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FIRST DIVISION

[A.M. No. 11-9-167-RTC. November 11, 2013]

RE: UNAUTHORIZED TRAVEL ABROAD OF JUDGE CLETO R. VILLACORTA III, REGIONAL TRIAL COURT, BRANCH 6, BAGUIO CITY

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; COURT PERSONNEL; OCA CIRCULAR NO. 49-2003 (GUIDELINES ON REQUESTS FOR TRAVEL ABROAD AND EXTENSION FOR TRAVEL/STAY ABROAD); A REQUEST FOR AN EXTENSION OF THE PERIOD TO TRAVEL/STAY ABROAD MUST BE RECEIVED BY THE OFFICE OF THE COURT ADMINISTRATOR (OCA) TEN WORKING DAYS BEFORE THE EXPIRATION OF THE ORIGINAL TRAVEL AUTHORITY; FAILURE TO DO SO WOULD MAKE THE ABSENCES BEYOND THE ORIGINAL PERIOD UNAUTHORIZED.**— OCA Circular No. 49-2003 (Guidelines on Requests for Travel Abroad and Extensions for Travel/Stay Abroad) requires that a request must be made for an extension of the period to travel/stay abroad, and that the request be received by the OCA ten (10) working days before the expiration of the original travel authority. Failure to do so would make the absences beyond the original period unauthorized. It should be noted that Judge Villacorta was in a position to file an application for leave to cover his extended stay abroad from 3-6 June 2011. In his letter dated 15 June 2011, he stated that he had to rush on 28 April 2011 to book a flight to Canada, as well as the return flight, for which the only available seat was for 5 June 2011. Thus, even before he left on 1 May 2011, he was already aware that he would not be able to report for work on 3 June 2011 because of the schedule of his return flight.

2. **JUDICIAL ETHICS; JUDGES; UNAUTHORIZED ABSENCES OF THOSE RESPONSIBLE FOR THE ADMINISTRATION OF JUSTICE, ESPECIALLY ON THE PART OF THE MAGISTRATE, ARE INIMICAL TO PUBLIC SERVICE.—** Section 50 of Civil Service Commission Memorandum Circular No. 41, series of 1998, states that an official or an employee

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who is absent without approved leave shall not be entitled to receive the salary corresponding to the period of the unauthorized leave of absence. Considering that the absences of Judge Villacorta during his extended travel from 4-15 February and 3-6 June 2011 were already considered unauthorized, the **OFFICE OF THE COURT ADMINISTRATOR IS DIRECTED** to deduct the salaries corresponding to the judge's unauthorized absences, if they have not yet been deducted. We take this opportunity to emphasize that unauthorized absences of those responsible for the administration of justice, especially on the part of a magistrate, are inimical to public service. Judge Villacorta is reminded that reasonable rules were laid down in order to facilitate the efficient functioning of the courts. Observance thereof cannot be expected of other court personnel if judges themselves cannot be relied on to take the lead.

R E S O L U T I O N

SERENO, *C.J.*:

On 1 December 2010, Judge Cleto R. Villacorta III (Judge Villacorta) was granted authority to travel to Canada for the period covering 20 December 2010 to 3 February 2011.[1] He was expected to report for work on 4 February 2011 but, as certified by Atty. Mylene May G. Adube-Cabuag (Atty. Adube-Cabuag), Clerk of Court, Regional Trial Court, Branch 6, Baguio City, Judge Villacorta reported back for work only on 16 February 2011.[2]

Judge Villacorta was asked to explain in writing his failure to secure an extension of his authority to travel abroad in violation of Office of the Court Administrator (OCA) Circular No. 49-2003.[3] In a letter[4] dated 31 March 2011, Judge Villacorta explained that he was unable to return to the country at the expiration of his travel authority because he had to attend to

[1] *Rollo*, p. 4.

[2] *Id*.

[3] *Id*. at 1.

[4] *Id*. at 2-3.

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a few family-related matters: a) he had to accompany his son in Canada for the latter's medical check-up; b) the planned transfer by his family to an apartment in Canada was delayed because the original lessee of the unit was still occupying the same; c) he had to wait for the issuance of his re-entry permit; and d) he had to wait for packages from his sister which he would bring home to their mother in the Philippines.

