

**JUDGE LUISITO C. SARDILLO, ACTING PRESIDING JUDGE,
REGIONAL TRIAL COURT, BRANCH 130, CALOOCAN CITY, AND ATTY.
ANDREI BON C. TAGUM, COMPLAINANTS, VS. SHERWIN M.
BALOLOY, PROCESS...**

A.M. No. P-06-2192 (Formerly OCA IPI No. 05-2165-P). June 12, 2008

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PER CURIAM:

For resolution is an administrative complaint[1] filed by Judge Luisito C. Sardillo, Acting Presiding Judge, Regional Trial Court (RTC), Branch 130, Caloocan City, and Atty. Andrei Bon C. Tagum, against respondent Sherwin M. Baloloy, Process Server, RTC, Branch 130, Caloocan City, for Grave Misconduct.

The antecedents are as follows:

Pending before the RTC, Branch 130, Caloocan City was Civil Case No. C-21018 entitled "Catherine Antonio vs. Rico Ramirez," for Declaration of Nullity of Marriage.

On November 25, 2004 therein petitioner, Antonio, filed a Second Motion for Service of Summons with Manifestation on the Unbecoming Conduct of the Branch Process Server.[2] Movant Antonio outlined the improper conduct of respondent regarding the latter's failure to serve summons in connection with her Civil Case No. C-21018. Antonio alleged that on November 14, 2004, she filed an Urgent Motion for Service of Summons citing the fact that since September 14, 2004 no summons had yet been served upon Ramirez; that respondent misrepresented that he could personally and immediately serve the summons on Ramirez; that respondent asked for the amount of P4,000 from Antonio's counsel as fare money; that her counsel reluctantly negotiated the reduction of the amount to P3,000, only to discover later that summons could not yet be issued in view of the resignation of the branch presiding judge; that despite the appointment of a presiding judge and numerous requests to respondent for the service of summons, no summons was served; and that despite the non-service of summons, respondent did not even volunteer to return the P3,000 given to him.[3] Ultimately, Antonio prayed that summons be immediately served and respondent's improper conduct be considered for appropriate action.[4]

Consequently, a Complaint dated February 21, 2005 was filed charging respondent with Grave Misconduct due to his failure to serve summons in connection with Civil Case No. C-21018. The complainant prayed that respondent be recommended for dismissal from service.[5]

In his Comment dated May 10, 2005,[6] respondent alleged that in September 2004, Atty. Andrei Bon C. Tagum, Antonio's counsel, inquired about their pending case. Respondent informed him that since a judge was yet to be assigned to the RTC, Branch 130, no summons could be issued to Ramirez. He added that once a judge was appointed, summons would then be issued and sent by mail to Ramirez's residence in Naga City. He claimed that Atty. Tagum wanted him to personally deliver the summons to Ramirez to ensure fast and effective service. Consequently, Atty. Tagum gave him P3,000 for his fare to Naga City.[7]

He admitted that when summons was eventually issued on November 12, 2004, he failed to immediately serve it

because from November 18 to November 20, 2004, Naga City was struck by Typhoon "Yoyong." Four days later, he attended a three-day National Convention and Seminar Workshop sponsored by the Process Servers Association of the Philippines in Baguio City.[8]

He added that he unfortunately spent the P3,000 given to him for his fare to Naga City. After saving for his fare to Naga City, he personally served a copy of the summons to Ramirez on December 11, 2004.[9]

In a Resolution[10] dated July 5, 2006, this Court required the parties to manifest within fifteen days if they were willing to submit the administrative matter for decision based on the pleadings filed.

Judge Sardillo and respondent manifested their willingness to submit the matter for decision, embodied in their Manifestations dated August 1, 2006[11] and August 11, 2006,[12] respectively.

