

ENGRACIO M. ESCASINAS, JR., COMPLAINANT, VS. GARY G. LAWAS, CLERK III, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, MAKATI CITY, RESPONDENT

A.M. NO. P-06-2284 (Formerly OCA I.P.I. No. 05-2252-P). December 19, 2006

Ponente: TINGA, J.

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TINGA, J.:

This treats of the letter-complaint^[1] dated June 15, 2005 filed by Clerk of Court and Ex-Officio Sheriff Engracio M. Escasinas, Jr. of the Office of the Clerk of Court, Regional Trial Court, Makati City, charging Gary Lawas, Clerk III of the same office, with Frequent Unauthorized Absences and Tardiness.

Escasinas reports that Lawas incurred 75 days of continuous absences without approved leave from February 18 to June 15, 2005 (except May 4 to 5, 2005), and 148 days of absences and 65 instances of tardiness in 2004. Consequently, Escasinas issued several memoranda warning Lawas that he will be sanctioned for his persistent absences and tardiness, and failure to submit his daily time record and applications for leave on time.

In his Comment^[2] dated August 31, 2005, Lawas admits that he had incurred frequent unauthorized absences and had been repeatedly tardy but asks for the Court's leniency explaining that his severe rheumatic arthritis had caused his lapses. He adds that he has been able to report for work since July 4, 2005.

The Certification^[3] dated August 11, 2005 issued by the Leave Division of the Office of the Court Administrator (OCA) shows that Lawas was tardy 65 times in 2004. That same year, he incurred a total of 146.5 absences,^[4] 23 of which were unauthorized, his applications for leave for the months of June and July 2004 having been disapproved due to insufficient leave credits. He also had a total of 74 days vacation leave without pay and 31.5 days sick leave without pay.

The OCA further notes that Lawas incurred a total of 95 absences from February to June 2005, all with disapproved leave applications and therefore, unauthorized.

In its Memorandum^[5] dated August 8, 2006, the OCA recommends that Lawas be suspended for a period of six (6) months without pay for Habitual Absenteeism and Tardiness.

We required the parties to manifest whether they are willing to submit the case for decision on the basis of the pleadings and records already filed with the Court.^[6] Both Lawas and Escasinas expressed their willingness is contained in their Manifestations dated November 3, 2006 and October 25, 2006, respectively.

We agree with the recommendation of the OCA.

Sec. 23(q), Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 (Rules) provides that "[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 Leave Law for at least three (3) months in a semester or at least three (3) consecutive months during the year." Paragraph (c) of the same section provides

that "[A]n employee shall be considered habitually tardy if he incurs tardiness, regardless of the number of minutes, ten times a month for at least two (2) months in a semester or at two (2) consecutive months during the year."

Lawas' frequent unauthorized absences and habitual tardiness are on record and acknowledged by him. He offers the explanation that his recurrent ailment is to blame for his poor attendance but his reason does not satisfy us because it does not account for his failure to timely file his leave applications. Moreover, as correctly pointed out by the OCA, a proper sense of responsibility and courtesy should have prompted Lawas to at least notify his office on the days that he would be absent.

In not a few cases, this Court has held that habitual absenteeism and unreasonable tardiness are impermissible. The Court has emphasized the need for officials and employees of the judiciary to strictly observe official time in order to inspire public respect for the judicial system.[7]

Under the Rules, frequent unauthorized absences, loafing or frequent unauthorized absences from duty during regular office hours shall be punishable by suspension for six (6) months and one (1) day to one (1) year for the first offense, and by dismissal for the second offense. On the other hand, habitual tardiness is punishable by reprimand for the first offense, suspension for one (1) day to thirty (30) days for the second offense, and dismissal for the third offense.

Considering Lawas' admission of his guilt and promise to improve his ways, we find the recommended penalty of suspension for six (6) months appropriate.

WHEREFORE, Gary Lawas, Clerk III of the Office of the Clerk of Court-Regional Trial Court, Makati City, is found GUILTY of Frequent Unauthorized Absences and Habitual Tardiness and is hereby SUSPENDED for a period of Six (6) Months Without Pay, with WARNING that subsequent like infractions shall be dealt with more severely.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 1-44, with annexes.

[2] Id. at 46-53.

[3] Id. at 88-89.

[4] The Memorandum dated August 8, 2006 of the OCA states that the Lawas incurred 148 absences in 2004 based on the Certification of the OCA, Leave Division.

[5] Rollo, pp. 96-100.

[6] Resolution dated September 18, 2006.

[7] *Pagulayan-Torres v. Carlota Gomez*, A.M. No. P-03-1716, June 9, 2005, 460 SCRA 19, 24; *Re: Habitual Tardiness Incurred by Mr. Gideon M. Alibang For the 1st Semester of 2003*, A.M. No. 2003-11-SC, June 15, 2004, 432 SCRA 53.

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