



Republic of the Philippines
Supreme Court
Manila

EN BANC

OFFICE OF THE COURT
ADMINISTRATOR,
Complainant,

A.M. No. P-14-3260
(Formerly A.M. No. 12-2-38-
RTC)

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
VILLARAMA, JR.,
PEREZ,
MENDOZA,*
REYES,
PERLAS-BERNABE,
LEONEN, and
JARDELEZA, JJ.

-vs-

EDGAR S. CRUZ, Clerk III,
Regional Trial Court, Branch 52,
Guagua, Pampanga,
Respondent.

Promulgated:

SEPTEMBER 16, 2014

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RESOLUTION

Per Curiam:

This administrative matter stemmed from the report entitled "Summary of Absences Incurred by Edgar S. Cruz" submitted by the Chief of the Leave Division, Office of Administrative Services (OAS), Office of

the Court Administrator (OCA) on 6 February 2012. The report indicated that Edgar S. Cruz (Cruz), Clerk III, Branch 52, Regional Trial Court (RTC), Guagua, Pampanga, incurred three (3) unauthorized absences in November and four (4) unauthorized absences in December 2011.

In an indorsement¹ dated 8 March 2012, the OCA required Cruz to comment on the report submitted by the Leave Division, OAS, OCA.

In his letter² dated 23 April 2012, Cruz explained that he was forced to skip work during the dates reported because of circumstances beyond his control. He explained that since his wife works overseas, he had to attend to the needs of their children first before reporting for work. He added that he often got sick and, as proof, he submitted medical certificates showing that he was diagnosed and treated for systemic viral infection on 3 November 2011, acute gastro-enteritis on 8 November 2011, and an infected wound on 14 November 2011.

Cruz prayed for compassion from the Court and promised not to commit the same mistake again. He likewise promised to inform his superiors whenever he will absent himself from work.

The OCA found sufficient evidence to hold Cruz and recommended that he be dismissed from the service.³

We adopt the findings and recommendation of the OCA.

Cruz admitted skipping work without filing the corresponding leave applications during the dates mentioned in the report of the Leave Division, OAS, OCA. In his comment, Cruz could only present medical certificates to substantiate his explanation that he fell sick during the subject dates. He, however, failed to submit any duly accomplished and approved leave applications from his executive/presiding judge.

The Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws (Civil Service Rules) mandate that an employee must submit an application for both sick and vacation leaves, *viz*:

* On leave.

¹ *Rollo*, p. 4.

² *Id.* at 13.

³ *Id.* at 14-17; OCA Report dated 1 April 2014.

Rule XVI

Leave of Absence

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Section 16. All applications for sick leave of absence for one full day or more shall be on the prescribed form and shall be filed immediately upon the employee's return from such leave. Notice of absence, however, should be sent to the immediate supervisor and/or to the office head. Application for sick leave in excess of five days shall be accompanied by a proper medical certificate.

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Section 20. Leave of absence for any reason other than illness of an officer or employee or of any member of his immediate family must be contingent upon the needs of the service. Hence, the grant of vacation leave shall be at the discretion of the head of department/agency.

Under the Civil Service Rules, an employee should submit in advance, whenever possible, an application for vacation leave of absence for action by the proper chief of agency prior to the effective date of the leave. In case of sick leave of absence, the application should be filed immediately upon the employee's return. In the instant case, it is clear from respondent Cruz's own admission that he failed to file or acquire the necessary leave permits for his absences.

Under Administrative Circular No. 14-2002⁴ (Re: Reiterating the Civil Service Commission's Policy on Habitual Absenteeism), "[a]n officer or employee in the civil service shall be considered habitually absent if he incurs unauthorized absences exceeding the allowable 2.5 days monthly leave credit under the law for at least three (3) months in a semester or at least three (3) consecutive months during the year[.]"

Although strictly speaking respondent Cruz may not yet be considered habitually absent on the basis of his unauthorized absences in November and December 2011, he should still be penalized because his omissions clearly caused inefficiency and hampered public service. In *Re: Unauthorized Absences of Karen R. Cuenca, Clerk II, Property Division-Office of Administrative Services*,⁵ this Court held that under Administrative Circular No. 2-99, which took effect on 1 February 1999, "[a]bsenteeism and tardiness, **even if such do not qualify as 'habitual' or 'frequent'** under

⁴ Dated 18 March 2002 and took effect on 1 April 2002.

⁵ 493 Phil 547, 551 (2005). Emphasis supplied.

Civil Service Commission Memorandum Circular No. 04, Series of 1991, **shall be dealt with severely[.]”**

An evaluation of his record with the Employees’ Leave Division, OAS, OCA revealed that Cruz has the propensity of not reporting for work. From January to April 2012 alone, Cruz incurred thirty (30) absences, broken down as follows:

Month-Day-Year	Number of Absences
January 2012 (undertime/LWOP)	0.5 day
January 2-3, 12 and 31, 2012 (disapproved)	4 days
January 20 and 27, 2012 (VLWOP)	2 days
February 2012 (undertime/LWOP)	0.5 day
February 6, 9 and 13, 2012 (disapproved)	3 days
February 23-24 and 27, 2012 (VLWOP)	3 days
March 2012 (undertime/LWOP)	1 day
March 6-7, 2012 (disapproved)	2 days
March 5, 9, 23, 28 and 30, 2012 (VLWOP)	5 days
April 2012 (undertime/LWOP)	1.5 days
April 2, 4, 13, 17, 19, 23, and 26-27, 2012	7.5 days

It is evident from the aforesaid illustration that Cruz can be held administratively liable for being habitually absent from January to March 2012. In fact, such was a continuation of his absenteeism from November 2011. We also noted that he exceeded the number of absences allowed by law in April 2012.

This marks the second time that he can be found guilty of habitual absenteeism. In the Resolution dated 15 February 2012 in A.M. No. P-12-3040 (Judge Jonel S. Mercado v. Edgar Cruz, Clerk III, Branch 52, RTC, Guagua, Pampanga), the Court found respondent guilty of gross insubordination, neglect of duty, misconduct, absenteeism and tardiness and suspended him for one (1) year without pay and other benefits. Cruz was also sternly warned that a repetition of the same or similar offense shall be dealt with severely. It was established in that case that respondent Cruz defied and ignored several directives from his presiding judge to explain his

penchant for absenting himself from work without filing the required leave applications. It is evident that until now Cruz has not mended his ways.

Under Section 46 (b) of the Revised Rules on Administrative Cases in the Civil Service,⁶ frequent unauthorized absences in reporting for duty is classified as a grave offense punishable by suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from the service for the second offense.

There is no question that Cruz is again administratively liable. Although we commiserate with his situation, we cannot ignore the fact that his habitual absenteeism has caused inefficiency in the performance of his functions. We cannot countenance such infractions which seriously compromise efficiency and prejudice public service.

Time and again, this Court has pronounced that any act which falls short of the exacting standards for public office, especially on the part of those expected to preserve the image of the judiciary, shall not be countenanced. Public Office is a public trust. Public officers must at all times be accountable to the people, serve them with utmost degree of responsibility, integrity, loyalty and efficiency.⁷

WHEREFORE, we find Edgar S. Cruz, Clerk III, Regional Trial Court, Branch 52, Guagua, Pampanga, **GUILTY** of **HABITUAL ABSENTEEISM**. Accordingly, we **DISMISS** him from the service with forfeiture of all 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.

SO ORDERED.


MARIA LOURDES P. A. SERENO
Chief Justice

⁶ 18 November 2011.

⁷ *Executive Judge Rangel-Roque v. Rivota*, 362 Phil 136, 149 (1999) citing *Gano v. Leonen*, A.M. No. P-92-756, 3 May 1994, 232 SCRA 98, 101-102.





ANTONIO T. CARPIO
Associate Justice




PRESBITERO J. VELASCO, JR.
Associate Justice



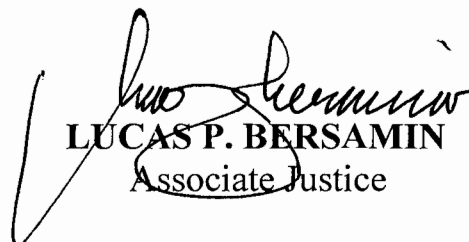
TERESITA J. LEONARDO-DE CASTRO
Associate Justice



ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice




JOSE PORTUGAL PEREZ
Associate Justice


(On leave)
JOSE CATRAL MENDOZA
Associate Justice



BIENVENIDO L. REYES
Associate Justice



ESTELA M. BERLAS-BERNABE
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

