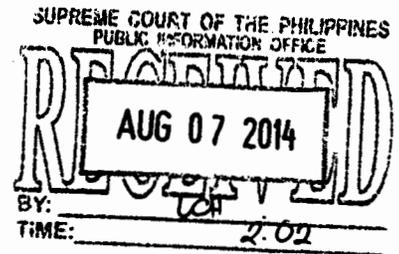




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 23, 2014 which reads as follows:

“A.M. No. 12-5-39-MTCC (Failure to Secure Authority to Travel Abroad by Mike K. Mayor, MTCC-OCC, Cebu City). –On 14 March to 29 July 2011, Mike K. Mayor, Records Officer I of the Office of the Clerk of Court, Municipal Trial Court in Cities (MTCC), Cebu City, took a trip to Dublin, Ireland without an authority to travel abroad. Records show that on 17 February 2011, he filed an application for a vacation leave to be spent abroad for the period 14 March to 29 July 2011, and attached thereto was his letter-request for the issuance of a travel authority. The Executive Judge of the MTCC, Cebu City, recommended the approval of his leave application. On 1 March 2011, Rosemarie S. Pabatao, officer-in-charge of the Regional Court Administrator Office (RCAO) 7, approved his leave application for 62 days of vacation leave with leave pay, 3 days of special leave with pay, and 33 days of leave without pay.¹ Mr. Mayor’s request and its supporting documents were forwarded to the Office of Court Administrator (OCA) through an Indorsement² dated 28 February 2011, but these were received by the Employees Leave Division (ELD), Office of Administrative Services (OAS) of the OCA on 4 March 2011 only.³

In a letter⁴ dated 2 September 2011, Deputy Court Administrator (DCA) Raul Bautista Villanueva directed Mr. Mayor to explain in writing the latter’s failure to secure an authority to travel abroad in violation of paragraph b, nos. 1 and 2 of OCA Circular No. 49-2003 (Guidelines on Requests for Travel Abroad and Extensions for Travel/Stay Abroad). Additionally, Mr. Mayor was informed that his application for vacation

¹Rollo, pp. 19-25.

²Id. at 19.

³Id. at 8.

⁴Id. at 10-11.

leave had been disapproved for his failure to comply with this circular, and that his absences were therefore considered unauthorized.⁵

Prior thereto, Mr. Mayor submitted a letter⁶ dated 16 August 2011 to Atty. Chevin Q. Vasquez, Assistant Regional Court Administrator for Administrative Services, RCAO 7, in relation to his request for the reinstatement of his salary, which was cut off beginning 1 July 2011. The letter also served as his written explanation in compliance with the directive issued by DCA Villanueva.

Mr. Mayor explained that he proceeded with his travel to Dublin without waiting for the approval of his leave application and request for authority to travel, because his wife was sick and urgently needed his care. His wife was working as a caregiver in Dublin, but she was afflicted with metastatic cervical cancer and had to undergo chemo and radio therapy. Thus, he took an emergency leave of absence from work, and he even had to leave their 13-year-old child to the care of a neighbor so he could attend to his wife.⁷

Further, he explained that he received his approved visa from the Irish Consulate only in February 2011. His approved visa was set to expire on 14 March 2011, so he bought a round-trip ticket in the first week of March. He did not cancel his ticket because he urgently needed to leave, and a cancellation would have made his trip more costly. He apologized for his infraction and asked for the Court's kind understanding and consideration.⁸

Attached to the explanation of Mr. Mayor was a letter from Dr. Laura MacKenzie of Morehampton Clinic, 136 Morehampton Road, Dublin, confirming that Ruby Mayor, wife of Mike Mayor, had undergone major treatment for metastatic cervical cancer and that the latter went to Ireland to take care of his wife from March to end of July 2011.⁹

In an Indorsement¹⁰ dated 1 December 2011, Atty. Caridad A. Pabello, Chief of OCA Administrative Services, referred Mr. Mayor's letter-explanation to the OCA Legal Office for appropriate action.

In its report to the Court dated 17 April 2012, the OCA recommended that Mr. Mayor be found guilty of violation of OCA Circular No. 49-2003 and Supreme Court Circular No. 55-97 in relation to the Court's En Banc Resolution dated 1 February 2011 in A.M. No. 09-7-03 (Setting of the Maximum Period of Vacation Leave of Lower Court

⁵Id. at 10.

⁶Id. at 13-25.

⁷Id. at 13.

⁸Id. at 14.

⁹Id. at 17.

¹⁰Id. at 28.

Officials and Personnel).¹¹ The OCA also considered as aggravating circumstance his unauthorized absences, which totalled 96.5 days. Thus, it recommended a fine in the amount of three thousand pesos (₱3,000) as penalty, instead of a mere reprimand.

Whilst there have been dissenting opinions in recently decided cases involving a similar infraction on the ground that the requirement for authority to travel abroad impairs the employee's constitutional right to travel, the Court will have to deal with the instant case since OCA Circular No. 49-2003 has not yet been fully reversed.