Thereafter, respondent informed the Court that Judge Sardillo died on June 8, 2007.[13] He further notified the Court that he had just completed serving six (6) months suspension without pay in connection with another case and pleaded for the Court's mercy and understanding in the resolution of the instant administrative complaint.[14]

In its Report[15] dated April 10, 2006, the Office of the Court Administrator recommended that respondent be held guilty of Simple Neglect of Duty and be meted the penalty of suspension for three (3) months, without pay.

The issue for resolution is whether or not respondent was remiss in performing his duties warranting the imposition of administrative sanctions.

This Court resolves the issue in the affirmative.

The importance of the process server's duty must be underscored. A process server plays a vital role in the administration of justice.[16] It is through him that defendants learn of the action brought against them by the complainant. It is also through the service of summons by the process server that the trial court acquires jurisdiction over the defendant.[17]

Understandably, no summons could be served from the inception of the suit up to November 11, 2004 since no summons had yet been issued. However, when summons was eventually issued on November 12, 2004, it took respondent until December 11, 2004 to personally serve it on Ramirez. Respondent admitted that there was a delay in the service of the summons, but would justify it by reasoning that from November 18 to November 20, 2004 Naga City was struck by Typhoon "Yoyong" and from November 24 to November 26, 2004 he attended a three-day National Convention for process servers in Baguio City. He even added that he had spent the P3,000 given to him as fare to Naga City, and it took time for him to save for the fare money.

This Court is not swayed by respondent's lame excuses. There is too much disparity between the number of days when he could not serve the summons and the number of days when he could. Not only was respondent remiss in the performance of his duties; he failed to follow the procedure in instances in which a party litigant wanted personal service of summons, namely, to submit a statement of estimated expenses for the court's approval and a statement of liquidation after service.[18]

Moreover, this is not the first time that respondent has been administratively charged. In no less than four instances, this Court applied administrative sanctions on respondent; and in each instance, it sternly warned respondent that a repetition of the same or similar offense will be dealt with more severely.

In *Baloloy v. Flores*,[19] respondent was fined for fighting with a co-worker employed in another branch of the trial court. In *Chiong v. Baloloy*,[20] respondent was suspended for six months without pay for punching a woman several times during office hours in the building where the courts and the Integrated Bar of the Philippines Office were located. In *Robles v. Baloloy*,[21] respondent was reprimanded for compromising the public's trust in

the justice system though his unauthorized presence at a demolition site. In *Sardillo, et al. v. Baloloy*,^[22] involving circumstances similar to the present case, this Court, in a Resolution dated December 5, 2007, found respondent guilty of Simple Misconduct and fined him P2,000 with a warning that a repetition of the same or similar offense shall be dealt with more severely. In said case, respondent also admitted receiving money for his fare from one of the parties and there was also an undue delay in the delivery of the summons for more than two months.

As reiterated in *Maxino v. Fabugais*:^[23]

A process server should be fully cognizant not only of the nature and responsibilities of his task but also of their impact in the speedy administration of justice. It is through the process server that a defendant learns of the action brought against him by the complainant. More importantly, it is through the service of summons of the process server that the trial court acquires jurisdiction over the defendant. As a public officer, the respondent is bound *virtute officii* to bring to the discharge of his duties the prudence, caution and attention which careful men usually exercise in the management of their affairs. Relevant in the case at bar is the salutary reminder from this Court that the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel - hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a true temple of justice.^[24]

Thus, conformably to the mandate of speedy dispensation of justice stressed by the Constitution, it is crucial that summons, writs and other court processes be served expeditiously and without delay.^[25]

No less than the Constitution provides that "[p]ublic office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives."^[26] This central tenet in a government official's career is more than just a moral imploration. It is a legal imperative. There is a constant need to maintain the faith and confidence of the people in the government and its agencies and instrumentalities. A public servant must exhibit at all times the highest sense of honesty and integrity.^[27]

