



Supreme Court of the Philippines Philippine Judicial Academy



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Judges: Violation of Administrative Circular No.5, dated October 4, 1988

Administrative Circular No. 5, dated October 4, 1988, prohibits officials and employees of the Judiciary from performing or agreeing to perform functions or services outside of their official function so that they can devote their entire time to their official work to ensure the efficient and speedy administration of justice.

Respondent judge violated said Circular No. 5 when he agreed to serve as one of a private corporation's bank signatories.

For violation of Administrative Circular No. 5, respondent judge was reprimanded and sternly warned. **(A.M. No. MTJ-08-1711 and A.M. No. MTJ-08-1716, both dated May 3, 2012)**

Clerk of Court: Issuing an irregular writ of execution

It is a settled rule that a writ of execution should strictly conform to every essential particular of the promulgated judgment as indicated in the dispositive portion (fallo) thereof since it is that portion of the decision that actually constitutes the resolution of the court. If there is a conflict between the dispositive portion and the opinion of the court contained in the body of the decision, it would be the dispositive portion that would be controlling. This principle is based on the theory that the dispositive portion is the final order of the court while the opinion is merely a statement ordering nothing. A writ of execution would be rendered void if it is in excess of and beyond the original judgment or award spelled out in the dispositive portion of the decision.

Respondent clerk of court cannot be faulted for issuing a writ of execution in accordance with the literal text of the dispositive portion of the decision. Had she done otherwise, she would have been accused of arrogating unto herself the power to exercise a judicial act in violation of the law.

Case against respondent clerk of court was dismissed. **(A.M. No. C.A-12-25-P, March 20, 2012)**

Clerk of Court: Unauthorized absences

Rule XVI of the Omnibus Rules Implementing Book V of Executive Order 292 and Other Pertinent Civil Service Laws provide the rules governing the different forms of leave granted to government employees and officers. Sections 16 and 20 thereof mandate that an employee submit an application for both sick and vacation leaves, to wit:

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.

Respondent clerk of court failed to apply for and obtain the necessary leave permits when she did not report for work, hence, she was suspended for six (6) months and one day for frequent unauthorized absences. **(A.M. No. P-11-3004, April 18, 2012)**

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