardiness for the period July 2019 and August 2019 in a semester and for Insubordination for her failure to submit her comment despite receipt of the OCA's directive; and
- 3) Respondent Berondo be FINED in the amount of Five Thousand Pesos (P5,000.00), payable within thirty (30) days from receipt of notice, and STERNLY WARNED that a repetition of the same similar offenses shall be dealt with more severely by the Court.⁶

According to the JIB, Berondo incurred tardiness for a total of twenty (20) times in the months of July and August 2019. It recommended that the penalty of reprimand should have been sufficient as it is Berondo's first offense and there was no showing that the operations of the court were prejudiced, to make her habitual tardiness a grave offense. However, Berondo's failure to file her comment, despite receipt of the OCA's directive, is tantamount to insubordination to the Court itself. Thus, the JIB recommended that Berondo be likewise found guilty of insubordination, a less grave offense, punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense.

While the appropriate penalty for the more serious offense of insubordination is suspension, pursuant to Section 55⁷ of the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS), the JIB recommended the payment of Php5,000.00 fine so as not to prejudice

⁵ JIB's Report and Recommendation, pp. 1-6.

⁶ *Id.* at 5.

⁷ Penalty for Multiple Offenses— If the respondent is found guilty of two (2) or more different offenses, the penalty to be imposed should be that corresponding to the most serious offense and the rest shall be considered as aggravating circumstances. X X X.

the performance of the court.⁸

Ruling of the Court

Under Civil Service Memorandum Circular No. 23, Series of 1998, as reiterated in Memorandum Circular No. 1, s. 2017, employees shall be considered habitually tardy if they incur 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.

According to the report of the OAS, Berondo incurred tardiness for ten (10) times each in the months of July and August 2019. This remains uncontroverted. Based on the Civil Service circulars, this constitutes habitual tardiness.

On the other hand, insubordination is defined as the refusal to obey some order, which a superior officer is entitled to give. The term imports a willful or intentional disregard of the lawful and reasonable instructions of the employer.⁹ In *Clemente v Bautista*,¹⁰ the Court held that:

[A]ll directives coming from the Court Administrator and his deputies are issued in the exercise of this Court's administrative supervision of trial courts and their personnel, hence, should be respected. These directives are not mere requests but should be complied with promptly and completely. Clearly, respondent's indefensible disregard of the orders of the OCA, as well as of the complainant and Judge Manodon, for him to comment on the complaint and to explain his infractions, shows his disrespect for and contempt, not just for the OCA, but also for the Court, which exercises direct administrative supervision over trial court officers and employees through the OCA. His indifference to, and disregard of, the directives issued to him clearly constituted insubordination.

In this case, Berondo's failure to submit her comment despite receipt of the 1st Indorsement and Tracer constitutes clear and willful disrespect, not just to the OCA, but also to the Court, which exercises direct administrative supervision over trial court officers and employees through the OCA. Hence, as aptly explained by the JIB, Berondo's non-compliance with the OCA's directives is tantamount to insubordination to the Court itself.

⁸ JIB's Report and Recommendation, pp. 2-3.

⁹ *Dalmacio-Joaquin v Dela Cruz*, 604 Phil. 256 (2009).

¹⁰ 710 Phil. 10 (2013).

Penalties

The JIB recommended the payment of Php5,000.00 fine against Berondo in lieu of suspension so as not to prejudice the performance of the court. This, considering that Berondo is a court stenographer, with specific functions in its operation.¹¹

While the Court agrees that the payment of fine in lieu of suspension is proper because the Court can impose either of the two, We find that the recommendation of fine in the amount of Php5,000.00 lacks basis and disregards not only the twin violations committed by Berondo for habitual tardiness and insubordination, but likewise, the latest relevant Rules issued by the Supreme Court, as well as JIB's own Internal Rules.

The prevailing Civil Service rules at the time of the commission of the violations is the 2017 RACCS, while Rule 140 of the Rules of Court, as amended (Rule 140), is now deemed as applicable to all pending administrative cases involving personnel of the Judiciary. In *Dela Rama v De Leon (Dela Rama)*,¹² the Court explained the uniform application of charges and imposition of penalties in administrative cases involving Judiciary personnel, *i.e.*, if the application of Rule 140, as amended, would be prejudicial to the employee, then the framework of Civil Service rules prevailing at the time of the commission of the violation should apply.

Under the 2017 RACCS, habitual tardiness (not prejudicial to the operations of the office), is considered a light offense, punishable by reprimand for the first offense; suspension of one (1) day to thirty (30) days for the second offense; and dismissal from the service for the third offense.¹³

Upon the other hand, Rule 10, Section 50(D)(E) of the 2017 RACCS classified insubordination as a less grave offense punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense; and dismissal from the service for the second offense. Rule 10, Section 55 of the 2017 RACCS also provides that if the respondent is found guilty of two (2)

¹¹ JIB's Report and Recommendation, pp. 2-3.

¹² A.M. No. P-14-3240.