OCA Circular No. 49-2003 directs judges and court personnel to submit the complete requirements for applications for authority to travel abroad two weeks before the intended departure; otherwise the application shall be denied. Failure to secure a travel authority shall also be a ground for disciplinary action. In relation to this circular, the Court En Banc in its Resolution in A.M. No. 09-7-03-O (Amended) dated 1 February 2011, has set the maximum period for a vacation leave of absence of officials and employees of the Judiciary, including the extension thereof, to thirty (30) working days, except in cases of study leave/scholarship grant or sick leave with a medical certificate. This policy on foreign travels of court personnel has been reiterated in Supreme Court Memorandum Order No. 32-11, dated 20 September 2011, in which the Court has declared that applications for leave of absence for travel outside the country without the required permission or authority shall be denied.

Mr. Mayor applied for travel authority and submitted the requirements therefor within the prescribed period of two weeks, as shown by the favorable indorsement thereof dated 28 February 2011. Moreover, he filed his application for a vacation leave and its supporting documents more than three weeks before the effectivity date of his leave.¹² It cannot be reasonably said, then, that Mr. Mayor was noncompliant with the Court's policy on foreign travels.

Mr. Mayor cannot be held liable for the apparent delay in the transmittal of his application for travel authority to the OCA, without proof of contributory delay on his part. Indeed, OCA Circular No. 49-2003 contains an express caveat that applications received by the OCA less than two weeks before the intended travel shall not be favorably acted upon. However, it should not serve as a ground to hold Mr. Mayor liable because the records clearly show that his application has been timely indorsed by RCAO 7.

¹¹Id. at 1-6.

¹²OCA Circular No. 6-03, dated 9 January 2003, directs the submission of application for vacation leave five (5) days before the effectivity date of the intended leave.

Even if the processing period be reckoned from the date of the OCA's actual receipt of the Indorsement, which was 4 March 2011, in this age of technology it cannot reasonably be concluded that the OCA was left with very little time to evaluate the request for travel authority, and that its failure to immediately act thereon was justified. The leave application clearly indicated the urgency of the reason for the travel abroad, which was to enable Mr. Mayor to take care of his ailing wife. Worse, the date of the Indorsement was visibly written on its face. Given these circumstances, it cannot be said that his decision to leave the country without a travel authority was an imprudent judgment call and a censurable act.

It appears, too, that the disapproval of the leave application was grounded on his failure to secure a travel authority. Since the Court finds that he is not liable for that failure, the OCA's recommendation to consider his unauthorized absences as an aggravating circumstance must be rejected. Moreover, as the records show that he had earned 62 days of vacation leave credits as of 17 February 2011 and that the RCAO 7 had approved his application for a vacation leave of 98 days, the Court has no basis for declaring his absences unauthorized. In the light of the reason for his absences, which is duly supported by a medical certificate from his wife's doctor, the Court deems it just and proper to exempt him from A.M. No. 09-7-03-O. It must be stressed, however, that this exemption shall not serve as a legal precedent.

Section 56 of Civil Service Commission Memorandum Circular No. 41, Series of 1998, states that all absences of an official or employee in excess of his or her accumulated vacation or sick leave credits earned shall be without pay, and that vacation leave credits may be used whenever sick leave credits have been exhausted, but not vice versa. Thus, the Court can only withhold the salaries and benefits corresponding to the period in excess of Mr. Mayor's earned vacation leave credits and special leave with pay.

The Court takes this opportunity to remind the OCA of its duty to comply with its own guidelines to avoid similar unfortunate incidents in the future. The OCA is further reminded of the Court's earlier directive for it to study and establish rules and procedure for the electronic filing of applications for leave in the judiciary.¹³ In addition, the OCA is directed to include therein applications for authority to travel abroad.

IN VIEW OF THE FOREGOING, WE ISSUE A STERN WARNING to Mike K. Mayor, Records Officer I of the Office of the Clerk of Court, Municipal Trial Court in Cities, Cebu City, that further failure to observe reasonable rules and guidelines for applying for a leave of absence and travel authority shall be dealt with more severely.

¹³ Re: Unauthorized Travel Abroad of Judge Cleto R. Villacorta III, Regional Trial Court, Branch 6, Baguio City, A.M. No. 11-9-167-RTC, 11 November 2013.

THE OFFICE OF THE COURT ADMINISTRATOR IS ALSO DIRECTED to expedite the processing of applications for travel authority and to inform the applicant of its action thereon within a period not exceeding more than one (1) week from receipt thereof. It is further **DIRECTED** to report within ten (10) days whether it has already complied with the directive to study and establish rules and procedure for the electronic filing of applications for leave and travel authority in the Judiciary.

SO ORDERED.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court ^{m 7/23}
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Records Officer I
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6000 Cebu City

The Hon. Executive Judge
Municipal Trial Court in Cities
6000 Cebu City

The Clerk of Court
Municipal Trial Court in Cities, OCC
6000 Cebu City

Hon. Jose Midas P. Marquez (x)
Court Administrator
Hon. Raul B. Villanueva (x)
Hon. Jenny Lind R. Aldecoa-Delorino (x)
Hon. Thelma C. Bahia (x)
Deputy Court Administrators
OCA, Supreme Court

Office of Administrative Services (x)
Legal Office (x)
Court Management Office (x)
Financial Management Office (x)
Docket & Clearance Division (x)
Leave Division (x)
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No. 12-7-1-SC)



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