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THIRD DIVISION

[A.M. No. P-11-2946. July 13, 2011]
(Formerly A.M. No. 11-5-52-MTCC)

RE: DROPPING FROM THE ROLLS OF CORNELIO RENIETTE CABRERA, Utility Worker I, Municipal Trial Court in Cities, Branch 1, Lipa City.

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; ABSENCE WITHOUT OFFICIAL LEAVE (AWOL) FOR AT LEAST 30 WORKING DAYS WARRANTS SEPARATION FROM SERVICE.— Pursuant to Section 63, Rule XVI of the Omnibus Rules on Leave, as amended by Civil Service Resolution No. 070631, an employee's absence without official leave for at least 30 working days warrants his separation from the service. The Rule specifically provides: x x x

2. ID.; ID.; COURT EMPLOYEES; REQUIRED DECORUM; VIOLATED WHEN COURT EMPLOYEE CABRERA WENT AWOL.— Every so often, it has been declared that any act which falls short of the exacting standards for public office, especially on the part of those expected to preserve the image of the judiciary, shall not be countenanced. Indeed, a public office is a public trust. Public officers must at all times be accountable to the people, serve them with the utmost degree of responsibility, integrity, loyalty, and efficiency. By going on AWOL, Cabrera grossly disregarded and neglected the duties of his office. He failed to adhere to the high standards of public accountability imposed on all those in government service. Specifically for court personnel, their conduct and behavior are circumscribed with the heavy burden of responsibility. This Court shall not tolerate any act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and diminish or tend to diminish the faith of the people in the judiciary.

3. ID.; ID.; DROPPING FROM THE ROLLS; NON-DISCIPLINARY IN NATURE.— Under Section 2 (2.6), Rule XII of the Revised

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Omnibus Rules on Appointments and Other Personnel Actions, the dropping from the rolls as a mode of separation from service is "non-disciplinary in nature and shall not result in the forfeiture of any benefits on the part of the official or employee nor in disqualifying him from re-employment in the government." While there is jurisprudence to the effect that a court employee's AWOL for a prolonged period of time warrants the penalty of dismissal from the service *and* the forfeiture of his benefits, the Court, given the circumstances of the case, is inclined to adhere to the evaluation and recommendation of the OCA, and refrain from imposing the administrative penalties of forfeiture of benefits and disqualification from re-employment.

R E S O L U T I O N

MENDOZA, *J.*:

The present administrative matter concerns Cornelio Reniette Cabrera *(Cabrera)*, Utility Worker I of the Municipal Trial Court in Cities, Branch 1 of Lipa City *(MTCC)*. Records of the Office of the Court Administrator *(OCA)* disclose that Cabrera has failed to file his Daily Time Records *(DTRs)* from October 2010 up to present and to seek leave for any of his absences.[1]

It appears that on October 22, 2010, the OCA received Cabrera's sick leave applications[2] for the month of September 2010, which covered a total of eleven (11) days. Due to lack of proper documentation, Presiding Judge Renato M. Castillo disapproved the applications for sick leave.

On October 28, 2010, the OCA sent a telegram[3] to Cabrera requiring him to submit a medical certificate to support his applications for leave. Cabrera, however, did not comply.

On December 1, 2010, the OCA forwarded Cabrera's applications for sick leave to the Office of Dr. Prudencio Banzon,

[1] *Rollo*, pp. 1-4.

[2] *Id.* at 5-7.

[3] *Id.* at 8.

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Jr. *(Dr. Banzon, Jr.)*, Senior Chief Judicial Staff Officer of the Court,[4] which also disapproved said application due to lack of proper documentation.[5] The OCA sent another telegram[6] to Cabrera on December 1, 2010, requiring him to submit his DTRs for October and November 2010. Once again, Cabrera failed to comply.

In a letter[7] dated December 9, 2010, Percival C. Bañaga, the MTCC Branch Clerk of Court, informed the OCA that Cabrera had continuously failed to report for work without leave since October 20, 2010 up to the present and that he had not filed his DTRs for the months of October and November 2010.

This prompted the OCA to send two (2) tracer letters[8] to Cabrera - one to his residential address and another to his court station, directing that he submit his DTRs for the months of October and November 2010. This time, the OCA warned Cabrera that his name would be recommended for dropping from the rolls if he failed to comply.

Despite being served the tracer letters,[9] Cabrera failed to heed the directive of the OCA. Thus, on December 9, 2010, the OCA issued its Memorandum[10] ordering the withholding of Cabrera's salaries and benefits.

In its evaluation of the matter, the OCA submitted its Agenda Report[11] dated May 17, 2011, wherein, referring to Section 63, Rule XVI of the Omnibus Rules on Leave it recommended that Cabrera's name be dropped from the rolls for being absent without leave *(AWOL)*. The OCA further recommended that

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[4] *Id.* at 9.

[5] *Id.* at 10.

[6] *Id.* at 11.

[7] *Id.* at 12.

[8] *Id.* at 13-14.

[9] *Id.* at 17-18

[10] *Id.* at 19.

