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WHEREFORE, premises considered, the petition is GRANTED. The decision of the Court of Appeals dated April 8, 1999 setting aside the Regional Trial Court's resolution dated May 19, 1997, as well as respondent appellate court's Resolution dated November 16, 1999 denying reconsideration of its decision, are REVERSED and SET ASIDE. The dismissal of Criminal Case No. 157290 entitled "*People of the Philippines v. Rene S. Ong, et al.*" is AFFIRMED, without prejudice to the filing of an appropriate civil action.

SO ORDERED.

Vitug, Panganiban, Purisima, and *Gonzaga-Reyes, JJ.*, concur.

FIRST DIVISION

[A.M. No. 00-2-27-MTCC. October 10, 2000]

ABSENCE WITHOUT OFFICIAL LEAVE (AWOL) OF EDELITO I. ALFONSO, MUNICIPAL TRIAL COURT IN CITIES (MTCC), OLONGAPO CITY.

SYNOPSIS

An administrative complaint was filed against respondent MTCC clerk Alfonso, who had a habit of absenting from work without approved leave of absence. Upon report and recommendation of the Office of the Court Administrator, the Supreme Court lifted the AWOL status of respondent and instead suspended him for six (6) months and one (1) day without pay with stern warning that a similar future violation will be strictly dealt with. Although Alfonso's omission was not justified, the Court considered mitigating the following circumstances: Letter of Judge Ligaya (immediate superior of Alfonso) that Alfonso deserves to be given another chance

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because he has reformed and has been regularly reporting for work since December, 1999; Alfonso's absences were due to serious illness.

SYLLABUS

POLITICAL LAW; SUPREME COURT SUPERVISION OVER COURT PERSONNEL; HABITUAL ABSENCE FROM WORK WITHOUT LEAVE; PROPER PENALTY; CASE AT BAR. — We adopt the recommendation of the Office of the Court Administrator. Alfonso's previous record shows that he had a habit of absenting from work without approved leave of absence. This is inimical to public service and deserves to be meted a disciplinary sanction. Nonetheless, we also give weight to the letter of Judge Ligaya, Alfonso's immediate superior, that he has reformed and has been regularly reporting for work since December 1999 and deserves to be given another chance. Furthermore, we find that Alfonso's absences were due to serious illness which rendered him unable to report for work and perform his duties effectively. Although it does not justify Alfonso's omission, it nonetheless serves to mitigate his offense. Hence, under the circumstances, we find the recommendation of the Office of the Court Administrator that he be suspended for six (6) months and one (1) day without pay with stern warning that a similar future violation will be strictly dealt with to be just.

RESOLUTION

PUNO, *J.:*

On February 15, 1999, Executive Judge Merinnissa O. Ligaya of Olongapo City issued a Directive placing Edelito I. Alfonso, Clerk III, Municipal Trial Court in Cities (MTCC), Olongapo City, on Absent Without Official Leave (AWOL) status and ordering him to immediately return to duty upon receipt thereof.

The Office of the Court Administrator also directed Alfonso, through Executive Judge Ligaya, to submit his daily time record (DTR) from June 1998 to January 1999, together with his explanation for his failure to submit said DTRs. Alfonso complied

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with the order on March 19, 1999. He explained that he had already prepared his DTRs for said period, but he inadvertently failed to file them. He also stated that he underwent medical treatment for peptic ulcer from November to December 1998. It was only in January 1999 that he realized that his DTRs have not been submitted.

However, notwithstanding the Directive of Executive Judge Ligaya and Alfonso's explanation, the latter still failed to return to work.

On June 30, 1999, the new Executive Judge of Olongapo City, Judge Reynaldo M. Laigo, submitted his First Indorsement to Court Administrator Alfredo L. Benipayo recommending that the position of Alfonso be declared vacant, considering his long unexplained absence without official leave amounting to abandonment of duty.

On July 27, 1999, the office of the Court Administrator required Alfonso to explain in writing why he should not be dealt with administratively for his continuous absence since February 1, 1999 without any approved application for leave of absence. It also ordered the withholding of his salaries.

On February 7, 2000, Judge Ligaya wrote to the Office of the Court Administrator informing them that Alfonso has been reporting for work regularly since December 1999 and that his prolonged absence was due to his peptic ulcer. She also stated that Alfonso has acknowledged his fault and apologized for being absent without notice to the office. She likewise stated that Alfonso pleaded that he be given another chance and promised that the offense will not be repeated. Judge Ligaya forwarded the approved leave of absence of Alfonso from February 1 to November 30, 1999 and the medical certificate issued by Dr. Eduardo G. Arevalo showing that Alfonso was treated for peptic ulcer from February 1999 to November 1999.

In its Memorandum dated August 14, 2000, the Office of the Court Administrator observed:

> Section 63, Rule XVI of the Omnibus Rules on Leave, as amended, expressly provides that "(A)n official or employee who is continuously

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absent without approved leave for at least thirty (30) days shall be considered on absence without official leave (AWOL) and shall be separated from the service or dropped from the rules (*sic*) without prior notice."

