

## EN BANC

**[ A.M. No. P-17-3645 (Formerly OCA IPI No. 15-4415-P), January 30, 2018 ]**

**MARITA B. BALLOGUING, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 20, VIGAN CITY, ILOCOS SUR, COMPLAINANT, VS. CRESENTE B. DAGAN, UTILITY WORKER I, REGIONAL TRIAL COURT, BRANCH 20, VIGAN CITY, ILOCOS SUR, RESPONDENT.**

### DECISION

#### PER CURIAM:

Habitual absenteeism makes a mockery of the Court's high standards requiring its employees to dedicate their full working time for public service. It is prejudicial to the best interest of public service, and thus, must be curtailed.<sup>[1]</sup>

This resolves the administrative complaint filed by Presiding Judge Marita B. Balloguing (Judge Balloguing) of the Regional Trial Court (RTC) of Vigan City, Ilocos Sur, Branch 20 against Cresente B. Dagan (Dagan), Utility Worker I of the same court 1) for habitual absenteeism and abandonment of work; and 2) for taking records and evidence in the RTC.

#### ***Factual Antecedents***

In a Letter-Complaint<sup>[2]</sup> dated January 8, 2015, Judge Balloguing alleged that Dagan incurred absences at work, as shown by his daily time record<sup>[3]</sup> (DTR) for September, October, and November 2014. She also stated that in December 2014 up to the filing of the case, Dagan had completely abandoned his work. To confirm these allegations, the Office of the Court Administrator (OCA), Office of Administrative Services (OAS) - Employees' Leave Division of the Court issued a Certification,<sup>[4]</sup> the pertinent portions of which read:

This is to certify that according to the records of this office, Mr. Cresente B. Dagan, Utility Worker 1, Branch 20, Regional Trial Court, Vigan City, Ilocos Sur, was on sick leave with pay for the period September 1, 23, November 3, 2014[;] on vacation leave with pay for the period September 8-12, 16, 24-26, 29-30, October 1-3, 7-10, 22-24, 27-31, 2014[;] on calamity leave with pay for the period October 13-17, 2014 and force[d] leave from October 20, 21, 2014.

This is to certify further that Mr. Dagan is on absence without official leave (AWOL) effective December 1, 2014 and has been recommended to be dropped from the rolls.

In addition, Judge Balloguing claimed that the records in Civil Case No. 7355-V pending in the RTC, and the rifle submitted as evidence thereto went missing. She

averred that while said records were already reconstituted, the rifle remained missing. She insisted that the only possible culprit for its loss was Dagan since he held keys to the stockroom where the rifle was kept; and, the stockroom used to be his sleeping quarter.

Judge Balloguing prayed that Dagan be dismissed from the service, and his position in the RTC be declared vacant.

In its 1<sup>st</sup> Indorsement<sup>[5]</sup> dated May 7, 2015, the OCA directed Dagan to submit his comment on this case.

Subsequently, Judge Balloguing declared that on June 2, 2015, she received the OCA's First Indorsement; and she personally sent Joel Paraan (Paraan), a staff member at the Justice Hall Maintenance Department, to deliver a copy of the First Indorsement at Dagan's residence in Piddig, Ilocos Norte.<sup>[6]</sup> She asserted that Dagan received the same as shown by his signature on its receiving copy.<sup>[7]</sup>

In its 1<sup>st</sup> Tracer<sup>[8]</sup> dated October 19, 2015, the OCA reiterated the directive for Dagan to submit his comment on the Complaint. In a separate Letter<sup>[9]</sup> of even date, the OCA requested Judge Balloguing to cause the personal delivery of the 1st Tracer to Dagan to ensure proper service. Later, Judge Balloguing informed the OCA that she already caused the personal service of the OCA's 1st Tracer, and Dagan received it.<sup>[10]</sup>

Meanwhile, the Court, in its April 11, 2016 Resolution<sup>[11]</sup> in A.M. No. 15-11-350-RTC (*Re: Dropping from the Rolls of Mr. Cresente B. Dagan, Utility Worker I, Branch 20, Regional Trial Court, Vigan, Ilocos Sur*) resolved to drop Dagan from the rolls effective December 1, 2014, without prejudice to the outcome of this case, and did not disqualify Dagan from receiving benefits he might be entitled, as well as from being reemployed in the government. The Court also resolved to declare Dagan's position as Utility Worker I vacant, and to inform him of his separation from the service at his last known address appearing in his 201 file.

#### *Report and Recommendation of the Office of the Court Administrator*

In its January 4, 2017 Report,<sup>[12]</sup> the OCA opined that there was compelling reason to dismiss Dagan from the service considering that Dagan had not returned to work since December 2014; and, the absence of a court employee for a prolonged period constituted conduct prejudicial to the service, a ground for dismissal with forfeiture of benefits.

The OCA added that Dagan was twice directed to comment on the charge that he took court records and evidence (rifle) but despite notice, he did not heed the OCA's directive; as such, Dagan had waived his right to defend himself.

Lastly, the OCA stressed that Dagan had been dropped from the rolls because of his prolonged absence. However, such action was non disciplinary in character, and did not prohibit Dagan from returning to work in the Judiciary. The OCA maintained that Dagan should not be allowed to escape administrative sanction by going on AWOL

and at the same time still have the opportunity to return to the Judiciary. Thus, the OCA made these recommendations:

- (1) the instant administrative complaint for habitual absenteeism, abandonment of work and neglect of duty be RE-DOCKETED as a regular administrative matter against respondent Cresente B. Dagan, Utility Worker I, Branch 20, Regional Trial Court, Vigan City, Ilocos Sur;
- (2) the 11 April 2016 Resolution of the Court in A.M. No. 15-11-350-RTC dropping respondent Dagan from the rolls be SET ASIDE; and
- (3) respondent Dagan be instead found GUILTY of grave misconduct and conduct prejudicial to the best interest of the public service for his prolonged unauthorized absences from work since 15 December 2014 and be ordered DISMISSED from the service, with FORFEITURE of all benefits, except accrued leave credits, if any, and PERPETUAL DISQUALIFICATION from re-employment in any government instrumentality, including government-owned and controlled corporations.<sup>[13]</sup>

On February 20, 2017, the Court re-docketed this case as a regular administrative matter.

In her Letter dated March 14, 2017, Judge Balloguing informed the OCA that upon investigation, she learned that on January 13, 2015, after office hours and after all employees left the courthouse, Dagan surreptitiously returned the subject rifle to the court. She stressed that such matter was recorded in the logbook of the court for January 13, 2015. She added that her court stenographer, Antonia P. Espejo, also chanced upon Dagan when he returned the rifle.

In addition, Judge Balloguing alleged that at the time of her Letter, Dagan was detained at the Ilocos Norte Provincial Jail as he was charged with violation of Comelec<sup>[14]</sup> Gun Ban which he purportedly committed in Sarrat, Ilocos Norte. Because of such circumstance, Judge Balloguing requested that she be authorized to fill up the position vacated by Dagan.

Acting on Judge Balloguing's March 14, 2017 Letter, the OCA made the following recommendations:

1. the request of Executive Judge Marita Hernales-Balloguing, Branch 20, RTC, Vigan City, Ilocos Sur, contained in her letter dated 14 March 2017, be GRANTED; and
2. Executive Judge Balloguing be AUTHORIZED to fill up the position of Utility Worker I in Branch 22,<sup>[15]</sup> RTC, Vigan City, Ilocos Sur, vacated by respondent Cresente B. Dagan who was dropped from the rolls pursuant to the Resolution dated 11 April 2016 x x x

### **Issue**