

## EN BANC

**[ A.M. No. P-14-3260 (Formerly A.M. No. 12-2-38-RTC ), September 16, 2014 ]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.  
EDGAR S. CRUZ, CLERK III, REGIONAL TRIAL COURT, BRANCH  
52, GUAGUA, PAMPANGA, RESPONDENT.**

### R E S O L U T I O N

#### PER CURIAM:

This administrative matter stemmed from the report entitled "Summary of Absences Incurred by Edgar S. Cruz" submitted by the Chief of the Leave Division, Office of Administrative Services (OAS), Office of the Court Administrator (OCA) on 6 February 2012. The report indicated that Edgar S. Cruz (Cruz), Clerk III, Branch 52, Regional Trial Court (RTC), Guagua, Pampanga, incurred three (3) unauthorized absences in November and four (4) unauthorized absences in December 2011.

In an indorsement<sup>[1]</sup> dated 8 March 2012, the OCA required Cruz to comment on the report submitted by the Leave Division, OAS, OCA.

In his letter<sup>[2]</sup> dated 23 April 2012, Cruz explained that he was forced to skip work during the dates reported because of circumstances beyond his control. He explained that since his wife works overseas, he had to attend to the needs of their children first before reporting for work. He added that he often got sick and, as proof, he submitted medical certificates showing that he was diagnosed and treated for systemic viral infection on 3 November 2011, acute gastro-enteritis on 8 November 2011, and an infected wound on 14 November 2011.

Cruz prayed for compassion from the Court and promised not to commit the same mistake again. He likewise promised to inform his superiors whenever he will absent himself from work.

The OCA found sufficient evidence to hold Cruz and recommended that he be dismissed from the service.<sup>[3]</sup>

We adopt the findings and recommendation of the OCA.

Cruz admitted skipping work without filing the corresponding leave applications during the dates mentioned in the report of the Leave Division, OAS, OCA. In his comment, Cruz could only present medical certificates to substantiate his explanation that he fell sick during the subject dates. He, however, failed to submit any duly accomplished and approved leave applications from his executive/presiding judge.

The Omnibus Rules Implementing Book V of Executive Order No. 292 and Other

Pertinent Civil Service Laws (Civil Service Rules) mandate that an employee must submit an application for both sick and vacation leaves, viz:

Rule XVI  
Leave of Absence

x x x x

Section 16. All applications for sick leave of absence for one full day or more shall be on the prescribed form and shall be filed immediately upon the employee's return from such leave. Notice of absence, however, should be sent to the immediate supervisor and/or to the office head. Application for sick leave in excess of five days shall be accompanied by a proper medical certificate.

x x x x

Section 20. Leave of absence for any reason other than illness of an officer or employee or of any member of his immediate family must be contingent upon the needs of the service. Hence, the grant of vacation leave shall be at the discretion of the head of department/agency.

Under the Civil Service Rules, 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 the leave. In case of sick leave of absence, the application should be filed immediately upon the employee's return. In the instant case, it is clear from respondent Cruz's own admission that he failed to file or acquire the necessary leave permits for his absences.

Under Administrative Circular No. 14-2002<sup>[4]</sup> (Re: Reiterating the Civil Service Commission's Policy on Habitual Absenteeism), "[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 law for at least three (3) months in a semester or at least three (3) consecutive months during the year[.]"

Although strictly speaking respondent Cruz may not yet be considered habitually absent on the basis of his unauthorized absences in November and December 2011, he should still be penalized because his omissions clearly caused inefficiency and hampered public service. In Re: Unauthorized Absences of Karen R. Cuenca, Clerk II, Property Division-Office of Administrative Services,<sup>[5]</sup> this Court held that under Administrative Circular No. 2-99, which took effect on 1 February 1999, "[a]bsenteeism and tardiness, **even if such do not qualify as 'habitual' or 'frequent'** under Civil Service Commission Memorandum Circular No. 04, Series of 1991, **shall be dealt with severely**[.]"

An evaluation of his record with the Employees' Leave Division, OAS, OCA revealed that Cruz has the propensity of not reporting for work. From January to April 2012