On 29 April 2011, Judge Villacorta was granted another authority to travel to Canada for the period covering 1 May to 2 June 2011 to attend the wake and funeral of his sister.[5]

Meanwhile, in a Memorandum dated 12 May 2011, Deputy Court Administrator (DCA) Raul B. Villanueva and the OCA Office of Administrative Services (OCA-OAS) Chief Caridad A. Pabello recommended that the judge's absence during his extended travel from 4-15 February 2011 be considered unauthorized, which recommendation was approved by the then OCA Officer-in-Charge.[6] Also, his letter-explanation dated 31 March 2011 was referred to the OCA Legal Office for appropriate action.

Judge Villacorta failed to report for work on 3 June 2011 following his second travel to Canada. Based on a Certification issued by Atty. Adube-Cabuag, Judge Villacorta reported back for work only on 7 June 2011.[7] When asked to explain, Judge Villacorta replied in a letter[8] dated 15 June 2011 that no other return flight was available other than on 5 June 2011.

Judge Villacorta sent another letter[9] dated 11 August 2011 requesting for the consolidation of the two incidents for the Court's action. He also stated that he meant to resign effective 31 October 2011 to settle abroad and wished to be advised on the implications of his extended travels on his intended resignation.

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[5] *Id*. at 8.

[6] *Id*. at 4-5.

[7] *Id*. at 10.

[8] *Id*. at 9.

[9] *Id*. at p. 26.

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In a Memorandum[10] dated 19 September 2011, DCA Villanueva and the OCA-OAS Chief Pabello recommended that the judge's absence during his extended travel from 3-6 June 2011 be considered unauthorized. In the same memorandum, his letters dated 15 June and 11 August 2011 were referred to the OCA Legal Office for appropriate action.

In a report to the Court dated 3 May 2012, the OCA recommended that Judge Villacorta be given a stern warning for his failure to observe the rules relative to travel abroad.[11]

OCA Circular No. 49-2003 (Guidelines on Requests for Travel Abroad and Extensions for Travel/Stay Abroad) requires that a request must be made for an extension of the period to travel/ stay abroad, and that the request be received by the OCA ten (10) working days before the expiration of the original travel authority. Failure to do so would make the absences beyond the original period unauthorized.

It should be noted that Judge Villacorta was in a position to file an application for leave to cover his extended stay abroad from 3-6 June 2011. In his letter dated 15 June 2011, he stated that he had to rush on 28 April 2011 to book a flight to Canada, as well as the return flight, for which the only available seat was for 5 June 2011.[12] Thus, even before he left on 1 May 2011, he was already aware that he would not be able to report for work on 3 June 2011 because of the schedule of his return flight.

Section 50 of Civil Service Commission Memorandum Circular No. 41, series of 1998, states that an official or an employee who is absent without approved leave shall not be entitled to receive the salary corresponding to the period of the unauthorized leave of absence. Considering that the absences of Judge Villacorta during his extended travel from 4-15 February and

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[10] *Id*. at 17-18.

[11] *Id*. at pp. 27-29, Administrative Matter for Agenda dated 3 May 2012.

[12] *Id*. at p. 9.

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3-6 June 2011 were already considered unauthorized, the **OFFICE OF THE COURT ADMINISTRATOR IS DIRECTED** to deduct the salaries corresponding to the judge's unauthorized absences, if they have not yet been deducted.

We take this opportunity to emphasize that unauthorized absences of those responsible for the administration of justice, especially on the part of a magistrate, are inimical to public service. Judge Villacorta is reminded that reasonable rules were laid down in order to facilitate the efficient functioning of the courts. Observance thereof cannot be expected of other court personnel if judges themselves cannot be relied on to take the lead.

IN VIEW OF THE FOREGOING, WE ISSUE A STERN WARNING to Judge Cleto R. Villacorta III, Regional Trial Court, Branch 6, Baguio City, that further failure to observe reasonable rules and guidelines for applying for a leave of absence shall be dealt with more severely.

THE OFFICE OF THE COURT ADMINISTRATOR IS ALSO DIRECTED to expedite the study and establishment of rules and procedure for the electronic filing of applications for leave in the judiciary. These rules shall facilitate the usual process, as well as sufficiently provide the mechanism for contingencies during which an official or employee is unable to personally file the applications for leave of absence.

SO ORDERED.

Leonardo-de Castro, Bersamin, Villarama, Jr., and *Reyes, JJ.,* concur.