Sadly, despite numerous warnings, respondent still failed to keep his actions within due bounds, acting beyond the scope of his authority. Despite this Court's warning in *Sardillo, et al. v. Baloloy*^[28] against the same or similar acts of impropriety, respondent again failed to expeditiously serve the summons and admittedly received P3,000 from Antonio for travel expenses in serving the summons to Naga City, which is clearly against the procedure for obtaining travel expenses for service of summons laid down in Rule 41, Sec. 10 (e), A.M. No. 04-2-04-SC.^[29]

Misconduct is defined as a transgression of some established or definite rule of action; more particularly, it is an unlawful behavior by the public officer.^[30] The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law or to disregard established rules, which must be established by substantial evidence. In the present case, it has been sufficiently proven that respondent willfully violated established rules. Despite being warned, respondent's improper conduct of accepting P3,000 to defray his travel expenses in serving the summons and the unreasonable delay in its service, against the clear mandate of the rules, subjected the court's image to distrust. For this, the Court finds respondent guilty of Grave Misconduct.

Section 52(A)(3) of the Revised Rules on Administrative Cases in the Civil Service classifies grave misconduct as a grave offense punishable by dismissal for the first (1st) offense.

WHEREFORE, respondent Sherwin M. Baloloy is found GUILTY of Grave Misconduct, and ordered DISMISSED from the service with forfeiture of all benefits and privileges, except accrued leave credits, if any, with prejudice to reemployment in any branch or instrumentality of the government, including government-owned

or controlled corporations and financial institution. This judgment is immediately executory.

No costs.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Azcuna, Tinga, Chico-Nazario, Reyes, Leonardo-De Castro, and Brion, JJ., concur.
Carpio Morales, Velasco, Jr., and Nachura, JJ., on official leave.,

[1] Rollo, pp. 2-6 with enclosures.

[2] Id. at 4-6.

[3] Id. at 4-5.

[4] Id. at 6.

[5] Id. at 2-6.

[6] Id. at 8-9.

[7] Id. at 8.

[8] Id. at 11.

[9] Id. at 10.

[10] Id. at 15.

[11] Id. at 17.

[12] Id. at 18.

[13] Id. at 21.

[14] Id. at 20.

[15] Id. at 12-14.

[16] See Cañete v. Manlosa, A.M. No. P-02-1547, October 3, 2003, 412 SCRA 580, 586.

[17] Nery v. Gamolo, A.M. No. P-01-1508. February 7, 2003, 397 SCRA 110, 117.

[18] Rule 41, Sec. 10 (e), A.M. No. 04-2-04-SC.

[19] A.M. No. P-99-1357, September 4, 2001, 364 SCRA 317.

[20] A.M. No. P-01-1523, October 27, 2006, 505 SCRA 528.

[21] A.M. No. P-07-2305, April 3, 2007, 520 SCRA 196.

[22] A.M. No. P-06-2153, December 5, 2007.

[23] A.M. No. P-05-1946, January 31, 2005, 450 SCRA 78.

[24] Id. at 85.

[25] Supra, note 17.

[26] SECTION 1, ARTICLE XI.

[27] *Advincula v. Dicen*, G.R. No. 162403, May 16, 2005, 458 SCRA 696, 711.

[28] Supra, note 22.

[29] In addition to the fees above fixed, the amount of One Thousand (P1,000.00) Pesos shall be deposited with the Clerk of Court upon filing of the complaint to defray the actual travel expenses of the sheriff, process server or other court-authorized persons in the service of summons, subpoena and other court processes that would be issued relative to the trial of the case. In case the initial deposit of One Thousand (P1,000.00) Pesos is not sufficient, then the plaintiff or petitioner shall be required to make an additional deposit. The sheriff, process server or other court authorized person shall submit to the Court for its approval a statement of the estimated travel expenses for service of summons and court processes. Once approved, the Clerk of Court shall release the money to said sheriff or process server. After service, a statement of liquidation shall be submitted to the Court for approval. After rendition of judgment by the Court, any excess from the deposit shall be returned to the party who made the deposit.

[30] *Mendoza v. Navarro*, A.M. No. P-05-2034, September 11, 2006, 501 SCRA 354, 363.

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