



Republic of the Philippines
Supreme Court
Manila

EN BANC

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

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

Present:

CARPIO, *Acting C.J.*,
PERALTA,*
BERSAMIN,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
TIJAM,*
REYES, A. JR.,
GESMUNDO,
REYES, J. JR., and
HERNANDO, *JJ.*

Promulgated:

November 27, 2018

X

X

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).

* On official business.

In his Investigation Report¹ 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 Charge² 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-Affidavit³ 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.

¹ *Rollo*, pp. 4-7.

² *Id.* at 42.

³ *Id.* at 47-51.

In its May 30, 2017 Report and Recommendation,⁴ 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 Indorsement⁵ dated July 11, 2017, then Presiding Justice of the CA Andres B. Reyes, Jr.⁶ referred the matter to the Court for appropriate action. In its August 1, 2017 Resolution,⁷ 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 Recommendation⁸ 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

⁴ Id. at 112-120.

⁵ Id. at 107.

⁶ Now a member of this Court.

⁷ *Rollo*, pp. 108-109.

⁸ Id. at 134-141.

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.⁹ 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 indifference to consequences with respect to other persons who may be affected.¹⁰ Gross neglect of duty is a grave offense while simple neglect of duty is a less grave offense.

Regardless of respondent's intention, his inattention at the very least constitutes simple neglect of duty as he could have easily communicated to his superiors that he could no longer report back for work had he exercised sufficient diligence. In fact, he could have personally informed his superiors of the family emergency considering that the PGH is merely a stone's throw away from the CA.

After a careful perusal of the records, however, the Court finds that respondent is guilty of gross neglect of duty — not merely simple neglect of duty. Based on the documents from the PGH presented by complainant, respondent never actually attended his scheduled therapy session because the last time he received treatment was on November 5, 2013. He asked permission from complainant to leave his post because he had to go to PGH but he did not attend his planned treatment. Respondent had to make up a ruse for him to leave his station and never came back. This evinces that his act of leaving his post and neglecting his duty was intentional or willful and not merely out of inadvertence or carelessness.

In any case, respondent being guilty of gross neglect of duty or simple neglect of duty would yield the same result — dismissal from service. Gross neglect of duty, as a grave offense, is punishable by dismissal from service while simple neglect of duty may also lead to a severance from service if it is for a second offense. In *Court of Appeals by: COC Marigomen v.*

⁹ *Heirs of Damaso Ochea v. Atty. Maratas*, A.M. No. P-16-3604, June 28, 2017.

¹⁰ *Saunar v. Executive Secretary Ermita*, G.R. No. 186502, December 13, 2017.

Manabat, Jr.,¹¹ respondent was already found guilty of simple neglect of duty for accidentally discharging his service firearm. In the above-mentioned case, he was suspended for one (1) month and one (1) day and was warned that a repetition of the same or similar offense shall be dealt with more severely.

Moreover, respondent is also guilty of Conduct Prejudicial to the Best Interest of the Service. It is true that there is no concrete description of what specific acts constitute the said offense but abandonment of office and failure to report back for work without prior notice had been deemed as such.¹² In respondent's case, his failure to report back for work after his alleged therapy session and lack of notice to his superiors that he could not report for work constitute Conduct Prejudicial to the Best Interest of the Service. Due to the lack of sufficient manpower, his post was left unmanned during the times he failed to report for work.

Respondent's flimsy excuse cannot exonerate him from any liability because they were unjustified and unreliable. It is noteworthy that his explanations why he failed to report back for work after his therapy were inconsistent. In respondent's initial answer, he explained that while he was on the way to PGH, he got a call from his wife telling him that they should fetch her relative in Pasay. However, in his second answer, he narrated that he learned of the emergency after his session at the PGH and while he was returning to the CA. At any rate, either version fails to negate negligence on respondent's part.

Further, respondent's length of service does not serve to mitigate any possible sanction which may be levied on him. Length of service is an alternative circumstance which can reduce or possibly even aggravate the penalty, depending on the circumstances of the case.¹³

Here, respondent had been in government service for 17 years. However, his stint with the government had been far from perfect as he had been previously disciplined. As above-mentioned, respondent was even

¹¹ 676 Phil. 157 (2011).

¹² *Catipon v. Japson*, 761 Phil. 205, 221-222 (2015).

¹³ *Fact-Finding and Intelligence Bureau v. Campaña*, 584 Phil. 654, 665 (2008).

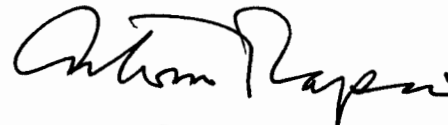
previously found guilty of Simple Neglect of Duty by the Court. His unsatisfactory service record is highlighted even more by the fact that he had been sanctioned or penalized by the CA for numerous infractions in the past, to wit:¹⁴

NATURE OF OFFENSE	DATE	PENALTY
Simple Discourtesy	March 4, 1999	Reprimanded with stern warning.
Unprofessional Behavior and Acts Prejudicial to the Service	November 13, 2001	Sternly Reprimanded with a warning that a repetition of a similar incident will warrant a stiffer penalty.
Discourtesy, Disrespect and Arrogance in the Performance of Duty	May 5, 2004	Written warning that a repetition of the same offense would be dealt with accordingly.
Habitual Absenteeism	June 30, 2005	Suspension from July 7, 2005 to August 5, 2005.
Discourtesy and Disrespect	July 21, 2008	Corrective disciplinary talk by Justice Normandie Pizzaro.
Discourtesy, Disrespect and Neglect of Duty	August 6, 2011	Corrective Disciplinary talk by Justice Celia C. Librea-Leagogo.
Disrespectful Utterance Against Justice Danton Q. Bueser	May 8, 2013	Suspension for one month without pay.

¹⁴ Rollo, pp. 37-38.

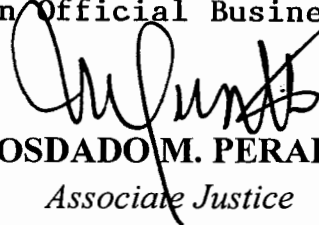
WHEREFORE, respondent Enrique E. Manabat, Jr. is **GUILTY** of Gross Neglect of Duty and Conduct Prejudicial to the Best Interest of the Service. He is **DISMISSED** from the service, with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits and perpetual disqualification from reemployment in the government service.

SO ORDERED.



ANTONIO T. CARPIO
Acting Chief Justice

(On Official Business)



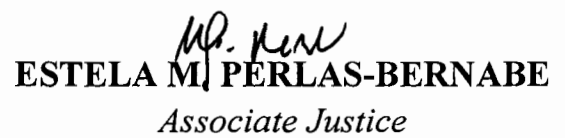
DIOSDADO M. PERALTA
Associate Justice



LUCAS R. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice




MARVIC MARIO VICTOR F. LEONEN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

(On Official Business)


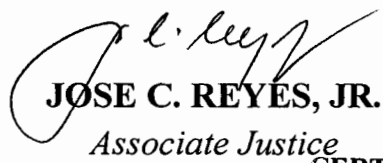
NOEL C. TIJAM
Associate Justice



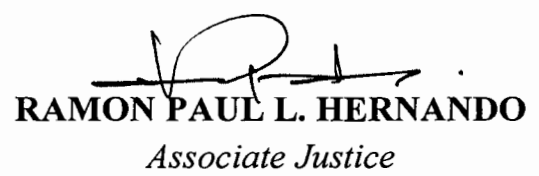
ANDRES B. REYES, JR.
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice




JOSE C. REYES, JR.
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court