



Republic of the Philippines
Supreme Court
 Manila

EN BANC

MARITA B. BALLOGUING,
 Presiding Judge, Regional Trial
 Court, Branch 20, Vigan City,
 Ilocos Sur,
Complainant,

A.M. No. P-17-3645
(formerly OCA IPI No. 15-4415-P)

Present:

SERENO, C.J.,
 CARPIO,
 VELASCO, JR.,
 LEONARDO-DE CASTRO,
 PERALTA,
 BERSAMIN,
 DEL CASTILLO,
 PERLAS-BERNABE,*
 LEONEN,
 JARDELEZA,
 CAGUIOA,
 MARTIRES,**
 TIJAM,
 REYES, and
 GESMUNDO, JJ.

- versus -

CRESENTE B. DAGAN, Utility
 Worker I, Regional Trial Court,
 Branch 20, Vigan City, Ilocos
 Sur,
Respondent.

Promulgated:
 January 30, 2018

X-----*Alfonso C. Briones*-----X

DECISION

PER CURIAM:

Habitual absenteeism makes a mockery of the Court's high standards requiring its employees to dedicate their full working time for public service. It is prejudicial to the best interest of public service, and thus, must be curtailed.¹

This resolves the administrative complaint filed by Presiding Judge Marita B. Balloguing (Judge Balloguing) of the Regional Trial Court (RTC)

* On leave.

** On official leave.

¹ *Leave Division-Q.A.S., Office of the Court Administrator v. Sarceno*, 754 Phil. 1, 3 (2015).

of Vigan City, Ilocos Sur, Branch 20 against Cresente B. Dagan (Dagan), Utility Worker I of the same court 1) for habitual absenteeism and abandonment of work; and 2) for taking records and evidence in the RTC.

Factual Antecedents

In a Letter-Complaint² dated January 8, 2015, Judge Balloguing alleged that Dagan incurred absences at work, as shown by his daily time record³ (DTR) for September, October, and November 2014. She also stated that in December 2014 up to the filing of the case, Dagan had completely abandoned his work. To confirm these allegations, the Office of the Court Administrator (OCA), Office of Administrative Services (OAS) – Employees' Leave Division of the Court issued a Certification,⁴ the pertinent portions of which read:

This is to certify that according to the records of this office, Mr. Cresente B. Dagan, Utility Worker 1, Branch 20, Regional Trial Court, Vigan City, Ilocos Sur, was on sick leave with pay for the period September 1, 23, November 3, 2014[;] on vacation leave with pay for the period September 8-12, 16, 24-26, 29-30, October 1-3, 7-10, 22-24, 27-31, 2014[;] on calamity leave with pay for the period October 13-17, 2014 and force[d] leave from October 20, 21, 2014.

This is to certify further that Mr. Dagan is on absence without official leave (AWOL) effective December 1, 2014 and has been recommended to be dropped from the rolls.

In addition, Judge Balloguing claimed that the records in Civil Case No. 7355-V pending in the RTC, and the rifle submitted as evidence thereto went missing. She averred that while said records were already reconstituted, the rifle remained missing. She insisted that the only possible culprit for its loss was Dagan since he held keys to the stockroom where the rifle was kept; and, the stockroom used to be his sleeping quarter.

Judge Balloguing prayed that Dagan be dismissed from the service, and his position in the RTC be declared vacant.

In its 1st Indorsement⁵ dated May 7, 2015, the OCA directed Dagan to submit his comment on this case.

² *Rollo*, pp. 2-3.

³ *Id.* at 4-5.

⁴ *Id.* at 14; signed by Officer-in-Charge Ryan U. Lopez.

⁵ *Id.* at 6.

39 B. Dagan - Puna

Subsequently, Judge Balloguing declared that on June 2, 2015, she received the OCA's First Indorsement; and she personally sent Joel Paraan (Paraan), a staff member at the Justice Hall Maintenance Department, to deliver a copy of the First Indorsement at Dagan's residence in Piddig, Ilocos Norte.⁶ She asserted that Dagan received the same as shown by his signature on its receiving copy.⁷

In its 1st Tracer⁸ dated October 19, 2015, the OCA reiterated the directive for Dagan to submit his comment on the Complaint. In a separate Letter⁹ of even date, the OCA requested Judge Balloguing to cause the personal delivery of the 1st Tracer to Dagan to ensure proper service. Later, Judge Balloguing informed the OCA that she already caused the personal service of the OCA's 1st Tracer, and Dagan received it.¹⁰

Meanwhile, the Court, in its April 11, 2016 Resolution¹¹ in A.M. No. 15-11-350-RTC (*Re: Dropping from the Rolls of Mr. Cresente B. Dagan, Utility Worker I, Branch 20, Regional Trial Court, Vigan, Ilocos Sur*) resolved to drop Dagan from the rolls effective December 1, 2014, without prejudice to the outcome of this case, and did not disqualify Dagan from receiving benefits he might be entitled, as well as from being reemployed in the government. The Court also resolved to declare Dagan's position as Utility Worker I vacant, and to inform him of his separation from the service at his last known address appearing in his 201 file.

Report and Recommendation of the Office of the Court Administrator

In its January 4, 2017 Report,¹² the OCA opined that there was compelling reason to dismiss Dagan from the service considering that Dagan had not returned to work since December 2014; and, the absence of a court employee for a prolonged period constituted conduct prejudicial to the service, a ground for dismissal with forfeiture of benefits.

The OCA added that Dagan was twice directed to comment on the charge that he took court records and evidence (rifle) but despite notice, he

⁶ Id. at 7.

⁷ Id. at 9.

⁸ Id. at 10.

⁹ Id. at 11.

¹⁰ Id. at 12.

¹¹ Id. at 22-24.

¹² Id. at 18-21; signed by Court Administrator Jose Midas P. Marquez, Deputy Court Administrator Raul Bautista Villanueva, and OCA Chief of Legal Office Wilhelmina D. Geronga.

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did not heed the OCA's directive; as such, Dagan had waived his right to defend himself.

Lastly, the OCA stressed that Dagan had been dropped from the rolls because of his prolonged absence. However, such action was non-disciplinary in character, and did not prohibit Dagan from returning to work in the Judiciary. The OCA maintained that Dagan should not be allowed to escape administrative sanction by going on AWOL and at the same time still have the opportunity to return to the Judiciary. Thus, the OCA made these recommendations:

- (1) the instant administrative complaint for habitual absenteeism, abandonment of work and neglect of duty be RE-DOCKETED as a regular administrative matter against respondent Cresente B. Dagan, Utility Worker I, Branch 20, Regional Trial Court, Vigan City, Ilocos Sur;
- (2) the 11 April 2016 Resolution of the Court in A. M. No. 15-11-350-RTC dropping respondent Dagan from the rolls be SET ASIDE; and
- (3) respondent Dagan be instead found GUILTY of grave misconduct and conduct prejudicial to the best interest of the public service for his prolonged unauthorized absences from work since 15 December 2014 and be ordered DISMISSED from the service, with FORFEITURE of all benefits, except accrued leave credits, if any, and PERPETUAL DISQUALIFICATION from re-employment in any government instrumentality, including government-owned and controlled corporations.¹³

On February 20, 2017, the Court re-docketed this case as a regular administrative matter.

In her Letter dated March 14, 2017, Judge Balloguing informed the OCA that upon investigation, she learned that on January 13, 2015, after office hours and after all employees left the courthouse, Dagan surreptitiously returned the subject rifle to the court. She stressed that such matter was recorded in the logbook of the court for January 13, 2015. She added that her court stenographer, Antonia P. Espejo, also chanced upon Dagan when he returned the rifle.

In addition, Judge Balloguing alleged that at the time of her Letter, Dagan was detained at the Ilocos Norte Provincial Jail as he was charged

¹³ Id. at 20-21.

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with violation of Comelec¹⁴ Gun Ban which he purportedly committed in Sarrat, Ilocos Norte. Because of such circumstance, Judge Balloguing requested that she be authorized to fill up the position vacated by Dagan.

Acting on Judge Balloguing's March 14, 2017 Letter, the OCA made the following recommendations:

1. the request of Executive Judge Marita Hernales-Balloguing, Branch 20, RTC, Vigan City, Ilocos Sur, contained in her letter dated 14 March 2017, be GRANTED; and
2. Executive Judge Balloguing be AUTHORIZED to fill up the position of Utility Worker I in Branch 22,¹⁵ RTC, Vigan City, Ilocos Sur, vacated by respondent Cresente B. Dagan who was dropped from the rolls pursuant to the Resolution dated 11 April 2016 x x x

Issue

Whether Dagan is guilty of habitual absenteeism, abandonment of work, and of taking court records and evidence such that he must be dismissed from the service.

Our Ruling

The Court hereby adopts the recommendations of the OCA.

A. Habitual absenteeism and abandonment of work

A civil servant is considered habitually absent when "he or she incurs 'unauthorized absences exceeding the allowable 2.5 days monthly leave credit under the law for at least three (3) months in a semester or at least three (3) consecutive months during the year.'"¹⁶ To stress, mere failure to file leave of absence does not by itself result in any administrative liability. However, unauthorized absence is punishable if the same becomes frequent or habitual. In turn, absences become habitual when an officer or employee in the civil service exceeds the allowable monthly leave credit (2.5 days) within the given time frame.¹⁷

¹⁴ Commission on Elections.

¹⁵ Should be Branch 20.

¹⁶ Citing Administrative Circular No. 14-2002, *Leave Division—O.A.S., Office of the Court Administrator v. Sarceno*, supra note 1 at 8.

¹⁷ *Judge Arabani, Jr. v. Arabani*, A.M. Nos. SCC-10-14-P, SCC-10-15-P & SCC-11-17, February 21, 2017.

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In this case, Dagan duly filed official leave for his absences in September, October, and November 2014. Nonetheless, it cannot escape our attention that by December 2014, until the filing of this complaint and the period thereafter, he already went on AWOL. Thus, pursuant to the foregoing rules on absenteeism, Dagan was guilty of habitual absenteeism as he evidently exceeded the authorized number of days that he may absent himself.

In *Re: AWOL of Ms. Bantog*,¹⁸ the Court imposed the penalty of dismissal against respondent Bantog, Court Stenographer III of the RTC of Pasig City, Branch 168, due to her having gone on AWOL. The Court ruled that Bantog's act was an utter disregard of her responsibilities as a public servant and as a court employee.

Similarly, in *Re: Habitual Absenteeism of Marcos*,¹⁹ the Court dismissed from the service respondent Marcos, Sheriff III of the Metropolitan Trial Court, Office of the Clerk of Court of Caloocan for his frequent absences. It ratiocinated that habitual absenteeism constitutes gross misconduct and conduct prejudicial to the best interest of the service. It also emphasized the constitutional precept that public office is a public trust. Since public officers are accountable to the people, they must perform their duties strictly. It further held that, it condemns such act or omission that would diminish the people's faith in the Judiciary; hence, all its officers and employees must conduct themselves in a manner that is beyond suspicion.

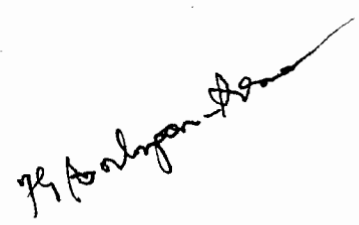
Moreover, in *Leave Division-O.A.S., Office of the Court Administrator v. Sarceno*,²⁰ the Court held that habitual absenteeism is prejudicial to the best interest of the service as it makes a mockery of public service. The Court decreed that by his habitual absenteeism, therein respondent Sarceno, Clerk III of the RTC of Manila, Branch 31, acted in a manner that resulted in inefficiency in the public service, which inefficiency must be curtailed. It further declared that Sarceno's habitual absenteeism had seriously compromised the integrity of the Judiciary, and for which reason, it dismissed Sarceno from the service.

Here, Dagan is similarly guilty of habitual absenteeism and conduct prejudicial to the best interest of the service. Like in *Re: AWOL of Ms. Bantog*, *Re: Habitual Absenteeism of Marcos*, and *Sarceno*, Dagan deserves not just the dropping of his name from the rolls. His disservice to the

¹⁸ 411 Phil 523 (2001).

¹⁹ 650 Phil. 251 (2010).

²⁰ Supra note 1.



Judiciary gives the Court sufficient reason to dismiss him and declare him ineligible for public service hereafter.

B. *Theft of court records and evidence*

The Court also adopts in full the finding and recommendation of the OCA, which focused closely on Dagan's failure to obey the OCA's directive to comment on the allegation that he took records and evidence in court.

