

JOSE L. MADRID, COMPLAINANT, VS. MELCHOR C. RAZO, JR., RESPONDENT.

Adm. Matter No. P-210. December 16, 1974

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Deputy Clerk of Court Jose L. Madrid of the Court of First Instance of Sorsogon, Branch III, charges Melchor C. Razo, Jr., Stitcher of said Branch with:

1. Insubordination — for repeated absences and irregular attendance despite complainant's repeatedly calling the attention of respondent thereto, which repeated acts of disobedience impelled complainant to report the matter to the Presiding Judge of Branch III;
2. Inefficiency — for appending orders, documents, notices and other papers to records to which they do not pertain; when assigned to attend to the mails, for not filling up the mailing record and misplacing or losing receipts and return cards; and for improper performance of other tasks assigned to him; and
3. Habitual absenteeism — for having been absent for several days in the months of July, August, September and October, 1973 without filing the corresponding applications therefor until October 26; and for failing to accomplish on time his daily time records for the months of July, August and September, 1973.

After conducting the investigation of the charges at which both complainant and respondent presented their testimonial and documentary evidence, Presiding Judge Aquilino. P. Bonto of the Court of First Instance of Sorsogon, Branch III, submitted the following findings:

"The charge for insubordination appears to be adequately substantiated by complainant's evidence. Although complainant Jose L. Madrid's testimony is not corroborated by the declaration of any other witness, the fact stands out that he called the respondent's attention officially through his undated letter (Exh. 'A'), and transmitted to the Supreme Court, unsigned, the respondent's daily time records for the months of July, August and September 1973 (Exhs. 'G', 'F' & 'D'); his applications for vacation leave covering the periods from July 9 to July 14, 1973 (Exh. 'G-1'); from July 21 to July 23, 1973 (Exh. 'I') from September 10 to September 12, 1973 (Exh. 'D-1'); and from September 15 to September 21, 1973 (Exh. 'E'), as well as the applications for sick leave of absence for the periods from July 30 to July 31, 1973 (Exh. 'H') and from August 1 to August 11, 1973 (Exh. 'F-1'). These were sent in bunch only on October 26, 1973 (Exh. 'C'). Atty. Madrid also sent unsigned to the Supreme Court the respondent's daily time record for the month of October 1973 (Exh. 'J-1') and his application for vacation leave of absence from October 1 to October 6, 1973 (Exh. 'J-2') only on December 14, 1973 (Exh. 'J'). Indeed these acts of Atty. Madrid would not have been taken by him without any basis, thereby taking cognizance of respondent's irregularity in the performance of his duty.

"On the second charge of inefficiency, this Court finds the complainant's evidence to be insufficient. The specification has not been amply supported by any other evidence save the complainant's testimony. Beyond asserting in a very general way that the respondent was inefficient, the complainant presented no other witness or any record of the Court to attest to the supposed incompetence and negligence of the respondent. Moreover,

the stitching of records or the mailing of communications does not entail a high degree of skill, hence, it would be an exaggeration to hold that any employee could be inefficient in these particular tasks. Perhaps, what the complainant means by incompetence is willful refusal of the respondent to attend to the work assigned to him. But in this the charge should be for insubordination or disobedience, not inefficiency.

"On habitual absenteeism, this charge finds ample support in the documents presented by the complainant, which are the applications for leave of absence filed by the respondent himself. It appears therefrom that the respondent was absent from July 9 to July 14, 1973 (Exh. 'G-1') 'to attend to a very personal matter' (Exh. 'G-2'); from July 21 to July 23, 1973 (Exh. 'I'), for an unspecified reason; from July 30 to July 31, 1973 (Exh. 'H'), supposedly for illness (Exh. 'H-1') which however, was not supported by any medical certificate; from August 1 to August 11, 1973 (Exh. 'F-1'), for an unstated reason, although the medical certificate issued by Dr. Angelita J. Ago of the Ago General Hospital (Exh. '4') as well as the Medicare benefits voucher (Exh. '4-A') show that the respondent was confined in the said hospital for acute pyelonephritis; from September 10 to September 12, 1973 (Exh. 'D-1') 'to attend to a very personal matter' (Exh. 'D-2'); from September 15 to September 21, 1973 (Exh. 'E') 'to attend to the funeral of my nephew' (Exh. 'E-1'), a reason not supported by any evidence; and from October 1 to October 6, 1973 (Exh. 'J-2') for a personal reason (Exh. 'J-3'). All told, the respondent was absent for a total number of thirty-four days, exclusive of Sundays and holidays, out of which he was only able to justify his absence for seven days in the month of August 1973, as shown by the medical certificate (Exh. '4').

"If it is true that most of the absences were caused by a recurring kidney ailment, the respondent should have said so in his applications for leave of absence, instead of merely relying upon 'personal' reasons or no reason at all to prove his absence. And his declaration that he could not get any doctor's certificate to support his claim of ailment because he usually had himself treated by herbolarios does not appear convincing in the face of his statements that he had ready access to no less than four physicians whom he mentioned as Dr. Casimiro, Dr. Wilhelmo Abrantes, Dr. Dominador Bolunia, and Dr. Ago. The respondent attempted to prop his allegations of illness by submitting the certification issued by Dr. Bolunia (Exh. '3') and the medical certificate issued by Dr. Abrantes (Exh. '2'). However, aside from the fact that these documents do not cover the periods mentioned in the complaint, thus rendering their submission superfluous, Exhibit '3', or Dr. Bolunia's certification, does not serve respondent's purpose any. On the contrary, it works against his interest because it states in no uncertain terms that the respondent 'is physically fit to return to duty from his sick leave.'"

The evidence on record support the aforesaid findings.

WHEREFORE, RESPONDENT MELCHOR C. RAZO, JR. IS HEREBY ORDERED SUSPENDED FOR A PERIOD OF SIX (6) MONTHS WITHOUT PAY, WITH THE WARNING THAT A REPETITION OF SUCH SIMILAR ACTS WOULD BE SEVERELY DEALT WITH.

Castro, Chairman, Teehankee, Esguerra, and Muñoz Palma, JJ., concur.

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