

FELICIDAD V. MORALES, PETITIONER, VS. JULIO G. TARONGOY, DEPUTY SHERIFF, REGIONAL TRIAL COURT, BRANCH 19, PAGADIAN CITY, ZAMBOANGA DEL SUR, RESPONDENT.*A.M. No. P-94-1032. January 18, 1996*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/12614133a7f2/>**PER CURIAM:**

In a complaint, dated 09 March 1994, Felicidad V. Morales charged Deputy Sheriff Julio G. Tarongoy with Grave Misconduct and Violation of Republic Act No. 3019, also known as the Anti-Graft and Corrupt Practices Act, relative to the execution of a final judgment of the National Labor Relations Commission ("NLRC").

Complainant averred that, on 27 January 1992, a decision was rendered by the NLRC in Case No. RAB VII-0584-88 ("Felicidad V. Morales vs. Ever Cinema Theatre," etc.) ordering the employer to pay her and a fellow employee the amount of P190,254.00. Somehow, the judgment obligor managed to evade payment that prompted Labor Arbiter Dominador Almirante to issue an alias writ of execution ordering the Provincial Sheriff of the Regional Trial Court of Pagadian City, Zamboanga del Sur, to collect the sum adjudged by the NLRC or to satisfy the judgment by levying movable and immovable property of the employer not exempt from execution. Complainant alleged that she personally handcarried the writ of execution to Pagadian City. Respondent Sheriff demanded a P15,000.00 fee for the implementation of the writ. Since she had no cash on hand at the time, and in her eagerness to have the writ of execution promptly effected, she borrowed a portion of the sum demanded and gave it to the Sheriff.

Respondent Sheriff thereupon levied two parcels of real property owned by the employer. After the required publication and three days before the scheduled auction sale, respondent informed complainant that she would have to put up a bond because the property levied were mortgaged with a bank. She then questioned respondent for making a levy on the mortgaged assets despite the fact that there were eleven other parcels of land registered in the name of the employer which were not similarly encumbered.

In its resolution of 25 May 1994, the Court required respondent Sheriff to comment on the complaint. Respondent failed to comply. In the Court's resolution of 20 February 1995, respondent was required to show cause why he should not be disciplinarily dealt with for his having ignored the 25th May 1994 resolution of the Court and to submit within 10 days from notice his compliance with both directives. Again, the Court received no word from respondent Sheriff although it would appear that the Court resolutions were duly sent and acknowledged. Respondent Sheriff personally received a copy of the 25th May 1994 resolution on 27 June 1994 while a copy of the 20th February 1995 resolution was received by his authorized agent, Branch 19 Stenographic Reporter Rebecca Sucaldito, on 07 March 1995.

In a memorandum, dated 16 October 1995, the Office of the Court Administrator, through Deputy Court Administrator Zenaida N. Elepaflo, evaluated the case, expressed its findings and recommended thusly:

"Respondent was given an opportunity to defend his side but he chose not to comply with two (2) court resolutions requiring him to submit his comment on the complaint despite proof that he personally received the

resolution dated 25 May 1994 on 27 June 1994 while the resolution dated 20 February 1995 was received by his co-officemate Rebecca Sucaldito on 7 March 1995. With his actuations, he is deemed to have admitted the charges.

"It cannot be denied that expenses are incurred in the execution of writs. Under the law, sheriffs are allowed to collect Sheriff's fee in the implementation of the writ. The instant complaint would have been avoided had respondent Sheriff required the prevailing party (herein complainant) to submit to the court for approval the amount necessary (Bill of Costs) to enforce the writ.

"As to the charge of grave misconduct for levying two (2) parcels of land (TCT No. 9844 and 136736) of the defendant which were found to be mortgaged with Metrobank and PNB for P2,000,000.00 and P7,000,000.00, respectively, we find the charge to be meritorious. It is noted that the money judgment is only P190,000.00. Respondent should have verified the value of the real property levied and checked whether or not the same were free from any liens or encumbrances. If the market value of these real estate would only cover the mortgage loan, then the levy is useless. Moreover, it is now undisputed that there are other properties of the employer which were not levied upon by respondent. Respondent failed to discharge his duties with prudence, caution and attention.

"xxx xxx xxx

"In view of the foregoing, it is respectfully recommended that Deputy Sheriff Julio G. Tarongoy be SUSPENDED from office for three (3) months without pay, with warning that a repetition of the same or similar offense in the future will be severely dealt with." [1]

The records would also disclose that respondent Sheriff had once before been found remiss in the performance of his duties. In A.M. P-90-468, he was found guilty of negligence by the Court (through its Second Division) [2] and fined an amount equivalent to a month's salary with a warning that future infractions would be dealt with severely by the Court.

More than anything else, however, respondent Sheriff has continued to disregard the Court's resolutions, aforementioned, which not only can be indicative of guilt but is also a plain defiance that cannot be countenanced.

All considered, the Court is constrained to order the dismissal of respondent Sheriff from the service.

WHEREFORE, the Court finds respondent Sheriff guilty of Grave Misconduct and orders his DISMISSAL from the service with forfeiture of all benefits, including leave credits and retirement benefits, and with prejudice to re-employment in any branch or service of the government, including any government owned and controlled corporation.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vilug, Kapunan, Mendoza, Francisco, Hermosisima, Jr., and Panganiban, JJ., concur.

[1] Rollo, pp. 57-58.

[2] In its resolution of 13 June 1994.

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