



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **07 September 2020** which reads as follows:*

“A.M. No. P-18-3826 (*Office of the Court Administrator v. Mr. Erwin D. Bilgera, Clerk III, Regional Trial Court, Branch 43, City of San Fernando, Pampanga*). – For resolution is the Memorandum¹ dated January 23, 2018 of the Office of the Court Administrator (OCA) relative to the Report² dated August 14, 2017 of Mr. Ryan U. Lopez (Lopez), Officer-in-Charge (OIC), Employees’ Leave Division (ELD), Office of Administrative Services (OAS), OCA, pertaining to the habitual tardiness of Mr. Erwin D. Bilgera (Bilgera), Clerk III, Regional Trial Court (RTC), City of San Fernando, Pampanga, Branch 43.

Facts

In his Report, Lopez stated that Bilgera incurred tardiness in May 2017 (11 times) and June 2017 (12 times), as shown in the Daily Time Records (DTRs) attached therein.³

On the basis of the said Report, the administrative matter was docketed as A.M. No. 17-08-207-RTC (*Re: Habitual Tardiness of Mr. Erwin D. Bilgera, Clerk III, Regional Trial Court, Br. 43, City of San Fernando, Pampanga*). In its 1st Indorsement⁴ dated September 5, 2017, the OCA directed Bilgera to comment on the August 14, 2017 Report within 10 days from receipt of the said Indorsement.

In his Comment⁵ dated September 29, 2017, Bilgera contested the reported tardiness he allegedly incurred in May and June 2017. He explained that his time-in of 8:05 a.m. was counted against him as tardiness which

¹ Rollo, pp. 14-16.

² Id. at 3-5.

³ Id. at 14.

⁴ Id. at 6.

⁵ Id. at 7-12.

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should not be the case, because the Court allows a grace period of five (5) minutes. Tardiness, according to him, should only begin when an employee logs-in at 8:06 a.m. onwards. Thus, he claimed that his reported tardiness in the months of May and June 2017 should only be eight (8) and ten (10) times, instead of 11 and 12 times, respectively. Nevertheless, he attributed his tardiness on the subject months to the morning traffic rush, aggravated during the month of May, by the road widening and the bridge construction of the Olongapo-Gapan Road in front of SM City Pampanga and Robinsons Starmills Pampanga, which is his regular route in going to and from the court. He added that for the month of June, the start of classes in all levels and the rains/typhoons compounded the already worsening traffic situation. He humbly asked the Court's leniency and understanding on the matter, more so because his tardiness lessened during the succeeding months of July, August and September 2017 when the road construction was almost completed.

Records show that this is Bilgera's second incursion of habitual tardiness. He was reprimanded with a stern warning that a repetition of the same shall be dealt with severely by the Court, for his first incursion of the same offense pursuant to the Court Resolution⁶ dated June 28, 2017 in A.M. No. P-17-3713 (*Office of the Court Administrator v. Mr. Erwin D. Bilgera, Clerk III, Regional Trial Court, Br. 43, City of San Fernando, Pampanga*) [Formerly A.M. No. 16-08-288-RTC (*Re: Habitual Tardiness of Mr. Erwin D. Bilgera, Clerk III, Regional Trial Court, Br. 43, City of San Fernando, Pampanga*)].⁷

OCA Evaluation and Recommendation

The OCA cited the Civil Service Commission (CSC) Memorandum Circular No. 17, Series of 2010 (Policy on Half Day Absence) which considers an employee who is absent in the morning to be tardy and is subject to the provisions on Habitual Tardiness.⁸

OCA stated that contrary to Bilgera's claim, the OAS-OCA did not consider his 8:05 A.M. time-ins as tardiness. According to it, Bilgera's half-day absences were the ones counted as tardiness, in addition to his time-ins beyond 8:05 A.M. His absences in the morning on May 10, 11, and 24 and June 8 and 29, 2017 were considered as tardy in accordance with the aforesaid CSC Memorandum.⁹

The OCA found Bilgera guilty of habitual tardiness for incurring more than 10 tardiness each in the two (2) consecutive months of May and June 2017.¹⁰

⁶ Id. at 2.

⁷ Id.

⁸ Id. at 15.

⁹ Id.

¹⁰ Id.

Thus, the OCA found it appropriate to impose the penalty of suspension of 30 days considering that this is Bilgera's second administrative offense. However, as Bilgera already resigned from the service effective October 23, 2017, the penalty of suspension, according to the OCA, was no longer possible. Thus, it was recommended that in lieu of suspension, a fine of ₱5,000.00 be imposed, to be deducted from whatever benefits due him or his accumulated leave credits, if any.¹¹

Upon recommendation of the OCA, the Court, in its Resolution¹² dated March 7, 2018, re-docketed the August 14, 2017 Report of Lopez as a regular administrative matter against Bilgera.

In a Resolution¹³ dated January 15, 2020, the Court noted the August 14, 2017 Report of Lopez, stating that Bilgera incurred tardiness in the months of May 2017 (11 times), June 2017 (12 times), and November 2016 (15 times); and Bilgera's September 29, 2017 Comment admitting his tardiness and explaining the reasons thereof.

The Court's Ruling

The Court adopts the findings and recommendation of the OCA.

Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and lead modest lives.¹⁴ Part of this accountability is the observance of the prescribed office hours in a given working day.¹⁵

CSC Memorandum Circular No. 01, series of 2017¹⁶ provides that Frequent Unauthorized Tardiness (Habitual Tardiness) "is committed when an official or employee incurs tardiness, regardless of the number of minutes, 10 times a month for at least two (2) months in a semester or at least two (2) consecutive months during the year."

There is no doubt that Bilgera incurred habitual tardiness within the context of the said CSC Memorandum Circular, for the tardiness incurred 11 and 12 times in the months of May and June 2017, respectively.

The exacting standards of ethics and morality imposed upon court officials and employees reflect the premium placed on the image of the courts of justice. That image is necessarily mirrored in the conduct, official or otherwise, of the men and women who work in the Judiciary. It thus

¹¹ Id. at 15-16.

¹² Id. at 18-19.

¹³ Id. at 20-21.

¹⁴ Section I, Article XI of the 1987 Constitution.

¹⁵ CSC Memorandum Circular No. 01, series of 2017.

¹⁶ Reiteration of the Policy on Government Office Hours; and the Administrative Offenses of Frequent Unauthorized Absences (Habitual Absenteeism); Tardiness in reporting for Duty; and Loafing from Duty during Regular Office Hours, January 31, 2017.

becomes the imperative duty of everyone involved in the dispensation of justice, from the judge to the lowliest clerk, to maintain the courts' good name and standing as true temples of justice.¹⁷

Having been found habitually tardy for the second time, Bilgera fell short of the stringent standard of conduct demanded from him as Clerk III involved in the administration of justice.

As aptly opined by the OCA, the reasons relied upon by Bilgera, the worsening traffic conditions, among others, were insufficient to justify his tardiness to exonerate him from administrative liability. Indeed, the Court has consistently held that moral obligations, performance of household chores, **traffic problems** and health, domestic and financial concerns are not sufficient reasons to excuse habitual tardiness.¹⁸

On the penalties, under CSC Memorandum Circular No. 01, series of 2017, and Section 46 (F) (4) of the Revised Rules on Administrative Cases in the Civil Service, Habitual Tardiness is a light offense punishable as follows:

- Reprimand - for the first offense
- Suspension of one (1) to thirty (30) days - for the second offense
- Dismissal from the service - for the third offense

Thus, the penalty of suspension for 30 days imposed by the OCA was well taken as this is Bilgera's second offense. However, as the penalty of suspension was no longer practicable in view of his resignation, the Court deems the penalty of fine of ₱5,000.00 in lieu of suspension, as recommended by the OCA, reasonable under the circumstances.

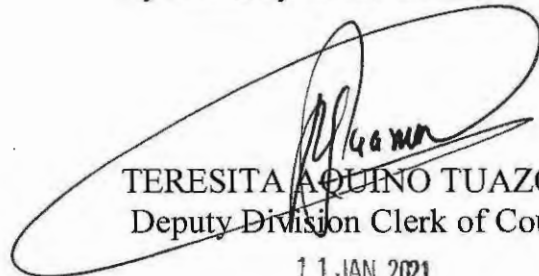
WHEREFORE, the Court finds Erwin D. Bilgera administratively liable for habitual tardiness. Having been previously resigned, he is hereby **FINED** ₱5,000.00, to be deducted from whatever benefits may be due him.

¹⁷ *Re: Employees Incurring Habitual Tardiness in the Second Semester of 2009*, 660 Phil. 608, 614 (2011).

¹⁸ See *Re: Leave Division, Office of Administrative Services, Office of the Court Administrator v. Francisco A. Pua, Jr., Clerk of Court V, Regional Trial Court, Branch 55, Lucena City*, 669 Phil. 138, 141 (2011), citing *Marquez v. Fernandez*, 648 Phil. 23, 28-31 (2010); see also *Re: Failure of Various Employees to Register their Time of Arrival and/or Departure from Office in the Chronolog Machine*, 646 Phil. 18, 28 (2010), citing *Re: Supreme Court Employees Incurring Habitual Tardiness in the 2nd Semester of 2005*, 533 Phil. 272, 279 (2006).

SO ORDERED.” (*Inting, J., on official leave; Baltazar-Padilla, J., on leave.*)

By authority of the Court:



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *p 118*
11 JAN 2021

HON. COURT ADMINISTRATOR
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HON. DEPUTY COURT ADMINISTRATOR
Raul B. Villanueva (x)
Jenny Lind Aldecoa-Delorino (x)
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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 43
San Fernando City, Pampanga

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AM No. P-18-3826. 09/07/2020(118)URES