

JUDGE RAPHAEL B. YRASTORZA, SR., PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 14, CEBU CITY, COMPLAINANT, VS. MICHAEL A. LATIZA, COURT AIDE, REGIONAL TRIAL COURT, BRANCH 14, CE...

A.M. No. P-02-1610 (Formerly AM OCA IPI No. 02-1318-P). November 27, 2003

Ponente: CARPIO, J.

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CARPIO, J.:

The Facts

Judge Raphael B. Yrastorza, Sr. ("Judge Yrastorza"), presiding judge of the Regional Trial Court of Cebu City, Branch 14 ("RTC-Branch 14"), issued Office Memo No. 3 dated 22 August 2001 ("Memo") addressed to respondent Michael A. Latiza ("respondent"), Court Aide of the same court. The Memo stated that respondent was absent for work without leave on 13, 20, 21, and 22 August 2001 and did not notify the office of the reason for such absences. The co-employees of respondent saw him at the Palace of Justice loitering and reeking of liquor. Respondent's actuations being detrimental to the service, Judge Yrastorza gave respondent seventy-two hours from receipt of the Memo to explain why no disciplinary action should be taken against him.

In her Affidavit dated 29 August 2001, Cecilia A. Deguilmo ("Deguilmo"), Clerk of Court V of RTC-Branch 14, stated that on 13 August 2001 respondent was absent without filing an application for leave. Deguilmo also stated that respondent did not inform the office of the cause for his absence. Deguilmo further stated that on 20 August 2001 respondent did not show up for work from 8:00 a.m. to 12:00 noon but went to the office at past noontime to get something from his office drawer. Deguilmo noticed respondent to be "unusually flushed in the face (reddened) and that he reeked with liquor." Deguilmo stated that respondent then left the office without a word. Lastly, Deguilmo stated that from 20 August 2001 up to 24 August 2001, respondent was again absent without submitting an application for leave of absence.

In her Affidavit dated 29 August 2001, Desiree A. Salvador ("Salvador"), Stenographer of the same court, stated that on 20 August 2001, respondent was at the main door inside the Palace of Justice. Salvador took the occasion to remind respondent of his unpaid bill for long distance calls he made using the office phone. Salvador noticed that respondent's face was red, his eyes were "sleepy" and he smelled of liquor.

On 29 August 2001, respondent, with the assistance of Atty. Elisa Porio ("Atty. Porio") of the Public Attorney's Office, submitted a written explanation that he was "under emotional stress" and could hardly sleep well "because of some family problems." Respondent admitted his absences from 20 August to 24 August 2001 "because my 8-month-old child had a fever and I had barely enough money to spend for our food and medicines." Respondent admitted that he was at the vicinity of the Palace of Justice on 20 August 2001 because he was looking for moneylenders who could extend credit to him. Respondent admitted he had a "few drinks at home" before he went to the Palace of Justice because "it was the only way where I could approach moneylenders courageously and without shame."

In his written explanation, respondent claimed he sent his wife to the office on 24 August 2001 to inform the clerk of court of the reason for his absence. Respondent also claimed that he prepared his application for leave for 20 August 2001 to 24 August 2001. However, respondent alleged that he was not able to submit his leave application sooner for approval because he could not produce a medical certificate for his son whom he did not bring to a doctor for lack of money. Respondent likewise admitted that he forgot to file his application for leave of absence for 13 August 2001. Respondent asked for compassion and understanding of his present predicament. Attached to his explanation were his applications for leave of absence for 13, 20, 21, 22, 23 and 24 August 2001, which he submitted for approval by the presiding judge.

On 8 September 2001, Judge Yrastorza issued a Memorandum appointing Legal Researcher Teotimo Vallar II, Stenographer Elizabeth Morata and Clerk III Grace Pauline Llido, all of RTC-Branch 14, as members of a Panel of Investigators ("Panel") to receive evidence on this case and report thereon. Atty. Porio represented respondent.

Findings and Recommendations of the Panel of Investigators

The Panel submitted on 19 October 2001 the following findings:

(1)

That Michael Latiza is the incumbent Court Aide of RTC Branch 14, Cebu City;

(2)

That on 13 August 2001, respondent absented himself from work without permission, without filing his leave of absence;

(3)

That again starting 20 August 2001, he absented himself from work without filing his Application for Leave, without asking prior permission;

(4)

That on the same date, 20 August 2001, at past 12:00 noon, respondent came to RTC Branch 14 inebriated (as admitted), he was likewise seen at the vicinity of the main door of the Palace of Justice loitering between 1:30 to 2:00 P.M., in the same condition;

(5)

That respondent absented himself from work starting 20 August 2001 up to 24 August 2001 or for the entire week and it was only on 24 August 2001 when respondent's wife came to inform the office of the absence of respondent;

(6)

That it was only on 27 August 2001 that respondent filed his application for leave for all the aforesaid absences (Exh. "1-A" and "1-B"). [1]

The Panel likewise submitted on 25 November 2001 its recommendations. On the charge of absences without filing an application for leave, the Panel recommended the exoneration of respondent since there was substantial compliance when respondent submitted his applications for leave of absence on 27 August 2001, although late.

On the charge of drunkenness during office hours which occurred at past 12:00 noon to 2:00 p.m. of 20 August

2001, the Panel opined that respondent was technically absent and not on duty. The Panel stated that respondent did not commit irrational acts but merely exhibited flushed or red face and sleepy eyes, and smelled of liquor. The Panel, however, found respondent guilty of simple misconduct and recommended that respondent be meted the penalty of one-month suspension without pay. The Panel observed that respondent acted with arrogance and disrespect in entering the Palace of Justice reeking of liquor. Before this, respondent displayed himself at the main door of the Palace of Justice doing nothing as if idling his time away.