[11] *Id.* at 1-4.

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Cabrera's position be declared vacant and that he be informed at his residential address on record of his separation from the service or the dropping of his name from the rolls.

The OCA Report also informed the Court that upon verification, Cabrera had not filed any application for retirement and that no previous administrative complaint had been filed against him.

The OCA's recommendation is well-taken.

Pursuant to Section 63, Rule XVI of the Omnibus Rules on Leave, as amended by Civil Service Resolution No. 070631, an employee's absence without official leave for at least 30 working days warrants his separation from the service. The Rule specifically provides:

> Sec. 63. *Effect of absences without approved leave*.-An official or employee who is continuously absent without approved leave for at least thirty (30) working days shall be considered on absence without official leave (AWOL) and shall be separated from the service or dropped from the rolls without prior notice. However, when it is clear under the obtaining circumstances that the official or employee concerned, has established a scheme to circumvent the rule by incurring substantial absences though less than thirty working (30) days 3x in a semester, such that a pattern is already apparent, dropping from the rolls without notice may likewise be justified.
>
> If the number of unauthorized absences incurred is less than thirty (30) working days, a written Return-to-Work-Order shall be served to him at his last known address on record. Failure on his part to report for work within the period stated in the order shall be valid ground to drop him from the rolls.

In this connection, Section 63, Rule XVI, of the Omnibus Civil Service Rules and Regulations, as amended by Circular No. 14, s. 1999, provides:

> Section 63. *Effect of absences without approved leave*. – An official or employee who is continuously absent without approved leave for at least thirty (30) calendar days shall be considered on absence without official leave (AWOL) and shall be separated from the service or dropped from the rolls without prior notice. He shall,

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however, be informed, at his address appearing on his 201 files, of his separation from the service, not later than five (5) days from its effectivity.

Every so often, it has been declared that any act which falls short of the exacting standards for public office, especially on the part of those expected to preserve the image of the judiciary, shall not be countenanced.[12] Indeed, a public office is a public trust. Public officers must at all times be accountable to the people, serve them with the utmost degree of responsibility, integrity, loyalty, and efficiency.[13]

By going on AWOL, Cabrera grossly disregarded and neglected the duties of his office. He failed to adhere to the high standards of public accountability imposed on all those in government service.[14]

Specifically for court personnel, their conduct and behavior are circumscribed with the heavy burden of responsibility. This Court shall not tolerate any act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and diminish or tend to diminish the faith of the people in the judiciary.[15]

Under Section 2 (2.6), Rule XII of the Revised Omnibus Rules on Appointments and Other Personnel Actions, the dropping from the rolls as a mode of separation from service is "non-disciplinary in nature and shall not result in the forfeiture of any benefits on the part of the official or employee nor in disqualifying him from re-employment in the government."

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[12] *Re: Absence Without Official Leave (AWOL) of Antonio Macalintal, Process Server, Office of the Clerk of Court*, A.M. No. 99-11-06-SC, 384 Phil. 314 (2000).

[13] *Id.*, citing *Rangel-Roque v. Rivota*, 362 Phil. 136 (1999), citing *Gano v. Leonen*, A.M. No. P-82-756, 232 SCRA 98, May 3, 1994.

[14] *Re: Absence Without Official Leave of Ms. Fernandita B. Borja*, A.M. No. 06-1-10-MCTC, April 13, 2007.

[15] *Re: Absence Without Official Leave of Mr. Basri A. Abbas*, A.M. No. 06-2-96-RTC, 486 SCRA 32, March 31, 2006.

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While there is jurisprudence[16] to the effect that a court employee's AWOL for a prolonged period of time warrants the penalty of dismissal from the service *and* the forfeiture of his benefits, the Court, given the circumstances of the case, is inclined to adhere to the evaluation and recommendation of the OCA, and refrain from imposing the administrative penalties of forfeiture of benefits and disqualification from re-employment.

WHEREFORE, Cornelio Reniette Cabrera, Utility Worker I of the Municipal Trial Court in Cities, Branch 1 of Lipa City, is hereby *DROPPED* from the rolls of service and his position is hereby declared *VACANT*.

Let a copy of this resolution be served upon Cornelio Reniette Cabrera at his address appearing on his 201 files pursuant to Section 63, Rule XVI of the Omnibus Civil Service Rules and Regulations, as amended.

SO ORDERED.

Carpio,[*] *Velasco, Jr., Abad,* and *Sereno,*[**] *JJ.*, concur.

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[16] *Re: Absence Without Official Leave (AWOL) of Mr. Jayson S. Tayros, Process Server, Regional Trial Court, Branch 31, Dumaguete City* A.M. No. 05-8-514-RTC, 505 Phil. 495 (2005); *Loyao, Jr., v. Manatad,* A.M. No. P-99-1308, 387 Phil. 337 (2000).

[*] Designated as additional member in lieu of Justice Diosdado M. Peralta per Special Order No. 1029 dated June 30, 2011.

[**] Designated as additional member of the Third Division per Special Order No. 1028 dated June 21, 2011.