

## **EN BANC**

**[ A.M. No. CA-18-35-P [Formerly A.M. OCA IPI No. 17-260-CA-P], November 27, 2018 ]**

### **COMPLAINT OF RICKY R. REGALA, AS ACTING CHIEF OF SECURITY, AGAINST SECURITY GUARD I ENRIQUE E. MANABAT, JR., BOTH OF THE COURT OF APPEALS**

#### **DECISION**

##### **PER CURIAM:**

Subject of this Decision is the complaint filed by Acting Chief of Security Ricky R. Regala (complainant) charging Security Guard I (SGI) Enrique E. Manabat, Jr. (respondent) with abandonment of his post and absence without prior leave (AWOL).

In his Investigation Report<sup>[1]</sup> dated December 9, 2013, complainant informed the Security Committee of the Court of Appeals (CA) that on November 15, 2013, at around 9:00 a.m., respondent asked permission to go to the Philippine General Hospital (PGH) for his scheduled physical therapy. At around 1:00 p.m., complainant noticed that respondent's position remained unmanned and when he asked the other security guards on duty, he was told that they did not see respondent report back for work. Further, upon inquiry with the PGH, he learned that respondent never went to his scheduled physical therapy. In addition, respondent was AWOL from November 19 to 22, 2013 - he did not even bother informing his colleagues that he will not report for work. Thus, complainant recommended that respondent be dismissed from service.

On January 21, 2016, the CA Clerk of Court (CoC) filed a Formal Charge<sup>[2]</sup> against respondent for Simple Neglect of Duty and Conduct Prejudicial to the Best Interest of the Service. He was directed to file an answer under oath within five days from receipt of the charges.

##### *Respondent's Position*

In his Counter-Affidavit<sup>[3]</sup> dated March 11, 2016, respondent explained that at around 4:00 p.m. on November 15, 2013, he was about to return to the CA from the PGH. However, he received an emergency call from his wife who told him that they were to fetch her relative, a victim of Typhoon Yolanda. Respondent immediately proceeded to the bus station in Pasay City to meet his wife and her relative. Out of confusion and the urgency of the matter, he forgot to log out from work or to communicate with his colleagues or superiors. Respondent likewise was unable to report for work from November 19 to 22, 2013 because he helped his wife comfort her relative after the tragedy that beset their family. He posited that his infractions were neither deliberate nor intentional and that the penalty of suspension was harsh considering his long years in government service.

Initially, respondent requested for a formal investigation but it was dispensed with after he manifested during the preliminary conference that he will no longer file any documentary or testimonial evidence. The parties were then required to submit their respective memoranda.

In its May 30, 2017 Report and Recommendation,<sup>[4]</sup> the CA CoC pointed out that respondent failed to inform his superior that he would not return to his post after his scheduled therapy session, and that he would not be reporting for work from November 19 to 22, 2013. It highlighted that during his time of absence, his post was left unmanned. The CA CoC observed that based on the evidence presented by complainant, respondent never even attended his scheduled therapy session. Thus, it found respondent guilty of simple neglect of duty and conduct prejudicial to the best interest of the service, and recommended his dismissal from service considering that he had previously been found guilty of simple neglect of duty.

In an Indorsement<sup>[5]</sup> dated July 11, 2017, then Presiding Justice of the CA Andres B. Reyes, Jr.<sup>[6]</sup> referred the matter to the Court for appropriate action. In its August 1, 2017 Resolution,<sup>[7]</sup> the Court referred the same to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.

#### *OCA Report and Recommendation*

In its August 24, 2017 Report and Recommendation<sup>[8]</sup> the OCA agreed that respondent was guilty of simple neglect of duty. It stated that he displayed carelessness or indifference in the discharge of his duties as he failed to report for work after his therapy at the PGH. The OCA found his failure to inform his superiors that he could not report back for work or that he would be absent for numerous days inexcusable. Further, it expounded that respondent's act of abandoning his post constituted conduct prejudicial to the best interest of the service. The OCA agreed that respondent should be dismissed from service considering that he had been previously found guilty of other offenses.

#### **The Court's Ruling**

The Court concurs with OCA's recommendation to dismiss respondent from service.

In the present case, it is undisputed that respondent did not return to his post after his physical therapy at the PGH and that he failed to report for work from November 19 to 22, 2013. He, however, claims that a family emergency clouded his judgment preventing him from properly notifying or informing his superiors. Respondent insists that his failure to inform his superiors was not intentional. Thus, it is readily apparent that he was already remiss in the faithful performance of his duty as a security guard because he left his post unmanned after he failed to report back for work.

Simple neglect of duty is the failure to give proper attention to a task expected of an employee resulting from either carelessness or indifference.<sup>[9]</sup> On the other hand, gross neglect of duty pertains to negligence characterized by the glaring want of care; by acting or omitting to act in a situation where there is duty, not inadvertently, but willfully and intentionally; or by acting with a conscious