In the Resolution dated 11 January 2002, Judge Yrastorza approved the Findings and Recommendations of the Panel that respondent be held liable for arrogance and disrespect and for simple misconduct. He directed the forwarding of the entire records of this case to the Office of the Court Administrator ("OCA") for "possible review and implementation."

OCA Report and Recommendation

OCA agreed with the finding of the Panel that respondent is guilty of simple misconduct. OCA opined that basic decorum demands that court employees behave in a manner that would protect the integrity of the courts and promote public confidence in the judiciary. Respondent should be mindful that when he showed up drunk at the Palace of Justice on 20 August 2001, he ignored the negative impact his misconduct caused his co-employees and the public present at that time. OCA recommended the suspension of respondent for one month and one day without pay for simple misconduct.

The Court's Ruling

In the Resolution of 19 February 2003, the Court required the parties to manifest if they were willing to submit the case for resolution based on the pleadings filed. Judge Yrastorza manifested that he was submitting the case for resolution based on the pleadings and records on file. Likewise, in a letter dated 24 March 2003 addressed to the Court Administrator, Judge Yrastorza manifested that respondent had not been reporting for work since 10 February 2003 and thus respondent could no longer submit a manifestation. Judge Yrastorza further averred that respondent reported to the judge's office only to submit a letter of resignation dated 19 March 2003, his resignation to take effect on the same date.

In a letter dated 18 February 2003 addressed to the Court Administrator, Atty. Aurora Ventura-Villamor, Branch Clerk of Court of RTC-Branch 14, stated that respondent had been absent without leave since 10 February 2003 without any explanation. Atty. Ventura-Villamor's letter also stated that respondent did not submit his Daily Time Record for January 2003. The letter further stated that money amounting to P118,040 inside an attaché case was found to be short of P24,800. The money, kept in the locked steel storage cabinet of the office of the branch clerk of court, was presented as evidence in Criminal Case No. CBU-50474 entitled *People of the Philippines v. Danilo Ceniza*. In her letter, Atty. Ventura-Villamor stated that respondent admitted liability for the loss of the amount, and that the police was investigating the matter. Atty. Ventura-Villamor, as branch clerk, requested the withholding of respondent's salary.

On 14 October 2003, the Court En Banc issued a Resolution in A.M. No. 03-10-576-RTC accepting the resignation of respondent, without prejudice to the outcome of the proceedings in the administrative complaint against him. The Court further directed the Financial Management Office of OCA to withhold P50,000 from whatever benefits might be due respondent.

Thus, in the instant administrative case, the only issue for resolution is whether respondent is guilty of the charges of unauthorized absences and of drunkenness amounting to simple misconduct.

On the charge of unauthorized absences, respondent was admittedly absent on 13, 20, 21, 22, 23 and 24 August 2001. He belatedly filed his application for leave of absence on 27 August 2001. There is no showing of any

deliberate intent to defy office rules on absences. In his letter to Judge Yrastorza, respondent claimed that on 27 August 2001, he prepared his application for emergency leave. However, respondent claimed that he was not able to submit the application sooner for approval because he could not produce a medical certificate for the illness of his son. Respondent likewise admitted that, due to inadvertence, he forgot to file his application for leave of absence for 13 August 2001. Respondent attached to the letter his applications for leave of absence. Respondent further stated that on 24 August 2001, he sent his wife to the office to inform the clerk of court of the reason for his absence. We agree with OCA that there was substantial compliance by the belated filing of the applications for leave of absence. However, under the Civil Service rules,[2] an employee should submit in advance, whenever possible, an application for vacation leave of absence for action by the proper chief of agency prior to the effective date of such leave.[3] On the other hand, an employee should file an application for sick leave of absence immediately upon his return from such leave.

On the charge of drunkenness, respondent appeared at the Palace of Justice reeking of liquor. He went to the office without any word or without even talking to the clerk of court who is his superior. Before this, respondent displayed himself at the main door of the Palace of Justice doing nothing. Even if he was on leave of absence, respondent remained an employee of the court duty bound to observe proper decorum especially within court premises.

Court employees bear the burden of observing exacting standards of ethics and morality. This is the price one pays for the honor of working in the judiciary. Those who are part of the machinery dispensing justice, from the lowliest clerk to the presiding judge, must conduct themselves with utmost decorum and propriety to maintain the public's faith and respect for the judiciary. Improper behavior, particularly during office hours, exhibits not only a paucity of professionalism at the workplace but also a great disrespect to the court itself. Such demeanor is a failure of circumspection demanded of every public official and employee.[4] It is of no moment whether respondent was on leave when he went to the Palace of Justice. For his improper behavior, respondent is guilty of simple misconduct.

Under the Uniform Rules on Administrative Cases in the Civil Service,[5] the penalty for simple misconduct for a first offender is suspension for one month and one day to six months.[6] However, since respondent has tendered his resignation effective 19 March 2003 and the Court in its En Banc Resolution of 14 October 2003 approved respondent's resignation, his suspension is no longer possible. Thus, in lieu of suspension, a fine of P5,000 is in order.

WHEREFORE, we find respondent Michael A. Latiza guilty of simple misconduct and fine him Five Thousand Pesos (P5,000). This amount may be deducted from whatever benefits respondent is still entitled after his voluntary resignation.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Panganiban, Ynares-Santiago, and Azcuna, JJ., concur.

[1] P. 3, thereof.

[2] Sec. 16, Rule XVI, Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws.

[3] Sec. 15, *supra* .

[4] *Gratela v. Yonzon, Jr.*, 326 Phil. 595 (1996).

[5] 31 August 1999.

[6] Rule IV, Section 52 (B) (2).

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