

RE: DROPPING FROM THE ROLLS OF MS. GINA P. FUENTES, COURT STENOGRAPHER I, MUNICIPAL CIRCUIT TRIAL COURT, MABINI, COMPOSTELA VALLEY

A.M. NO. 09-3-50 MCTC. October 09, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

On August 24, 2007, the Employees' Leave Division of the Office of Administrative Services, Office of the Court Administrator (OCA), received the vacation leave applications of Gina P. Fuentes (Gina), Court Stenographer I of the Municipal Circuit Trial Court (MCTC) of Mabini, Compostela Valley, covering the periods March 1 to 30, 2007; May 1 to 31, 2007; June 1 to 31, 2007; and July 1 to 31, 2007.[1] The leave application for March 2007 was favorably recommended by then Acting Presiding Judge Antonio A. Betonio, and the applications from May 1 to May 31, 2007, June 1 to June 30, 2007, and July 1 to 31, 2007 were favorably recommended by Presiding Judge Divina T. Samson (Judge Samson).[2]

Gina did not report for work in April 2007 but she did not submit a leave application for the purpose, albeit in her Daily Time Record (DTR), she indicated that she was in such month on leave.[3]

In his letter of August 6, 2007 transmitting the leave applications, Judge Samson stated that Gina had been abroad since March 1, 2007, as confirmed by her husband who had been collecting her pay check twice a month.[4]

By Memorandum[5] dated January 11, 2008 addressed to the Chief Justice, the OCA noted that Gina went abroad without securing authority from the Court in violation of Memorandum Order No. 14-2000 dated November 6, 2000 reading:

Effective immediately, no official or employee of the Supreme Court in particular and the Judiciary in general, shall leave for any foreign country, whether on official business or official time or at one's own expense, without first obtaining permission from the Supreme Court through the Chief Justice and the Chairmen of the Divisions pursuant to the resolution in A.M. No. 99-12-08-SC. (Underscoring in the original.)

The OCA thus recommended that

x x x (1) Ms. Gina P. Fuentes be DIRECTED to explain in writing within ten (10) days from notice on her failure to comply with Memorandum Order No. 14-2000; (2) the leave applications of Ms. Gina P. Fuentes from March 1-30; May 1-31; June 1-30; and July 1-31, 2007 be DISAPPROVED and considered UNAUTHORIZED for violation of Memorandum Order No. 14-2000; (3) her absences for the month of April 2007 be likewise considered UNAUTHORIZED; (4) she be DIRECTED to immediately report back for work, otherwise, her name shall be recommended to be dropped from the rolls; and (5) the Financial Management Office be DIRECTED to release Ms. Fuentes' withheld salaries and benefits upon receipt of notice from the OCA Leave Division of her compliance and return to work.[6] (Emphasis in the original)

The Chief Justice approved[7] the OCA recommendations on February 11, 2008. More than a year later or on

March 24, 2009, the OCA noted that Gina had not submitted her "bundy cards" since August 2007 and had not yet reported back for work.[8] Thus it recommended that

x x x (1) the name of Ms. Gina P. Fuentes be DROPPED FROM THE ROLLS effective August 1, 2007 for having been on absence without official leave (AWOL); (2) her position be declared VACANT>; and (3) she be INFORMED of her separation from the service or dropping from the rolls at the address appearing on her 201 file, that is at Park 2, San Antonio, Mabini, Compostela Valley.[9] (Emphasis in the original; underscoring supplied)

The recommendation of the OCA is well-taken.

Section 63, Rule XVI of the Omnibus Rules on Leave,[10] as amended by Memorandum Circular 13, series of 2007, is quoted by the OCA as follows:

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 without prior notice. However, when it is clear under the obtaining circumstances that the official or employee concerned has established a scheme to circumvent the rule by incurring substantial absences though less than thirty (30) working days three times in a semester, such that a pattern is already apparent, dropping from the rolls without notice may likewise be justified.

If the number of unauthorized absences incurred is less than thirty (30) working days, a written Return-to-Work Order shall be served to him at his last known address on record. Failure on his part to report for work within the period stated in the Order shall be a valid ground to drop him from the rolls.[11] (Emphasis and underscoring supplied)

Gina's applications for leave from March 1, 2007 up to March 31, 2007 and from May 1, 2007 up to July 31, 2007 inclusive were disapproved and considered unauthorized, as reflected above. A court employee's absence without leave for a prolonged period of time disrupts the normal functions of the court; constitutes conduct prejudicial to the best interest of public service; contravenes a public servant's duty to serve the public with the utmost degree of responsibility, integrity, loyalty, and efficiency; and manifests disrespect for one's superiors and colleagues, in particular, and for the service and the public at large, in general.[12] Gina must thus be dropped from the rolls.

WHEREFORE, Gina P. Fuentes, Court Stenographer I of the Municipal Circuit Trial Court of Mabini, Compostela Valley is DROPPED FROM THE ROLLS effective August 1, 2007. Her position is now declared VACANT.

Let a copy of this Resolution be served on Ms. Fuentes at her address appearing in her 201 file.

SO ORDERED.

Corona[*], Nachura[***], Brion, and Abad, JJ., concur.

[*] Additional member per Special Order No. 718 dated October 2, 2009.

[**] Designated Acting Chairperson per Special Order No. 690 dated September 4, 2009.

[***] Additional member per Special Order No. 730 dated October 5, 2009.

[1] Rollo, p. 4.

[2] Ibid.

[3] Ibid.

[4] Id. at 4, 6.

[5] Id. at 4-5.

[6] Id. at 5.

[7] Ibid.

[8] Id. at 1.

[9] Id. at 2.

[10] SECTION 63. Effect of Absences Without Approved Leave. -- An official or an employee who is continuously absent without approved leave for at least thirty (30) calendar 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 of his separation from the service, not later than five (5) days from its effectivity.

If the number of unauthorized absences incurred is less than thirty (30) calendar days, a written Return-to- Work Order shall be served to him at his last known address on record. Failure on his part to report for work within the period stated in the order shall be a valid ground to drop him from the rolls.

[11] Rollo, p. 2.

[12] Vide Re: Absence Without Official Leave (AWOL) of Ms. Fernandita B. Borja, Clerk II, Br. 15, MCTC, Bilar, Bohol, A.M. No. 06-1-10-MCTC, April 13, 2007, 521 SCRA 18, 20.

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