Before the Supreme Court could however drop Mr. Alfonso from the service, he submitted his applications for leave to Judge Ligaya, the Presiding Judge of Branch 1 where he has been detailed prior to his absence, together with his explanation letter and DTRs from February to December 1999. Judge Ligaya approved such application for leave and DTRs. She likewise accepted Mr. Alfonso's explanation and favorably indorsed said letter together with Mr. Alfonso's approved application for leave to the Supreme Court.

Judge Ligaya's acceptance and favorable indorsement of Mr. Alfonso's application for leave, DTRs and explanation has converted Mr. Alfonso's unauthorized absences (AWOL) to one that is authorized. When he was allowed to return to work on December 3, 1999, Judge Ligaya has likewise effectively lifted Mr. Alfonso's status of being on AWOL. This has rendered the request to drop him from the service as moot and academic. There is therefore no longer any reason to drop Mr. Alfonso from the service.

Additionally, Mr. Alfonso's submission of his leave application immediately upon his return to work substantially complies with the provision of Section 53, Omnibus Rules on Leave, which provides that "(A)ll applications for sick leave of absence for one full day or more shall be made on the prescribed form and *shall be filed immediately upon the employee's return* from such leave. Notice of absence should however be sent to immediate supervisor and/or agency head. Application for sick leave in excess of five (5) successive days shall be accompanied by a proper medical certificate." What Mr. Alfonso failed to do is to inform the lower court that he was sick with ulcer and was going to be absent. He only informed the Court of his illness in his explanation letter dated March 19, 1999.

Although Mr. Alfonso failed to file his application for sick leave together with his explanation letter, he did attempt to do so sometime in July 1999. The OCC however refused to receive his application for leave because he was then already declared AWOL. This act of attempting to file his application for leave as well as his immediate return to work as soon as cleared by his physician shows that he is still very much interested in his work. It just so happened that he could not sooner return to work by reason of his illness as certified to by his physician.

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Judge Ligaya asserts that Mr. Alfonso deserves and should be given another chance. This recommendation is in direct conflict with Executive Judge Laigo's recommendation. However, since Mr. Alfonso is detailed in the sala of Judge Ligaya who has direct supervision over the former, we believe that Judge Ligaya is in a better position to assess whether or not Mr. Alfonso has indeed reformed and is worth being given another chance.

Moreover, as previously mentioned, Judge Ligaya recently reported to us that Mr. Alfonso has been regularly reporting for work and diligently performing his duties since December 1999. This is supported by his bundy cards and DTRs from December 1999 to July 2000 (Annexes "Q" to "W".)

Nevertheless, our records show that Mr. Alfonso has in the past committed the same violation. In a "Directive" dated September 23, 1997, Mr. Alex Rimando has directed him to explain his unauthorized absence on September 23, 1997. (Annex "X") He also received another letter dated June 23, 1998, from Mr. Rimando for his alleged absences without official leave since May 25, 1998 (Annex "Y") [His records show that he was absent beginning May 29, 1998 up to June 24, 1998.] (Annex "Z") Consequently, he should be held responsible and disciplined for his irresponsible act of absenting himself without the approved leave.

Thus, the Office of the Court Administrator recommended that the AWOL status of Mr. Alfonso be lifted for humanitarian considerations. However, to serve as a lesson to Alfonso, it likewise recommended that he be suspended for six (6) months and one (1) day without pay with stern warning that a similar future violation will be strictly dealt with.

We adopt the recommendation of the Office of the Court Administrator. Alfonso's previous record shows that he had a habit of absenting from work without approved leave of absence. This is inimical to public service and deserves to be meted a disciplinary sanction. Nonetheless, we also give weight to the letter of Judge Ligaya, Alfonso's immediate superior, that he has reformed and has been regularly reporting for work since December 1999 and deserves to be given another chance. Furthermore, we find that Alfonso's absences were due to serious illness which rendered him unable to report for work and perform

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his duties effectively. Although it does not justify Alfonso's omission, it nonetheless serves to mitigate his offense. Hence, under the circumstances, we find the recommendation of the Office of the Court Administrator to be just.

IN VIEW WHEREOF, the AWOL status of Edelito I. Alfonso is hereby *LIFTED*. He is, however, *SUSPENDED* for *six (6) months and one (1) day without pay* with *STERN WARNING* that a similar future violation will be strictly dealt with.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Kapunan, Pardo, and *Ynares-Santiago, JJ.*, concur.

FIRST DIVISION

[A.M. No. MTJ-00-1247. October 10, 2000]
(formerly OCA IPI No. 98-563-MTJ)

CHARLES N. UY, *complainant, vs.* **JUDGE NELIDA S. MEDINA, PRESIDING JUDGE OF THE MUNICIPAL TRIAL COURT OF ILOILO, BRANCH 2,** *respondent.*

SYNOPSIS

An administrative complaint was filed against respondent MTC judge for grave abuse of discretion, gross ignorance of the law, knowingly rendering unjust judgment, and partiality relative to Civil Case No. 367(97).

Records show that complainant filed a complaint against his parents for recovery of personal property with prayer for replevin of the owner's duplicate copy of the transfer certificate of title.