

JUDGE ALPINO P. FLORENDO, COMPLAINANT, VS. EDMAR C. CADANO, PROCESS SERVER, MCTC, NARVACAN, ILOCOS SUR, RESPONDENT.*A.M. No. P-05-1983. October 20, 2005*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/05dc788f879f/>**PER CURIAM:**

This treats of the charge of habitual absenteeism and neglect of duty by Judge Alpino P. Florendo, Metropolitan Circuit Trial Court (MCTC), Narvacan, Ilocos Sur, in his letter-complaint dated March 27, 2003, against respondent Edmar C. Cadano (respondent), the process server of that court.

Judge Florendo alleges that he issued a memorandum on 31 July 2002 addressed to respondent calling attention to the latter's reported official and unofficial absences, as well as inefficient service of judicial processes, and requiring respondent to explain his conduct. However, respondent did not submit any written explanation as required but instead begged Judge Florendo for mercy, citing family problems and his other pending administrative case and earnestly promising to reform his ways.[1]

Reneging on his promise, respondent incurred occasional though short periods of absences from August to December 2002. He reverted to his old habits, incurring prolonged and continuous absences in January and February 2003. As a result, many cases before the trial court were postponed because subpoenas were not served.[2]

The foregoing prompted Judge Florendo to send to respondent another memorandum dated 7 March 2003, directing him to explain his infractions within ten (10) days from notice. Respondent did not bother to respond. Worse, he stopped reporting for work.[3]

Judge Florendo submitted a supplemental complaint dated 8 August 2003, where he stated that while respondent reported to office on 1 July 2003, he again went on unofficial leave of absence on several dates, namely: July 15, 16, 17, 22, 23, 29, 30, 31, August 1, 4, 5, 6, and 7, 2003.[4]

The Office of the Court Administrator (OCA) thrice directed respondent to submit his comment on the charge against him. The first is contained in the 1st Indorsement dated 7 July 2003 in relation to the first complaint of Judge Florendo; the second, in a 1st Indorsement dated 10 September 2003 with respect to the supplemental complaint; and the third, through a tracer letter dated 2 February 2004. The directive of the OCA met the same fate as the memorandum of Judge Florendo. Respondent did not heed them all.

The OCA arrived at the following conclusion:

Based on the aforementioned undisputed facts as stated in the complaint and supplemental complaint, respondent committed the offense of habitual absenteeism four (4) times, each time he was absent without leave for more than the allowable two and one-half monthly leave credit. Since he committed the offense four (4) times, the proper penalty is dismissal.

It recommended that respondent be dismissed from the service with forfeiture of retirement benefits except earned

leave credits with prejudice to reinstatement in any agency of the government, including government owned or controlled corporations.[5]

In a Resolution dated 4 April 2005, the Court ordered the re-docketing of the case as a regular administrative matter and referred it to the Executive Judge of the Regional Trial Court of Narvacan, Ilocos Sur for investigation, report and recommendation.[6]

Executive Judge Arturo B. Buenavista later sent several notices to the parties for them to appear before him but both parties failed to appear on two scheduled dates despite due notice.[7] Thereafter, Judge Buenavista wrote Deputy Court Administrator Jose P. Perez a letter dated 1 July 2005, wherein he recommends that the administrative case be dismissed for having been rendered moot and academic allegedly by the assumption by Lydia C. Halog on 16 July 2004 of the position held by the respondent.

A Resolution dated February 2, 2004 has indeed been issued by the Court dropping respondent from the rolls for having been on absence without leave since January 2, 2003, withholding his salaries and benefits and declaring his position vacant. The Resolution, however, was without prejudice to the outcome of respondent's administrative case. Hence, even as we have ascertained that Lydia C. Halog has assumed the position which has been declared vacant, we do not agree with the recommendation of Judge Buenavista that the case has thereby been rendered moot and academic.

It should be noted that the instant administrative complaint was filed on March 27, 2003, long before the Court resolved to drop respondent from the rolls on February 2, 2004. As such, the Court retains the authority to resolve this case.[8]

Respondent incurred several violations of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws (Omnibus Rules) by his habitual absenteeism and absences without official leave. Sec. 22(q), Rule VIII of the Omnibus Rules prescribes the penalty for frequent unauthorized absences as follows:

1[st] Offense-Suspension for six (6) months and one (1) day to one (1) year

2[nd] Offense-Dismissal

An officer or employee in the civil service shall be considered habitually absent if he incurs unauthorized absence exceeding the allowable 2.5 days monthly leave credit under the Leave Law for at least three months in a semester or at least three (3) consecutive months during the year.

Section 61, Rule XVI thereof, on the other hand, provides the penalty for being absent without an approved leave:

Sec. 61. Effect of absences without approved leave.-An official or an employee who is continuously absent without an approved leave for at least thirty (30) working days shall be considered on absence without official leave (AWOL) and shall be separated from the service or dropped from the rolls without prior notice. He shall however, be informed, at his address appearing on his 201 files or his last known written address, of his separation from service, not later than five (5) days from its effectivity...

He as much confirmed his infractions by his willful failure to comment on the complaint filed against him. As correctly evaluated by the OCA, respondent's failure to file a comment implies that he does not deny the truth of the facts alleged in the complaint and supplemental complaint.

Respondent's habitual absence without leave no doubt caused inefficiency in the public service. As a process server, respondent has the responsibility of serving court processes, preparing and submitting returns of service of these processes, and delivering the court's mail. His failure to perform these duties because of his prolonged

unauthorized absences amounts to gross neglect of duty.

All too often, we have stressed 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, and serve them with the utmost degree of responsibility, integrity, loyalty and efficiency. A court employee's absence without leave for a prolonged period of time constitutes conduct prejudicial to the best interest of public service and warrants the penalty of dismissal from the service with forfeiture of benefits.[9]

Moreover, respondent's indefensible disregard of the orders of the OCA and Judge Buenavista for him to comment on the complaint filed against him shows his disrespect for and contempt of the Court. Such contumacious conduct should not go unpunished.

It should be borne in mind that a resolution of the Supreme Court requiring comment on an administrative complaint against officials and employees of the judiciary should not be construed as a mere request from the Court, nor should it be complied with partially, inadequately or selectively.[10] Respondent's deliberate refusal to comply with the resolutions of this Court evinces gross misconduct and insubordination.

In sum, respondent's negligence in the performance of his duties by his habitual absence without leave and audacious defiance of the Court's orders warrant his dismissal from the service.

WHEREFORE, respondent Edmar Cadano is hereby DISMISSED from the service with forfeiture of all benefits except earned leave credits, if any, with prejudice to re-employment in any branch or instrumentality of the government, government owned or controlled corporations included.

SO ORDERED.

Davide, Jr., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, Tinga, and Garcia, JJ., concur.
Chico-Nazario, J., on official leave.

[1] Id. at 1.

[2] Ibid.

[3] Ibid.

[4] Id. at 9.

[5] Id. at 14.

[6] Id. at 22.

[7] Id. at 24-28.

[8] Ilagan vs. Amar, A.M. No. P-04-1858, August 16, 2004, 436 SCRA 535.

[9] Loyao vs. Manatad, A.M. No. P-99-1308, May 4, 2000.

[10] Alonto-Frayna v. Astih, A.M. No. SDC-98-3, December 16, 1998.

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