

EN BANC

[A.M. No. P-13-3171 (formerly A.M. OCA IPI No. 11-11-116-MeTC), January 28, 2014]

RE: HABITUAL TARDINESS OF CESAR E. SALES, CASH CLERK III, METROPOLITAN TRIAL COURT, OFFICE OF THE CLERK OF COURT, MANILA.

D E C I S I O N**PER CURIAM:**

A Report^[1] submitted by the Leave Division, Office of the Court Administrator (OCA) dated October 19, 2011 shows that respondent Cesar E. Sales, Cash Clerk III, Office of the Clerk of Court, Metropolitan Trial Court, Manila, had always been tardy in going to the office for the months of January to September 2011, as follows:

January	-	20 times
February	-	14 times
March	-	10 times
April	-	13 times
May	-	17 times
June	-	13 times
July	-	15 times
August	-	11 times
September	-	12 times

In the 21 working days of January 2011, Sales' Daily Time Records (DTRs) show that he was tardy 20 times and came on time only once, on January 3, 2011 at 8:00 a.m. In February, he arrived on time only on the 15th, 23rd, and 25th, and was on sick leave on the 8th, 9th, and 28th. In March, he had 10 incidents of tardiness, and applied for sick leave on the 7th and was on forced leave on the 14th to 18th. In April, he came on time only on the 7th and was late 13 times. He was also on sick leave for five days, on the 5th and on the 26th up to the 29th. During the month of May, he was tardy on all the days he went to the office and was on sick leave for five days. In June, he reported on time only on the 6th and was on sick leave on the 7th up to the 10th, and on the 17th and 27th. He was tardy on the days he reported to the office during the month of July and went on sick leave six times on different dates. In August, he was tardy during the days he went to the office. He was also on sick leave for 7 days and was on vacation leave for three days. During the month of September, there were 21 working days but he reported to the office only 12 times and was tardy on all these days. He was on sick leave for six days and on vacation leave for three days. On the days he was on leave, he indicated in his DTRs "sick leave applied," "vacation leave applied" or "forced leave applied." However, it was not shown whether his applications have been approved by his superiors.^[2]

In a 1st Indorsement dated November 21, 2011, the OCA required Sales to comment on the charge of habitual tardiness.^[3]

In his comment^[4] dated January 17, 2012, Sales admitted his frequent tardiness in going to the office. Although he was aware that he could be dismissed from the service anytime because of his habitual tardiness, he continued to report for work late in the hope that the Court would be lenient and would give him the chance to continue serving the Judiciary. He claimed that the thought of losing his job had greatly affected his health. He expressed deep remorse and sought the liberal treatment of the Court in considering his violations.

In an Agenda Report^[5] dated May 21, 2013, the OCA recommended that –

- (1) The Report dated 19 October 2011 x x x of the Leave Division, Office of Administrative Services, Office of the Court Administrator, be RE-DOCKETED as a regular administrative matter against Mr. Cesar E. Sales x x x for habitual tardiness; and
- (2) x x x Sales be FOUND GUILTY of habitual tardiness and accordingly DISMISSED from the service with forfeiture of retirement benefits except accrued leave credits, and with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.^[6]

All government officials and employees are required to render not less than eight hours of work per day for five days a week, or a total of 40 hours of work per week, exclusive of time for lunch. Generally, these hours are from eight o'clock in the morning to five o'clock in the afternoon, with lunch break between 12 noon and one o'clock in the afternoon.^[7] Under CSC Memorandum Circular No. 04, s. 1991, an officer or employee shall be considered habitually tardy if he is late for work, 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.^[8]

In the case of Sales, he had continuously incurred tardiness during the months of January to September 2011 for more than 10 times each month, except during the month of March when he only came in late 10 times.

This is the third time that Sales has been charged of habitual tardiness. The OCA Report^[9] shows that he has previously been penalized for habitual tardiness. He was reprimanded in A.M. No. P-08-2499, suspended for 30 days without pay in A.M. No. P-05-2049, and suspended for 3 months without pay in A.M. No. P-11-3022. Despite previous warnings that a repetition of the same offense would be dealt with more severely, Sales failed to mend his ways.

Sales' DTRs show that he is not only habitually tardy but also habitually absent from office. An officer or employee in the civil service shall be considered habitually absent if he incurs unauthorized absences exceeding the allowable 2.5 days monthly