

**ATTY. JOSE A. SUELTO, COMPLAINANT, VS. DEPUTY SHERIFFS
ROGELIO P. FORNIZA, RTC, BRANCH 42, DUMAGUETE CITY, NEGROS
ORIENTAL, AND BONIFACIO V. MAPUTI, RTC, BRANCH 37,
DUMAGUETE CI...**

A.M. NO. P-05-2000 (FORMERLY OCA IPI NO. 97-290-P). September 27, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0d195a749cb9/>

SANDOVAL-GUTIERREZ, J.:

In a letter-complaint dated November 11, 1996, Atty. Jose A. Suelto denounced deputy sheriffs Rogelio P. Forniza, Regional Trial Court (RTC), Branch 42, Dumaguete City, and Bonifacio V. Maputi, Branch 37, same court, for deducting as sheriff's fee of Nine Thousand Pesos (P9,000.00) from the judgment money they received from the defendants in Civil Case No. 8911.

The Court referred the case to the Office of the Court Administrator (OCA) for investigation, report and recommendation.

After a review of the Memorandum dated March 28, 2005 of the OCA, the Court RESOLVES TO ADOPT and APPROVE its findings of fact and conclusions of law reproduced hereunder:

According to Atty. Suelto, aside from the amount deducted from the judgment money, respondent sheriffs already received from his client, Mrs. Remedios Vda. De Repollo, plaintiff in Civil Case No. 8911, the amount of One Thousand Five Hundred (P1,500.00) as sheriff's fee. He claims that under the law, it is the defendant who should pay the sheriff's fee. As a result of respondent's act, he was not able to receive his contingent fee which he badly needed as he was sick and bedridden.

In their Joint Comment dated 18 November 1996, respondent sheriffs vehemently denied the accusations against them. They maintain that out of the Forty Thousand Two Hundred Forty-Nine Pesos and Twenty-Nine Centavos (P40,249.29) judgment amount, they had already turned over to the plaintiff and her counsel, Atty. Suelto, the amount of Thirty-Six Thousand Seven Hundred Forty-Nine Pesos and Twenty-Nine Centavos (P36,749.29). The balance of Three Thousand Five Hundred Pesos (P3,500.00) was to be collected from Atty. Marcelo Culi, one of the defendants, who promised to pay it in November 1996. Respondent admitted that they received from plaintiff Five Hundred Pesos (P500.00) as deposit for sheriff's expenses, three hundred pesos (P300.00) of which was given to the policeman who assisted them in the implementation of the writ of execution. The rest was spent for their transportation fares and snacks.

Respondents claim that Atty. Suelto's wife received Two Thousand Five Hundred Pesos (P2,500.00) as partial payment of attorney's fee and the remaining Two Thousand Five Hundred Pesos (P2,500.00) was received by Atty. Suelto himself. These payments were duly receipted.

In his Reply, Atty. Suelto maintained that when the judgment money was turned over to his client, the amount of Nine Thousand Pesos (P9,000.00) was already deducted. He attached the affidavit dated 21 November 1996 of plaintiff Remedios Vda. De Repollo who alleged that before respondent sheriffs turned over the money to

her, they already took as sheriff's fees the amount of Four Thousand Pesos (P4,000.00) and Five Thousand Pesos (P5,000.00) from the first and second payments, respectively of the defendants.

The Court, in its Resolution dated 18 August 1997, referred the case to Judge Eleuterio E. Chiu, then Executive Judge, RTC, Dumaguete City, Negros Oriental. However, on 17 October 1997, Judge Chiu inhibited from hearing the case on the ground that his wife is a relative of the principal witness, Mrs. Remedios Vda. De Repollo. The case was raffled off to Judge Restituto V. Tuanda, Jr., RTC, Branch 36, Dumaguete City, Negros Oriental who dismissed the case without prejudice on 26 May 1998 for want of interest to prosecute.

x x x x x x x x

The Court referred the case to Judge Rosendo B. Bandal, Jr., then Vice Executive Judge, RTC, Dumaguete City, Negros Oriental who submitted his investigation report dated 22 August 2003 recommending the dismissal of the case. Judge Bandal contended that the complaint fails considering that Mrs. Repollo testified that respondent sheriffs did not appropriate for themselves the amount of Nine Thousand Pesos (P9,000.00), that she actually spent the said amount for the hospital bills of his son who underwent heart operation, and that Atty. Suelto merely forced her to sign the 21 November 1996 affidavit.

x x x x x x x x

EVALUATION: Complainant failed to prove that respondent sheriffs deducted Nine Thousand Pesos (P9,000.00) from the judgment money. Records show that Mrs. Remedios Vda. De Repollo, the prevailing party in Civil Case No. 8911 and complainant's client, signed receipts on 29 August 1996 and 19 October 1996 showing that she received the amounts of Sixteen Thousand Five Hundred Pesos (P16,500.00) and Twenty Thousand Two Hundred Forty-Nine Pesos and Twenty-Nine Centavos (P20,249.29), respectively, or a total amount of Thirty-Six Thousand Seven Hundred Forty-Nine Pesos and Twenty-Nine Centavos (P36,749.29). This amount represents the judgment money minus the Three Thousand Five Hundred Pesos (P3,500.00) which was still to be collected from one (1) of the defendants.

This notwithstanding, respondent sheriffs' act of accepting money from the plaintiff which they spent for their snacks and transportation fares and for the allowance of the policemen who accompanied them in the implementation of the writ of execution violates Section 9, Rule 141 of the Rules of Court which provides:

The party requesting the process of any court, preliminary, incidental, or final, shall pay the sheriffs expenses in serving or executing the process, or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, 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 the said 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 of rendering a return on the process. 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 against the judgment debtor.

In the case at bar, there is no showing that respondent sheriffs did an estimate of sheriff's expenses prior to the execution of the writ. Hence, nothing was submitted to the court for approval. Moreover, the expenses made by respondents, i.e., snacks and allowances of the policemen, are not among those authorized by the Rules of Court.

In *Lim vs. Guash*, 223 SCRA 756 (1993), the Court held that "Respondent's act of demanding money and receiving One Thousand Five Hundred Pesos (P1,500.00) from the complainant for lunch and merienda of the policemen who will accompany him in executing the decision of the court is a clear violation of Section 9, Rule 141, Rules of Court. In fact, the money which respondent had demanded and received from complainant was not among those prescribed and authorized by the Rules of Court."

For violation of Section 9, Rule 141 of the Rules of Court, respondent sheriff in *Abalde vs. Roque, Jr.*, 400 SCRA

210 (2003), was suspended for three (3) months without pay.

Sheriffs play an important role in the administration of justice, and as agents of the law, high standards are expected of them (Llamado vs. Ravelo, 280 SCRA 597 [1997]). By the nature of their functions, sheriffs at all times must act above suspicion (Vda. De Tisado vs. Tablizo, 253 SCRA 646 [1996]).

WHEREFORE, in view of the foregoing, this Office respectfully recommends that:

X X X X X X X X

2. Deputy Sheriffs Rogelio P. Forniza and Bonifacio V. Maputi be **SUSPENDED** for three (3) months without pay with a **STERN WARNING** that a repetition of the same or similar acts in the future will be dealt with more severely.

ACCORDINGLY and as recommended by the OCA, deputy sheriffs Rogelio P. Forniza and Bonifacio V. Maputi of the RTC, Dumaguete City, are **SUSPENDED** from office for three (3) months without pay with a **STERN WARNING** that a repetition of the same or similar acts in the future will be dealt with more severely.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.