462 Phil. 145

FIRST DIVISION

[A.M. No. P-02-1610, November 27, 2003]

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, CEBU CITY, RESPONDENT.

D E C I S I O N

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