

THIRD DIVISION

[A.M. No. P-96-1199, October 13, 1997]

**JUDGE VLADIMIR BRUSOLA, COMPLAINANT, EUDARLIO B. VALENCIA, JR., STAFF ASSISTANT II, RESPONDENT.
R E S O L U T I O N**

FRANCISCO, J.:

This administrative case arose from a letter-complaint dated December 23, 1992 of Hon. Vladimir Brusola, Acting Presiding Judge of Branch 5, RTC, Legazpi City, complaining about the habitual absenteeism of herein respondent Eudarlo B. Valencia, Jr., Staff Assistant II, RTC, Branch 5, Legaspi City. Also forwarded are the leave applications of said respondent for the period from March 17 to June 30, 1992 which applications were disapproved by Judge Brusola with the request that the matter be looked into and thereafter the respondent-employee be strongly recommended to be dropped from the roll of employees.

The reasons given by Judge Brusola in disapproving respondent's aforementioned leave applications are as follows:

"1.The alleged attending physician who issued the medical certificate is a private doctor and the same is not made under oath;

"2.The veracity is seriously doubtful because subject employee is a resident of Legaspi City while the alleged doctor is a resident of and with clinic at Sorsogon, another province 55 kilometers away thus, a daily home visit from March 17 to 31 or 15 days is highly unbelievable;

"3.That the sick leave application was filed after the lapse of more than eight (8) months of absenting himself;

"4.That respondent has no more leave credits;

"5.That there is a pattern of habitual absenteeism if not AWOL;

"6.That the leave application was filed merely to remedy unauthorized absence or AWOL".^[1]

Likewise, the respondent's vacation leave from April 1 to 15; April 20 to 30; May 4 to 5; May 18 to 29; June 1 to 15; and June 16 to 30, 1992 were also disapprove by Judge Brusola basically on the same grounds stated above.

On April 7, 1993, the matter was referred to Hon. Executive Judge Rafael Santelices, RTC, Legaspi City for investigation. And on May 24, 1995, this court received the

report and recommendation of Judge Wenceslao R. Villanueva, Jr., the details of which were summarized by the Office of the Court Administrator in his memorandum dated April 23, 1996 as follows:

"The initial hearing was set on May 4, 1993. Respondent filed his Answer dated July 6, 1993 denying the specifications alleged under Paragraphs 1 to 8 of the letter-complaint, especially the context thereof, for the reason that the matter treated therein has been rendered moot and academic by the findings reached and the administrative penalty imposed by the Supreme Court per letter dated June 4, 1992 of the Deputy Clerk of Court and Chief Administrative Officer Adelaida Cabe-Baumann to the respondent whereby the respondent was found to have incurred eighty-four (84) days of unauthorized absences and was accordingly penalized by considering said period to be leave without pay. That as penalty, the corresponding amount of salary was withheld from respondent; and that said penalty was imposed at the instance of the complainant although the factual basis supplied by the complainant is incorrect.

"In support of his action of recommending disapproval of respondent's sick and vacation leave applications, Judge Brusola testified, among others, that the vacation and sick leave applications of respondent from March 17 to June 30, 1992 were received by him only on one occasion - on December 9, 1992 or six (6) to eight (8) months after the leaves were taken (TSN, p. 27, November 3, 1994). That when these applications for leave were received by his office and were examined, he noted that the application is only in support of a remedy to cover up his unauthorized absences on those aforementioned dates (TSN, p. 38, November 3, 1994); and finding that the reasons for the leave to be not meritorious, he decided to prepare his letter dated December 23, 1992 stating therein the reasons why the leave applications should be disapprove considering that in the leave form, the reason for its approval or disapproval on the space thereon provided is not sufficient (TSN, pp. 27-28, November 3, 1994). Elucidating further on his reasons for recommending his disapproval of the leave applications, Judge Brusola alleged that the attending physician of respondent is a private doctor and the medical certificates he issued are not under oath. That the medical certificates attached to the sick leave applications should have been under oath so that the doctor could be held liable if he issues false medical certificates. That the doctor, who is a resident of Sorsogon and has a clinic there was to travel a distance of 100 kilometers just to visit daily his patient, the respondent herein, in Legazpi City, who was allegedly sick of acute gastritis from March 17 to March 31, 1992 or influenza from April 20 to 30, 1992 or acute nasal pharyngitis from May 18 to 31, 1992 or acute respiratory tract infection from June 16 to 30, 1992, is highly doubtful (TSN, p. 30, November 3, 1994). That respondent has no more leave credits in his favor since respondent had been declared AWOL on October 16, 1991 and the Supreme Court withheld already his salary for the period when he did not report for work. That the respondent who is an employee of Regional Trial Court, Branch 5, and therefore under the administrative supervision of the complainant has not reported for work and has not shown his face in office from March 17, 1992 up to June 30,

1992 (TSN, p. 51, November 3, 1994).

"Testifying on his own behalf, respondent alleged, among others, that he filed his leave applications on December 9, 1992 because previously, he already tendered his leave applications to Miss Almonte who refused to receive his leave applications. That it was sometime in the month of March, 1992, when he first tendered his leave applications. That Miss Almonte refused to accept his leave application because according to her it was already filed late. That he explained to her that he could not file a sick leave in advance as he does not know when he is going to be sick. That he also directly filed his daily time records to the Office of the Court Administrator because Miss Almonte refused to receive his daily time records. Another reason also why he submitted his daily time records including his leave applications and medical certificates to the Court Administrator was because Judge Brusola automatically denied it (TSN, pp. 6-8, January 31, 1995, Eudarlo Valencia, Jr.). But in the leave applications he filed through his wife on December 9, 1992, the ground stated in his leave applications, among others, was that respondent was sick as evidenced by the medical certificate. With respect to his vacation leave of absence, the ground for filing late was that his doctor advised him to rest also substantiated by medical certificates which were all first tendered to Miss Almonte but which the latter refused to receive it. The original documents which he attempted to file with Miss Almonte were already lost in his drawer when he was detailed in the Office of the Clerk of Court. He renewed the filing of his leave applications because he wanted to file his leave applications and the reason why he filed his leave applications for vacation leave, not sick leave, after he has incurred his absence and not before was because he was staying in his father's house in Sorsogon and that his doctor advised him to rest and this is the reason why he cannot come to Legazpi. Although he has living quarters here in Legazpi City, he had been treated in Sorsogon for the reason that his father, who is also an RTC Judge, was the one paying the doctor's fees as well as medicines because he has only a meager salary as an employee. Whenever he was on vacation leave, he requested his wife to tell Miss Almonte that he will be coming back to office after he has already recovered. His wife really informed Miss Almonte verbally sometime in April, 1992 that he will be on vacation leave from April 1 to 15, 1992. When he was again on vacation leave from May 4 to 15, 1992, he tried to file his vacation leave in advance (TSN, p. 20, January 31, 1995) through his wife but Miss Almonte refused to receive it also. Miss Almonte refused to receive his previous leave applications delivered through his wife because Miss Almonte wanted to make it appear that the leave applications were filed very late and that she wanted the respondent to be removed from office so that he can be replaced.

"Respondent does not deny that he was absent in office from March 17, 1992 up to the end of June, 1992; neither does he deny that he filed his leave applications, through his wife, only on December 9, 1992 (TSN, p. 6, Jan. 31, 1995, E. Valencia). However, he tries to justify the late filing of his leave applications as follows: