LEVI M. ARGOSO, COMPLAINANT, VS. ACHILLES ANDREW REGALADO II, SHERIFF IV, REGIONAL TRIAL COURT, OFFICE OF THE CLERK OF COURT, NAGA CITY, RESPONDENT.

A.M. No. P-09-2735 (FORMERLY OCA I.P.I. NO. 07-2614-P). October 12, 2010

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PER CURIAM:

On April 2, 2007, Levi M. Argoso wrote a letter[1] to the Court Administrator asking that Sheriff IV Achilles Andrew V. Regalado II
be held administratively liable for acts unbecoming a sheriff.

Regalado was the sheriff tasked to serve the writ of execution for the return of a land title in Civil Case No. RTC-91-2454 entitled "Re: Heirs of Adelaida Vicente-Argoso v. Development Bank of the Philippines, et al." In his letter, Argoso recounted several incidents when Regalado asked him for money, allegedly for travel in connection with the case, and, at other times, for drinks and "pulutan" for Regalado's friends:

- November 6, 2006 - P1,000.00 for traveling allowance to the Development Bank of the Philippines-Daet Branch (DBP-Daet);

- December 2006 - P800.00 for travel to DBP-Daet;

- February 7, 2007 - P740.00 for drinks and "pulutan." Argoso gave him Land Bank of the Philippines check no. 179739;

- March 9, 2007 - P300.00 for drinks and "pulutan."[2]

Regalado denied these allegations in his comment[3] and asserted that he never extorted money from Argoso.

Upon the recommendation of the Office of the Court Administrator (OCA), we referred the matter to the Naga City Regional Trial Court (RTC) executive judge for investigation, report and recommendation.[4]

The OCA reported the following findings[5] of the Naga City RTC executive judge:[6]

- Argoso died on January 12, 2008, but the investigating judge continued his investigation to gather additional information;

- A writ of execution was issued in Civil Case No. 91-2454 that was assigned to sheriff Regalado for implementation;

- Regalado admitted that he received money from Argoso that he used for his travel to DBP-Daet;

- The DBP-Daet bank manager confirmed that Regalado went to the bank to secure a copy of the owner's duplicate copy of OCT No. 6297 as directed in the writ of execution. Regalado's evidence proved that he went to DBP-Daet thrice.

- Regalado did not prepare any estimated sheriff's expense duly approved by the judge, allegedly upon Argoso's

wish, as it would unduly delay the withdrawal of money from the Office of the Clerk of Court; and

- Regalado violated Supreme Court Administrative Circular No. 35-04 dated August 12, 2004,[7] prescribing the procedure for the payment of expenses that might be incurred in implementing the writ. The investigating judge recommended that Regalado be strongly admonished, with a warning that the commission of the same or similar act shall be dealt with more severely.

The OCA found the recommended penalty too light. The OCA cited Section 10, Rule 141 of the Rules of Court[8] that requires a sheriff implementing a writ, to provide an estimate of the expenses to be incurred, subject to approval by the court. Upon approval, the interested party shall then deposit the amount with the clerk of court and ex-officio sheriff. The money shall be disbursed to the assigned deputy sheriff, subject to liquidation upon the return of the writ; any unspent amount shall be returned to the interested party.

Regalado admitted that he did not prepare any estimated sheriff's expense duly approved by the judge. For his failure to comply with the requirements of Rule 141 of the Rules of Court, the OCA found him guilty of serious violation of existing rules that the OCA classified as a less grave offense under Rule IV of the Uniform Rules on Administrative Cases in the Civil Service. Since this was Regalado's first offense, the OCA recommended the penalty of suspension for one (1) month and one (1) day without pay, with a stern warning that a repetition of the same or similar act shall be dealt with more severely.

In A.M. No. P-10-2772, entitled Domingo Peña, Jr. v. Achilles Andrew V. Regalado II that we decided on February 16, 2010, we found Regalado guilty of conduct prejudicial to the best interest of the service for not following the proper procedure in enforcing writs of execution.

In that case, the judgment on execution ordered complainant Peña to pay a fine and damages to Flora Francisco. Peña alleged, among others, that Regalado collected from him P13,000.00 but Regalado issued only a handwritten acknowledgment receipt, not an official receipt. During the investigation, Regalado confessed that he did not remit to the Office of the Clerk of Court the money from Peña to spare Francisco, who was quite old, the inconvenience of filing a motion to release the money, and that Francisco was not around that day so he gave the P13,000.00 to her the next day. He also said that he had been a sheriff for 12 years and had followed the same procedure in some of the cases assigned to him for execution. Regalado also collected from Peña P4,500.00 and P2,000.00 but it took two years, and the intervention of the judge, before Regalado remitted the amounts to Francisco. For his wrongful actions, we suspended Regalado from the service for one (1) year without pay, with a stern warning that a repetition of the same offense shall be dealt with more severely.

This case filed by Argoso against Regalado, also involves money received by Regalado from an interested party to implement a writ of execution. Regalado should not have received money from Argoso for his transportation to Daet, without previously submitting his expenses for the court's approval. Regalado's admission that he received money without complying with the proper procedure in enforcing writs of execution, made him guilty of conduct prejudicial to the best interest of the service.

Section 52(A)(20) of the Revised Uniform Rules on Administrative Cases classifies conduct prejudicial to the best interest of the service as a grave offense, punishable by suspension of six months and one day to one year for the first offense, and by dismissal for the second offense. This is Regalado's second administrative case for failing to follow the proper procedure in enforcing writs of execution; this metes him the penalty of dismissal from the service.

WHEREFORE, premises considered, Achilles Andrew V. Regalado II is found guilty, for the second time, of the grave offense of conduct prejudicial to the best interest of the service and is, accordingly, DISMISSED from the

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service, with prejudice to re-employment in any branch, agency, or instrumentality of the government, including government-owned and controlled corporations.

SO ORDERED.

Corona, C.J., Carpio Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Bersamin, Del Castillo, Villarama, Jr., Mendoza, and Sereno, JJ., concur.
Carpio and Abad, JJ., on wellness leave.
Peralta, J., on leave.
Perez, J., inhibit.

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[1] Rollo, pp. 3-4.

[2] Id. at 103-104.

[3] Dated October 1, 2007; id. at 12-16.

[4] Id. at 28-29.

[5] Id. at 98-100.

[6] Judge Jaime E. Contreras.

[7] Rollo, pp. 99-100.

[8] Rule 141, Section 10. Sheriffs, Process Servers and other persons serving processes. --xxx With regard to sheriff's expenses in executing writs issued pursuant to court orders or decisions or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, the interested party shall pay said expenses in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court and ex-officio sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. The liquidation shall be approved by the court. Any unspent amount shall be refunded to the party making the deposit. A full report shall be submitted by the deputy sheriff assigned with his return, and the sheriff's expenses shall be taxed as costs against the judgment debtor.

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