

EN BANC

[A.M. No. 07-9-214-MTCC, July 26, 2011]

RE: APPLICATION FOR INDEFINITE LEAVE AND TRAVEL ABROAD OF PRESIDING JUDGE FRANCISCO P. RABANG III, MUNICIPAL TRIAL COURT IN CITIES, COTABATO CITY

D E C I S I O N

PER CURIAM:

Judge Francisco P. Rabang III (Judge Rabang), the Presiding Judge of the Municipal Trial Court in Cities (MTCC), Cotabato City, filed an application dated 16 May 2007 for indefinite leave and travel abroad. Judge Cader P. Indar, Al Haj (Judge Indar), the Executive Judge of the Regional Trial Court of Maguindanao and Cotabato City, sent a letter to then Deputy Court Administrator Reuben De la Cruz seeking guidance on Judge Rabang's application for indefinite leave. Judge Indar deferred action on the leave application due to the following reasons: (1) the leave was not specific as to the kind of leave applied for, the number of working days and where to spend it; and (2) Judge Rabang had not accounted for his absences from 2 to 10 April 2007 and from 25 April to 15 May 2007 when Judge Rabang neither performed his functions nor reported in office. Judge Indar further stated that Judge Rabang previously took a two-month leave of absence for the period February to March 2007 but returned to office only on 11 April 2007.

On 10 October 2007, this Court issued a Resolution directing Judge Rabang to explain in writing his failure to comply with Memorandum Order No. 14-2000.^[1] In the same Resolution, the Court likewise disapproved Judge Rabang's application for indefinite leave of absence and his absences were considered unauthorized. The Court further directed Judge Rabang to immediately report back to work; otherwise, his name would be dropped from the Rolls. The Financial Management Office was directed to withhold his salaries and benefits.

On 24 October 2008, the Office of the Court Administrator (OCA) reported that, according to Presiding Judge Annabelle D. P. Piang of the MTCC, Cotabato City, Judge Rabang's residence at No. 8 Notre Dame Avenue, Rosary Heights, Cotabato City was always closed and a househelper only reports from time to time to clean the house, which is now on sale. Clerk of Court IV Wilfredo S. Guanzon, also of the MTCC, Cotabato City, notified the OCA that the 10 October 2007 Resolution was sent to Judge Rabang's father, who is a retired judge, through LBC, a private courier, because Judge Rabang was no longer reporting for duty.

On 9 February 2009, the Court directed the National Bureau of Investigation (NBI) to locate the whereabouts of Judge Rabang. The NBI reported that Judge Rabang left for Canada sometime in 2007 and is residing at 1265 Wilson Avenue, North York, Ontario Apartment 308 M3M 159, Canada. His wife, Bernadette, is working there as a Staff Nurse. Sometime in October 2008, one of Judge Rabang's sons died

in Canada and his mother Athena went there to attend the wake.

In its Memorandum dated 15 February 2011, the OCA reported that Judge Rabang has been absent from his station and out of the country for more than three years already. The OCA opined that Judge Rabang violated Memorandum Order No. 14-2000 when he departed for abroad without the knowledge and permission of the Court. He has abandoned his sala for no justifiable reason. The OCA recommended that Judge Rabang be dismissed from the service for misconduct and abandonment of office with forfeiture of his salaries and allowances as well as retirement benefits, except his accrued leave credits, and that he be barred from re-employment in all branches of the government, including government-owned and controlled corporations. The OCA further recommended that Judge Rabang's position in the MTCC, Cotabato City, be declared vacant.

The Office of Administrative Services of the OCA issued a Certification dated 1 February 2011 stating that Judge Rabang had 71.042 days vacation leave and 232.042 days sick leave credits as of 15 May 2007, and that Judge Rabang applied for vacation leave from 1 February to 31 March 2007. However, he did not submit any application for leave for his absences from 2 to 10 April 2007 and 25 April to 15 May 2007. His application for indefinite leave beginning 16 May 2007 was disapproved and considered unauthorized in the 10 October 2007 Resolution. His father, a retired judge, was sent a copy of the Resolution of 10 October 2007 which, among other things, directed Judge Rabang to report back to work. But Judge Rabang still has not complied with the Court's resolution. Up to this date, Judge Rabang has not returned to work. **Judge Rabang has been absent from his station and out of the country for more than four years now.** Efforts have been exerted to locate the whereabouts of Judge Rabang. The NBI, which assisted the Court in locating him, has reported that Judge Rabang is now residing in Canada. Judge Rabang should have been more conscious of his court duties. As a judge and a court official, Judge Rabang has the duty to perform his functions promptly and regularly. He should have been aware that, in frequently leaving his station, he has caused great disservice to many litigants and has denied them speedy justice.^[2] Definitely, Judge Rabang's continued absence for more than four years now has caused great disservice to numerous litigants.

We have ruled that the absenteeism of judges or court employees and/or their irregular attendance at work is a serious charge that may warrant the imposition of the penalty of dismissal or suspension from service.^[3] Frequent and prolonged leaves without permission from the Court and abandonment of office have been considered gross misconduct. Gross misconduct is a serious charge under Section 8, Rule 140 and may be punishable by dismissal from service, suspension from office without salary and other benefits for more than 3 but not exceeding 6 months, or a fine of more than P20,000 but not exceeding P40,000.

In *Leaves of Absence Without Approval of Judge Calderon*,^[4] the Court considered Judge Calderon's frequent and prolonged absence for almost a straight period of three years to be inexcusable. The Court concluded that Judge Calderon had habitually abandoned his sala. Judge Calderon was found guilty of gross misconduct and abandonment of office and was consequently dismissed from the service with forfeiture of all benefits.