¹³ Rule 10, Section 50, paragraph F(4) of the 2017 RACCS.

Section 50. Classification of offenses. Xxx

F. The following light offenses are punishable by reprimand for the first offense; suspension of one (1) day to thirty (30) days for the second offense; and dismissal from the service for the third offense:

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4. Habitual Tardiness

or more different offenses, the penalty to be imposed should be that corresponding to the most serious offense and the rest shall be considered as aggravating circumstances.

Under Section 23 (2) of Rule 140, habitual tardiness is classified as a less serious charge.

Anent insubordination, while not specifically included in the enumeration of charges for serious, less serious, and light violations under Sections 22, 23, and 24 of Rule 140, less grave offenses under the 2017 RACCS, which includes insubordination, are deemed as less serious offenses under Section 23 (7), Rule 140, and under Rule XI, Section 1 (b) (7)¹⁴ of the Internal Rules of the JIB.

Under A.M. No. 21-03-17-SC,¹⁵ amending the fines provided under Rule 140 of the Rules, less serious charges, such as habitual tardiness and insubordination, have the corresponding sanctions:

SECTION 25. Sanctions

B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

a. Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or

b. **A fine of not less than P35,000.00 but not exceeding P100,000.00.** (Emphasis supplied)

If We were to apply the 2017 RACCS, Berondo would be meted the maximum penalty of suspension for six (6) months, OR a fine corresponding to six (6) months of her salary. This takes into consideration the rule that the penalty imposed in case of multiple violations should be for the most serious one (insubordination), with the other violations considered as aggravating¹⁶ (habitual tardiness).

¹⁴ Less Serious Charges — Less serious charges include:

(1) X X X.; and

(7) Simple misconduct constituting violation of the Code of Judicial Conduct or of the Code of Judicial Conduct for Court Personnel, and **less grave offenses under the Civil Service Laws and Rules.** (Emphasis supplied)

¹⁵ Amendments to the Fines Provided in Rule 140 of the Revised Rules of Court, A.M. No. 21-03-17-SC (Resolution), 16 March 2021.

¹⁶ See Section 55 of the 2017 RACCS.

If Rule 140 were to be applied, Berondo would be liable for separate penalties for habitual tardiness and insubordination.¹⁷ Under Section 25(B) Rule 140, the maximum penalty for each violation can either be suspension of not less than one (1) month nor more than three (3) months without salary and other benefits OR payment of fine ranging from Php35,000.00 and not exceeding Php100,000.00.

The JIB recommended the imposition of fine instead of suspension so as not to prejudice the performance of the court in view of the function of Berondo as court stenographer, and We agree. After all, meting the penalty of suspension would only further hamper the operations of the court where she is assigned. However, the amount of fine imposed should be adjusted in accordance with the foregoing discussion.

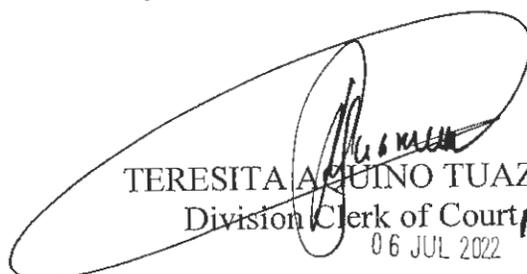
Berondo, as Court Stenographer III, is a Salary Grade 12 employee, with corresponding salary of at least Php26,000.00 per month. Thus, the application of Rule 140, is beneficial to Berondo, as the amount would be significantly lower, if the minimum fines are imposed, than the six (6)-month salary equivalent under the 2017 RACCS.

WHEREFORE, the Court finds that the instant administrative complaint be **RE-DOCKETED** as a regular administrative matter.

The Court further finds Berryl I. Berondo, Court Stenographer III of Regional Trial Court, Branch 58, San Carlos City, Negros Occidental, **GUILTY** of Habitual Tardiness and Insubordination. She is meted the penalty of **FINE** amounting to Php35,000.00 each, with **STERN WARNING** that a repetition of the same or similar act in the future will be dealt with more severely.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court 7/c
06 JUL 2022

¹⁷ See *Rodil v. Posadas*, A.M. No. CA-20-36-P, 03 August 2021 [Per Curiam].

HON. RAUL B. VILLANUEVA (x)
Office of the Court Administrator
Legal Office (x)
Court Management Office (x)
Financial Management Office (x)
Office of Administrative Services (x)
Office of the Court Administrator
Supreme Court, Manila

JUSTICE ROMEO J. CALLEJO, SR. (RET.) (x)
Chairperson
Complaints Docket Services (x)
Judicial Integrity Board
Supreme Court Manila

BERRYL I. BERONDO (reg)
Court Stenographer III
Regional Trial Court, Branch 58
San Carlos City, Negros Occidental

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 58
San Carlos City, Negros Occidental

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Supreme Court, Manila

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Supreme Court, Manila

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Please notify the Court of any change in your address.
AM No. P-22-046. 2/23/2022(266)URES *jsf*