

**IN THE MATTER OF THE APPEAL OF FORMER DEPUTY SHERIFF
APOLINAR O. FLORES, C.F.I., CEBU CITY, IN HIS SUMMARY
DISMISSAL FROM THE SERVICE UNDER PRESIDENTIAL DECREE NO.
6 DATED SEPTE...**

A.M. No. P-143. July 31, 1975

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Mr. Apolinar O. Flores, former Deputy Sheriff, Court of First Instance (C.F.I.), of Cebu City, whose letter of resignation submitted under Presidential Decree No. 6, dated September 27, 1972, and Letter of Instruction (LOI) No. 14-A, dated October 5, 1972, was accepted by the Secretary of Justice on February 15, 1973, for being notoriously undesirable on the ground of dishonesty for not having made an accounting of various amounts of money in his possession as Deputy Sheriff in that Court, appealed to the Civil Service Commission on the grounds that he is not undesirable or facing any administrative charge, and has been a victim of injustice.

The Civil Service Commission forwarded the appeal to the Secretary of Justice for "comment and information" on April 11, 1973. In turn it was referred by the Department of Justice to Executive Judge Jose R. Ramolete, Court of First Instance, Cebu City, for comment and recommendation on May 7, 1973.

Judge Ramolete in his comment contained in the 3rd Indorsement dated June 27, 1973, recommended the dismissal of the appeal on the ground that Mr. Flores was summarily removed or dismissed from the service for being "notoriously undesirable" under Section 3 of Presidential Decree No. 6, dated September 27, 1972, without the benefit of a formal investigation, a disciplinary power given to Department Heads from whose action there is no appeal. The appeal of Mr. Flores is based on Section 2 of Presidential Decree No. 6 where the disciplinary action of the Department Head consisting of the penalty of removal or dismissal is meted out to an employee after a formal investigation of the administrative charge against him. Judge Ramolete maintains that Mr. Flores' summary removal from the service when the Department Head accepted his resignation for being "notoriously undesirable" is not appealable to the Civil Service Commission as the power given by Section 3 of Presidential Decree No. 6 to Department Heads is purely dependent on the "exercise of best judgment" and the remedy of appeal is not provided. The papers of the case were forwarded to this Court after we had taken the administrative supervision of inferior courts.

To Our mind the question of whether or not an appeal in this case is proper is of no moment and can be brushed aside, for what is important is the answer to the principal question of whether or not the Department Head exercised his best judgment and discretion when he accepted Mr. Flores' resignation under Presidential Decree No. 6. Stated otherwise, what is of ultimate importance is whether or not the Department Head exercised his sound discretion in summarily removing Mr. Flores from the service because of wrongful acts of the latter that would necessarily make him "notoriously undesirable", or whether he was separated from the service purely on the mere whim or caprice of the Secretary of Justice.

A directive was sent to Apolinar Flores on October 23, 1972, by Clerk of Court and Ex-Officio Provincial Sheriff Esperanza F. Garcia, asking the former to submit proof that funds withdrawn by him as executing deputy sheriff had been officially turned over to the parties concerned, to wit:

"1. P293.15

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Toledo Rural Bank vs. V. Parantar — 7/31/70

2. P334.58

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Talisay Rural Bank vs. A. Tabanao — 7/16/71

3. P146.00

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Canares vs. Zafra, 187-V-Cebu — 11/12/71

4. P492.00

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Pacific Star vs. J. Torres Manila — 11/17/71 Case No. 186727

5. P2956.80

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Toledo Rural Bank vs. A. Acog — 11/27/71

6. P619.59

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Baguio vs. Taring vda. de Valencia — 3/4/72 R-7788"

In three sworn statements, Apolinar Flores admitted that sometime in July and November of 1971, he withdrew various amounts (P334.58; P492.00; P2,956.80) from the cash clerk, Office of the Clerk of Court, C.F.I. Cebu City, "for delivery" to the prevailing parties in three Civil Cases (Talisay Rural Bank vs. A. Tabanao; Pacific Star vs. J. Torres; Toledo Rural Bank vs. A. Acog), and that as of October 26, 1972, or for about one year thereafter, he did not make a report to the ex-officio provincial sheriff as to the disposition of said amounts.

There is not the slightest doubt in Our minds that Mr. Flores did not only violate the law (Section 11 of Rule 39 of the Rules of Court, on Return of writ of execution), requiring him to make an official report regarding the withdrawal and delivery of the amounts involved to the clerk or judge of the court, but also created the strong presumption against himself that he personally benefited from the money in his possession for about one year or during the period he failed to officially render an accounting thereof.

Mr. Flores' defenses that none of the party litigants filed any complaint against him; that he did not hold any money in trust and, therefore, is not obliged to render an accounting of any sum pale into insignificance in the light of proven glaring acts strongly indicative of dishonesty. He took possession for nearly one year of sums of money for delivery to their rightful owners without officially accounting for their proper disposition. His own admitted acts expose to serious doubts his integrity and We cannot but conclude that the Secretary of Justice committed no error or abuse of discretion when in the "exercise of his best judgment" he accepted the resignation of Mr. Flores under Presidential Decree No. 6 for being "notoriously undesirable". It is a fundamental and a sacred mandate indispensable to the greatness of the State and of our Society that public officers and employees serve with the highest sense of responsibility and the highest degree of integrity, loyalty and efficiency, and at all times remain accountable to the people and to their conscience.

WHEREFORE, the appeal of Apolinar O. Flores under Presidential Decree No. 6, dated September 27, 1972, is dismissed and the acceptance of his resignation thereunder stands.

SO ORDERED.

Castro, (Chairman), Makasiar, and Martin, JJ., concur.

Muñoz Palma, J., concurs in the result dismissing the appeal.

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