

## **EN BANC**

**[ A.M. NO. 2005-03-SC, March 15, 2005 ]**

### **RE: UNAUTHORIZED ABSENCES OF KAREN R. CUENCA, CLERK II, PROPERTY DIVISION-OFFICE OF ADMINISTRATIVE SERVICES**

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

#### **CALLEJO, SR., J.:**

The instant administrative matter arose due to the unauthorized absences of Karen R. Cuenca, Clerk II, Property Division-Office of Administrative Services, which was reported to the Complaints and Investigation Division sometime in January 2005. The records of the Leave Division showed that as of January 2005, the respondent has been absent from work without leave (AWOL) since December 29, 2004.

Thus, in a Memorandum dated January 21, 2005, Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer, directed the respondent to report for work within five (5) days from receipt thereof. She was, likewise, required to explain why no administrative disciplinary action should be taken against her for violating existing leave laws and reasonable office rules and regulations.

In compliance to the said directive, the respondent submitted a Memorandum dated January 31, 2005, where she gave the following explanat

My absences were the results of dental and medical conditions that were properly documented by Dra. Cynthia Obligar of Dental City III, SM-Bacoor and Dra. Rosan de los Santos of St. Therese of Little Flowers Clinic, Rm. 216, Bacoor Business Center, Bacoor, Cavite.

More specifically, on January 5, 2005, Dra. Obligar issued a medical certificate proving that she did a root canal operation because of the serious condition of my tooth requiring immediate performance of the said procedure. This dental condition [began] on or about December 28, 2004, but I wasn't able to go to a dentist immediately because of the Holiday [Season].

The infection and subsequent severe swelling of my tooth resulted to temporary facial disfigurement making my presence in the office likely to lead to other serious conditions. In addition, it was determined that a root canal operation or extraction was not recommended earlier because of the extreme pain felt prior to January 5. Accordingly, Dra. Obligar performed the root canal operation and completed the record as to the medication and rest required due to this dental condition on January 5, 2005.

Likewise, Dra. Rosan de los Santos issued another medical certificate on January 11, 2005 after I complained of excruciating back pains that

started on or about January 9, 2005. While [it is] undetermined that a dental condition was related to the back pains, it is [suspected] that these back pains [are] associated to my past history of Scoliosis or Urolithiasis (Renal Stones). Due to the intense pain, Dra. De los Santos recommended further medical examination and ordered heavy dosages of medication to be taken while I was on stated bed rest. The attached medical certificate or additional inquiry from the doctor's office should provide more detailed explanation of my medical condition on the period in question.

I would also like to note that I have notified my assigned immediate supervisor, Engr. Antonio Bayot, Jr. of my dental and medical conditions with emphasis on the matters of excessive tooth pain and extreme back pains through text messages.

Thereafter, in a Memorandum dated February 14, 2005, Atty. Candelaria disclosed that the memorandum directing the respondent to comment on her unauthorized absences was ordered served only on January 25, 2005 because the latter was reportedly seen in the Court's premises that morning. Moreover, the chronolog print-out of her daily time record (DTR) showed that she punched in 7:39 a.m. and left at 5:31 p.m. Atty. Candelaria further explained that the respondent had likewise been asked to report to the Office of Administrative Services that day and did not show up until it was already midday. Hence, the Memorandum dated January 21, 2005 was served in the afternoon at the respondent's residence.

According to Atty. Candelaria, the respondent's claim that she underwent a root canal operation on January 5, 2005 and consulted a doctor for lumbar pain on January 11, 2005 was properly supported by medical certifications. However, she noted that the dental and medical certifications were issued on January 5 and 11, 2005, respectively, while the respondent was absent from work on December 9, 2004 to January 24, 2005. As such, the certifications would only excuse her during the days of actual consultation with the doctors, and not on any other days.

Atty. Candelaria also noted that while the doctor advised "bed rest" for Ms. Cuenca for her lumbar pain, there was no period specified in the medical certificate; as such, it could be presumed then that the bed rest recommended by the doctor pertained to that day only. Furthermore, the respondent did not present a medical certificate to prove that she really did consult a urologist as advised by her doctor, "at least to show perhaps that there was indeed persistent pain that would require an extended period of her absence from work."

Atty. Candelaria then recommended that the respondent be meted the penalty of suspension for a period of six (6) months and one (1) day for her unauthorized absences.

The Court agrees with the foregoing findings and recommendation.

The respondent, as a Supreme Court employee, is covered by the Civil Service law. Under Civil Service Resolution No. 991936,<sup>[1]</sup> Memorandum Circular No. 19, Series of 1999, "frequent, unauthorized absences, or tardiness in reporting for duty, loafing or frequent, unauthorized absences from duty during regular office hours" is classified as a *grave offense*, punishable by suspension for the first offense (6