

## **SECOND DIVISION**

**[ A.M. No. P-11-3004 (Formerly OCA I.P.I. No. 10-3483-P), April 18, 2012 ]**

**JUDGE ANDREW P. DULNUAN, COMPLAINANT, VS. ESTEBAN D. DACSIG, CLERK OF COURT II, RESPONDENT.**

### **R E S O L U T I O N**

**SERENO, J.:**

In a letter dated 26 April 2010 and addressed to Ms. Hermogena F. Bayani, Chief Judicial Staff Officer of the Leave Division, Office of the Court Administrator (OCA), Presiding Judge Andrew P. Dulnuan (Judge Dulnuan) of Municipal Trial Court, Madella-Natipunan, Quirino recommended that the salary of his Clerk of Court II, Esteban D. Dacsig (Dacsig), be suspended and that other administrative sanctions be imposed upon the latter for taking absences without leave because of drunkenness.

Dacsig incurred several absences without leave for the years 2009 and 2010, specifically on the following dates:

Month and Year	Number of Times Absent	Specific Dates
December 2009	4 times	7, 8, 9, & 11
April 2010	3 times	21, 22, & 23

In addition, Dacsig failed to enter his name in the office log book from January 2010 to 19 April 2010. Also, the time cards submitted by Dacsig for March 2010 allegedly came with a notation that the office bundy clock had malfunctioned in the last week of March 2010.

In a letter to the OCA dated 15 May 2010, Dacsig admitted that he had taken those absences without leave and begged the OCA not to impose administrative sanctions upon him, to wit:

I appeal to your office for understanding and sympathy not to impose administrative sanctions against me for this initial infraction as those times of being absent without leave. I was going through personal crisis making me vulnerable to such behavior (drunkenness). I am working out means to address the matter for my own personal redemption, but in case it fails and such absence will again be committed, I have no recourse but to voluntarily resign or for your office to consider me resigned.

On 5 August 2010, Caridad A. Pabello of the Office of Administrative Services of the OCA referred the matter to Atty. Wilhelmina D. Geronga of the OCA's Legal Office for whatever action the latter's office may deem proper.

On 1 October 2010, Court Administrator Jose Midas P. Marquez referred Judge Dulnuan's 26 April 2010 letter to Dacsig for the latter's comment.

Respondent submitted his Comment on 23 May 2011. He explained that he used his "force leave" from December 7 to 9 to visit his family at Mayoyao, Ifugao. As to his absence on 11 December 2011, he claims that he asked Judge Dulnuan a week in advance for permission to attend a non-government organization event on that day.

He was again in Mayoyao, Ifugao from April 21 to 23 to talk to his wife about their marital problems.

The OCA, in its 7 July 2011 report, recommended that Dacsig, for his first offense of simple misconduct, be fined in the amount of ₱5,000 and warned that a repetition of the same or a similar offense in the future would be dealt with more severely by this Court.

Rule XVI, of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws (Civil Service rules) provides the rules governing the different forms of leave granted to government employees and officers. Sections 16 and 20 mandate that an employee submit an application for both sick and vacation leaves, viz:

#### RULE XVI

##### Leave of Absence

x x x

x x x

x x x

SECTION 16. All applications for sick leaves of absence for one full day or more shall be on the prescribed form and shall be filed immediately upon the employee's return from such leave. Notice of absence, however, should be sent to the immediate supervisor and/or to the office head. Application for sick leave in excess of five days shall be accompanied by a proper medical certificate.

SECTION 20. Leave of absence for any reason other than illness of an officer or employee or of any member of his immediate family must be contingent upon the needs of the service. Hence, the grant of vacation leave shall be at the discretion of the head of department/agency.

Under the Civil Service rules, an employee should submit in advance, whenever possible, an application for a vacation leave of absence for action by the proper chief of agency prior to the effective date of the leave.<sup>[1]</sup>

It is clear from the facts that Dacsig had failed to acquire the necessary leave