

JUDGE ILUMINADA P. CABATO, COMPLAINANT, VS. FELIX S. CENTINO, PROCESS SERVER, REGIONAL TRIAL COURT, BRANCH 59, BAGUIO CITY, RESPONDENT.

A.M. No. P-08-2572 (Formerly OCA I.P.I. No. 08-2950-P). November 19, 2008

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Before the Court is the complaint[1] of Judge Iluminada P. Cabato of the Regional Trial Court (RTC), Branch 59, Baguio City, charging Felix S. Centino, Process Server detailed at Branch 59, with gross misconduct and serious misbehavior.

It appears that Centino was absent for 10.5 days in May 2006, 6 days in April 2006, 8.5 days in March 2006, 8.5 days in February 2006, and 31.5 days in 2005. On June 9, 2006, Judge Cabato issued a memorandum requiring Centino to explain his 65 absences without approved leave and failure to submit his Daily Time Records (DTR) within 72 hours from receipt of the memorandum.[2] Centino failed to submit his answer within the time allowed. Judge Cabato issued another memorandum directing Centino to show cause why he should not be charged administratively, and also to explain why he was likewise absent without approved leave from June 1 to 27, 2006.[3] Again, Centino failed to submit the required explanation. Thus, Judge Cabato filed the instant complaint.

Judge Cabato alleged that Centino's indifference to her memoranda and failure to submit the required applications for leave and DTRs constitute gross misconduct and serious misbehavior.[4] Attached to her complaint were copies of the attendance log sheets[5] of the RTC, Branch 59, and a certification[6] issued by the RTC Clerk of Court that Centino submitted his last DTR in October 2005 and last applications for leave on September 9 and 16, 2005.

In his comment, Centino averred that he tried to reconstruct his DTR and leave application forms, but could not locate his records anymore. He sought forgiveness for his failure to apply for leave of absence and submit his DTR from February to May 2006, citing serious domestic problems with his wife and children as reason for noncompliance with Civil Service rules. He vowed not to repeat his violation and stressed that he has, in fact, reported back to work since November 2006 and has regularly complied with the rules. He likewise pleaded for compassion in view of his 22 years of service.[7]

It likewise appears on record that on January 19, 2007, the Office of the Court Administrator (OCA) indorsed to Judge Cabato for signature and/or comment Centino's Bundy Cards and leave applications for the period February to September 2006. Judge Cabato commented that said Bundy Cards and leave applications were never submitted to her for signature and that Centino's failure to file them was the reason for the instant complaint. Judge Cabato also confirmed Centino's return and regular submission of DTR.[8]

Acting on this information, the OCA, Leave Division, informed Centino that his leave applications were acted upon as follows: his absence for 21 days from June 1 to 30, 2006 were credited to his available sick leave credits, while his absence for 167.5 days from February 1 to May 31 and from July 1 to October 31, 2006 were treated as

vacation leave without pay.[9] The OCA, Leave Division, also issued a certification that Centino incurred 22 unauthorized absences in August 2006, 21 in September 2006 and 7 in November 2006.[10]

On September 11, 2008, the OCA submitted a memorandum[11] to this Court finding Centino guilty of habitual absenteeism and recommending that he be suspended for three months without pay.

We adopt the recommendation.

Centino incurred more than 2.5 days of unauthorized absences per month for four months in the first semester of 2006. As borne by the records and detailed in Judge Cabato's first memorandum, Centino was absent for 8.5 days in February 2006, 8.5 days in March 2006, 6 days in April 2006 and 10.5 days in May 2006. Centino admitted he did not seek approval for these absences. The RTC Clerk of Court also certified that Centino filed his last application for leave in September 2005.

Under Section 23(q)[12] of the Omnibus Civil Service Rules and Regulations,[13] 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 leave credit under the Leave Law for at least three months in a semester or at least three consecutive months during the year.

Administrative Circular No. 14-2002[14] reiterates the said Civil Service rule on habitual absenteeism. Worth stressing, by reason of the nature and functions of their office, officials and employees of the judiciary must faithfully observe the constitutional canon that public office is a public trust. This duty calls for the observance of prescribed office hours and the efficient use of official time for public service, if only to recompense the government, and ultimately, the people who shoulder the cost of maintaining the judiciary. Thus, to inspire public respect for the justice system, court officials and employees should at all times strictly observe official time. As punctuality is a virtue, absenteeism and tardiness are impermissible.[15]

Under Administrative Circular No. 14-2002 and Section 23(q) of the Omnibus Civil Service Rules and Regulations, habitual absenteeism is penalized by suspension for six months and one day to one year for the first offense. Nonetheless, we agree with the lower penalty proposed by the OCA. The OCA aptly considered Centino's act to reform as a mitigating circumstance. As confirmed by Judge Cabato, Centino has returned to work, reports regularly, and submits his DTR and leave applications.

This is not the first time that we imposed a lower penalty. We have mitigated the imposable penalty for humanitarian reasons. We have also considered length of service in the judiciary, acknowledgment of infraction, remorse, and family circumstances in determining the penalty.[16] Here, we considered Centino's length of service, acknowledgment of his infraction, and apology to determine the appropriate penalty. However, these additional mitigating circumstances cannot further affect the penalty recommended by the OCA because they are offset by Centino's disobedience to Judge Cabato's orders and the sheer number of his absences which could have resulted in his separation from the service. Centino's vacation leave without pay totaled 167.5 days from February 1 to May 31 and from July 1 to October 31, 2006. Section 57[17] of the Omnibus Rules on Leave[18] provides that leave without pay in excess of one month shall require the clearance of the proper head of department or agency. Centino, however, did not even submit his leave applications from February to September 2006 for approval or signature by his superior, Judge Cabato. Worse, Centino continuously incurred 43 unauthorized absences: 22 unauthorized absences in 22 working days[19] in August 2006 and 21 in 21 working days in September 2006. Under Section 63[20] of the Omnibus Rules on Leave, an official or employee who is continuously absent without approved leave for at least 30 working days shall be considered on absence without official leave and shall be separated from the service or dropped from the rolls.

WHEREFORE, we find Felix S. Centino, Process Server, Regional Trial Court, Branch 59, Baguio City, GUILTY of habitual absenteeism, and SUSPEND him for three months without pay effective upon notice hereof. He is STERNLY WARNED that the same or similar act or acts of disobedience in the future will be dealt with more severely.

To enable us to determine the effectivity of the penalty imposed, Centino is DIRECTED to report the date of his receipt of this Resolution to this Court.

SO ORDERED.

Carpio Morales, Tinga, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo, pp. 5-7.

[2] Id. at 9-11.

[3] Id. at 13.

[4] Id. at 7.

[5] Id. at 36-124.

[6] Id. at 17.

[7] Id. at 34.

[8] Id at 134.

[9] Id. at 133.

[10] Id. at 132.

[11] Id. at 1-4.

[12] SEC 23. Administrative offenses with its (sic) corresponding penalties are classified into grave, less grave, and light, depending on the gravity of its (sic) nature and effects of said acts on the government service.

The following are grave offenses with its corresponding penalties:

x x x x

(q) Frequent unauthorized absences or tardiness in reporting for duty, loafing or frequent unauthorized absences from duty during regular office hours

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 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.

x x x x

[13] IMPLEMENTING BOOK V OF EXECUTIVE ORDER NO. 292 AND OTHER PERTINENT CIVIL SERVICE LAWS. Effective February 14, 1992.

[14] REITERATING THE CIVIL SERVICE COMMISSION'S POLICY ON HABITUAL ABSENTEEISM, issued by former Chief Justice Hilario G. Davide, Jr. Effective April 1, 2002.

[15] Re: Habitual Absenteeism of Mr. Fernando P. Pascual, A.M. No. 2005-16-SC, September 22, 2005, 470 SCRA 569, 572; Re: Habitual Absenteeism of Mr. Erwin A. Abdon, Utility Worker II, A.M. No. 2007-13-SC, April 14, 2008, 551 SCRA 130, 132-133.

[16] Re: Habitual Absenteeism of Mr. Fernando P. Pascual, id. at 573.

[17] Sec. 57. Limit of leave without pay. - Leave without pay not exceeding one year may be granted, in addition to the vacation and/or sick leave earned. Leave without pay in excess of one month shall require the clearance of the proper head of department or agency.

[18] RULE XVI OF THE OMNIBUS RULES IMPLEMENTING BOOK V OF EO 292.

[19] As reduced by one day. August 21, 2006, Monday, was declared non-working holiday (Ninoy Aquino Day), see www.gov.ph/faqs/holidays.asp, visited November 4, 2008 at 3:10 p.m.

[20] Sec. 63. Effect of absences without approved leave. - An official or an employee who is continuously absent without 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...

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