

## FIRST DIVISION

[ A.M. No. P-02-1650, April 03, 2003 ]

**ZENAIDA REYES-MACABEO, CLERK OF COURT, METC, BRANCH 26, MANILA, COMPLAINANT, VS. FLORITO EDUARDO V. VALLE, CLERK III, METC, BRANCH 26, MANILA, RESPONDENT.**

### **RESOLUTION**

#### **YNARES-SANTIAGO, J.:**

In a complaint dated January 8, 2002, Zenaida Reyes-Macabeo, Clerk of Court of the Metropolitan Trial Court of Manila, Branch 26, charged Florito Eduardo V. Valle, Clerk III of the same court with Tardiness, Absenteeism and Falsification of Entries in the Attendance Logbook. Complainant avers that in several instances, respondent altered the time of his arrival in the office; that despite previous warning, he continues to be late or absent from work.

In his Comment dated April 12, 2002, respondent admitted the charges against him and explains that he was beset with domestic problems. However, he pointed out that even with his problems, he made it a point to perform his assigned tasks. He, nonetheless, apologized to Presiding Judge Emmanuel M. Lloredo and to his co-employees assuring them that those "mistakes" will not happen again.

Upon evaluation, the Office of the Court Administrator (OCA) recommended that respondent be suspended for one (1) year without pay with a stern warning that the commission of the same acts will be dealt with more severely.

We agree with the findings of the OCA that respondent should indeed be punished for his malfeasance, and find the recommended penalty a proper sanction for the acts complained of.

The crux of the charge against respondent is his habitual absenteeism and tardiness. Section 15, Rule XVI of the Omnibus Rules Implementing Book V of E.O. No. 292 provides that –

*Any employee shall be considered habitually tardy if he incurs tardiness regardless of number of minutes, ten (10) times a month for at least 2 months in a semester or at least 2 consecutive months during the year. In case of claim of ill-health, heads of departments of agencies are encouraged to verify the validity of such claim and, if not satisfied with the reason given, should disapprove the application for sick leave. On the other hand, cases of employees who absent themselves from work before the approval of the application should be disapproved outright.*

Applications for vacation leave of absence for one full day or more shall be submitted on the prescribed form for action by the proper chief of

agency in advance, whenever possible, of the effective date of such leave.

Under Memorandum Circular No. 4, Series of 1991, of the Civil Service Commission, an 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 credits under the leave law for at least three (3) months in a semester or at least three (3) consecutive months during the year. Such a violation renders the erring employee administratively liable for the grave offense of Frequent Unauthorized Absences or Tardiness in Reporting for Duty and for Gross Neglect of Duty under Section 22 (q) and (a), respectively of the Omnibus Rules Implementing Book V of Executive Order No. 292.<sup>[1]</sup>

Along the same vein, Civil Service Memorandum Circular No. 30, Series of 1989, classified habitual absenteeism as a grave offense. Frequent unauthorized absences or tardiness in reporting for duty, loafing or frequent unauthorized absences during regular office hours is penalized, if found guilty on the first offense, with suspension from six (6) months and one (1) day to one (1) year and, for the second offense, with dismissal from the service. Under the present Omnibus Rules on Appointments and Other Personnel Actions, an employee who is absent without approved leave for at least thirty (30) calendar days *shall be separated* from the service or dropped from the rolls *even without prior notice*.<sup>[2]</sup>

The records disclose that respondent made the following entries in the Attendance Logbook, to wit:

<u>Original "time in"</u>	<u>Altered/Falsified to</u>	Dates
12:00 p.m.	9:30 a.m.	August 24, 2001
9:03 p.m.	7:45 a.m.	August 28, 2001
12:00 p.m.	8:00 a.m.	August 30, 2001
9:35 a.m.	8:00 a.m.	September 7, 2001
12:30 p.m.	8:00 a.m.	September 12, 2001
12:00 p.m.	8:00 a.m.	September 20, 2001
12:00 p.m.	8:00 a.m.	September 28, 2001
8:00 a.m.	7:50 a.m.	October 3, 2001
9:00 a.m.	8:00 a.m.	October 4, 2001
8:00 a.m.	7:55 a.m.	October 5, 2001
9:30 a.m.	8:30 a.m.	October 12, 2001
8:35 a.m.	8:00 a.m.	October 18, 2001
8:53 a.m.	7:53 a.m.	October 30, 2001
9:00 a.m.	8:00 a.m.	November 12, 2001

Respondent's malfeasance is classified as frequent or habitual. On this point, Section II of Administrative Circular No. 2-99 entitled "**Strict Observance Of Working Hours And Disciplinary Action for Absenteeism And Tardiness**" lays down the degree of stringency which must be adopted in the determination of the proper sanctions to be imposed, viz:

II Absenteeism and tardiness, **even if such do not qualify as "habitual" or "frequent"** under Civil