Dagan was twice directed by the OCA to comment on this charge against him. However, despite receipt of notice, he did not file any comment on the Complaint. By such inexcusable refusal to comment despite ample opportunity to do so, Dagan had waived his right to defend himself, and had shown appalling disrespect of the Court's authority as well as its rules and regulations.²¹

In *Clemente v. Bautista*,²² the Court ruled that the directive to comment on a case filed against a court employee is not an empty requirement. The OCA's directives, and those of its deputies are issued pursuant to the administrative supervision of the Court. They are not mere requests but are directives that must be timely and fully complied with. As such, the indifference to and disregard of such orders constitute insubordination. Hence, for his failure to file his comment despite notice to do so, Dagan committed insubordination, which in turn is punishable by suspension for one (1) month and one (1) day to six (6) months for the first violation. However, considering the foregoing discussion, Dagan's suspension is rendered impractical. Thus, the Court deems it appropriate to instead order him to pay a fine equivalent to three months worth of his salary.²³

WHEREFORE, Cresente B. Dagan, Utility Worker I, Regional Trial Court, Vigan City, Ilocos Sur, Branch 20, is found **GUILTY** of habitual absenteeism, conduct prejudicial to the best interest of the service, and insubordination. He is hereby **DISMISSED FROM THE SERVICE** with prejudice to re-employment in any government agency, including government-owned or controlled corporations, and with forfeiture of retirement benefits, except accrued leave credits. He is also meted a penalty of **FINE** equivalent to his salary for three (3) months.

²¹ *Lozada v. Zerrudo*, A.M. No. P-13-3108, 708 Phil. 353, 358 (2013).

²² 710 Phil. 10, 15-16 (2013).

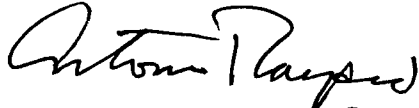
²³ *Id.* at 18.

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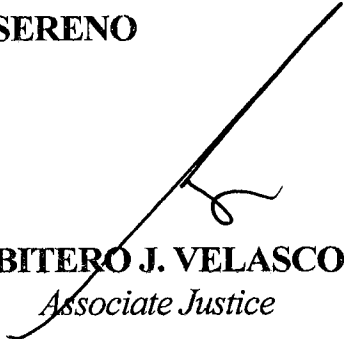
SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice



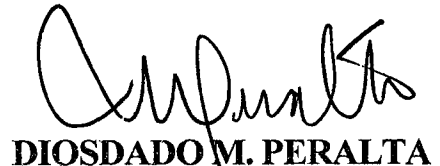
ANTONIO T. CARPIO
Associate Justice



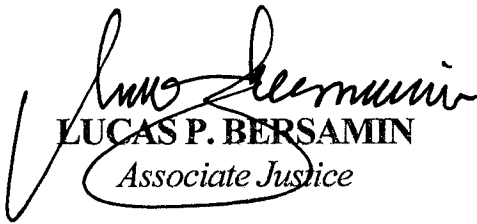
PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



DIOSDADO M. PERALTA
Associate Justice

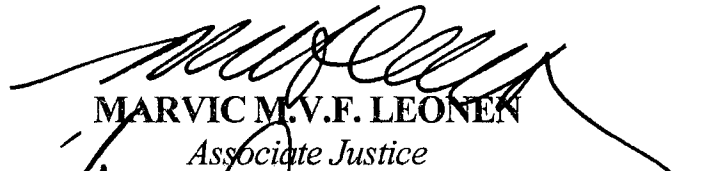


LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice

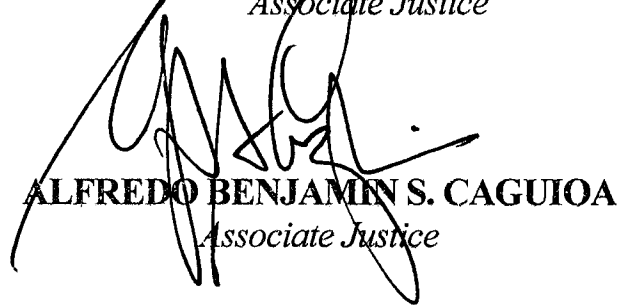
(On leave)
ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice




FRANCIS H. JARDELEZA
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

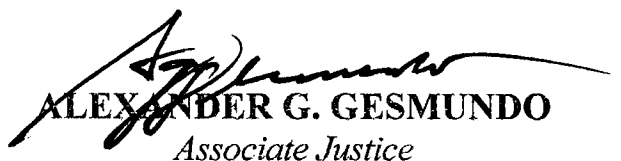
(On official leave)
SAMUEL R. MARTIRES
Associate Justice



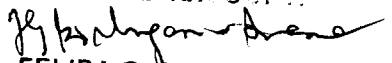
NOEL GIMENEZ TIJAM
Associate Justice



ANDRES B. REYES, JR.
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice

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FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT