

JUDGE PLACIDO C. MARQUEZ, COMPLAINANT, VS. MARIO M. PABLICO, PROCESS SERVER, REGIONAL TRIAL COURT, MANILA, BRANCH 40, RESPONDENT.

A.M. No. P-06-2201 [Formerly A.M. OCA I.P.I. No. 03-1649-P]. June 30, 2008

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

On September 2, 2002, Judge Placido C. Marquez[1] (the judge or complainant), then Presiding Judge, Regional Trial Court, Branch 40, Manila, issued two letters-memoranda[2] to Mario Pablico (respondent), Branch Process Server, directing him to explain in writing within ten days why he should not be recommended to be dropped from the rolls, in accordance with Rule XII, Section 2.2. (a) of Memorandum Circular No. 40, series of 1998 of the Civil Service Commission, for failure to attach registry receipts and registry return cards to the records of the cases enumerated in the letters-memoranda. The Office of the Court Administrator (OCA), which was copy furnished these memoranda, directed respondent, by 1[st] Indorsement of October 23, 2002, to Comment thereon.[3]

In his November 29, 2002 letter-comment,[4] respondent, denying the charge, attached copies of several Orders issued in the cases listed in the memoranda, together with the corresponding registry receipts and registry return cards.

Listing the following as his duties assigned to him by the judge, viz:

- Stitching of records;
- Preparing Registry Receipts and attaching the same to the record;
- Preparing return cards and attaching the same to their respective cases;
- Mailing of Orders and Subpoenas;
- Personally serving motions/orders to parties;
- Receiving all motions/pleadings both of civil and criminal cases, and mail matters and attach them to the record aside from the regular and designated job for the Process Server as stated in Job Description.

respondent stated:

With all above load works imposed by Judge Marquez to the undersigned, it is not surprising, if and when there are some little things that undersigned would neglect but were also being done. Nobody is perfect anyway and Judge Marquez should understand that. But instead of giving undersigned his full understanding as a father to his children, here are left and right accusations being imputed by said Judge as well as our Officer-in-Charge, Ligaya V. Reyes. This is the third (3[rd]) charge as against undersigned. It seems there is a concerted effort to remove the undersigned from the service, unfortunately, all their charges have no basis at all. If there is an iota of neglect, maybe minimal which undersigned may have overlooked due to the numerous

works designated to undersigned and to which I beg your Honors to understand. (Underscoring supplied)

By letter of January 13, 2003,[5] the OCA forwarded a copy of respondent's Comment cum annexes to the judge and required him to inform if he was satisfied therewith.

Complainant, by letter dated February 8, 2003,[6] manifested his dissatisfaction with the explanation of respondent and recommended that he be dropped from the rolls.

Complainant emphasized that respondent performed additional duties only in the absence of a utility worker in his sala, but that he was relieved thereof when a new utility aide assumed the post.

To refute respondent's allegation that he had consistently performed his duties, complainant attached a copy of the memorandum dated November 26, 2001[7] of then Branch Clerk of Court Gilbert A. Benjamin.

Respecting the return card and registry receipts attached to respondent's Comment, complainant averred that they were accomplished only after a physical inventory of all pending cases was conducted and his attention to his failure to accomplish them was repeatedly called.

To prove his "continuing gross neglect of duties," complainant cited the Orders which were mostly issued during actual court hearings to compel him to perform his duties.[8]

By Resolution of July 2, 2003,[9] this Court referred the case to the then Executive Judge Enrico A. Lanzas for investigation, report and recommendation within 90 days from receipt of the records of the case.

Judge Antonio M. Eugenio, Jr., who succeeded Judge Lanzas as Executive Judge, by Report and Recommendation dated November 23, 2005,[10] submitted the following findings:

Respondent admitted neglecting some of his duties giving as a reason the volume of work assigned to him by the complainant, i.e., the duties of the Utility Worker. This is no excuse. Respondent may well be reminded that in the job description, the employee is sworn to perform such other duties that may be assigned to him, aside from the duties specified therein. Moreover, respondent's assumption of the additional duties of the Utility Worker was only temporary as the position was then vacant. Who is more likely to take over the duties of the Utility Worker other than the Process Server? And the record shows that as soon as a Utility Worker was hired, these additional duties ceased to be his responsibilities.

Respondent's neglect of his duties did not occur once or twice. It was in fact habitual. The several memoranda issued to him by Ligaya V. Reyes, regardless of whether or not she was still the officer in charge at the time, and their former branch clerk, Atty. Gilbert Benjamin, as well as the meetings called by the complainant, to remind of his duties are more than adequate to put a neglectful employee on guard. That his former judges were not strict on the way he performed his duties and did not require of him as much as the complainant did is of no consequence. The fact remains that as process server of Branch 40, he is sworn to perform his duties as described in his job description and all other tasks that may be assigned to him from time to time.

Section 1, Article XI of the 1987 Philippine Constitution should be taken to heart by every public officer and employee, to wit: "Public 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."

An additional task like the job of a utility worker, in the absence of such an employee, is not too much to ask if the same would redound to the good of the service. And the respondent should not harp on it or invoke it as a protective shield in neglecting his other duties.[11] (Emphasis and underscoring supplied)

Judge Eugenio thereupon recommended the suspension of respondent for one month and one day without pay, with a stern warning that a repetition of the same or similar act would be dealt with more severely, ratiocinating as

follows:

[T]hough we find the respondent answerable to the charges aired by the complainant, a meticulous perusal of the documents presented by the complainant reveals no single instance where respondent's neglect of duty resulted in the disruption of service to the public nor did it damage or prejudice any litigant. This circumstance should serve to mitigate the actuations of respondent.[12] (Emphasis supplied)

By Resolution of February 6, 2006,[13] this Court required the parties to manifest whether they were willing to submit the case for decision on the basis of the pleadings/records already filed and submitted. Only complainant complied (in the affirmative), however.[14]

And by Resolution of March 22, 2006,[15] this Court referred the report and recommendation of Judge Eugenio to the OCA for evaluation, report and recommendation.

In its Memorandum dated June 13, 2006,[16] the OCA found the recommendation of Judge Eugenio to be in accordance with the result of the investigation. It accordingly adopted the recommended penalty.

In the meantime, this Court, in A.M. No. 06-2-92-RTC, [17] "Re: Dropping from the Rolls of Mr. Mario M. Pablico, Process Server, RTC, Br. 40, Manila," after considering the Report dated January 31, 2006 of the OCA, issued Resolution dated June 28, 2006 dropping respondent from the rolls "for obtaining 'Unsatisfactory' performance ratings during the periods from 01 July to 31 December 2003, 01 January to 30 June 2004 and 01 July to 31 December 2004 WITHOUT PREJUDICE to the continuation of the administrative complaints filed against him." [18] (Capitalization in the original, underscoring supplied). The Court thereupon declared the position of Process Server, Branch 40 of the Manila RTC vacant.

Parenthetically, in her letter dated September 12, 2006,[19] the Officer-in-Charge of Branch 40, Manila RTC informed the Court that when respondent received the June 28, 2006 Resolution of the Court on July 28, 2006, he sent a text message that evening to her saying "LINTEK! LANG ANG WALANG GANTI, KUNG AKALA MO NA TPOS NA TAYO, LULUHA KA NG BATO, SA GAGAWIN KO SA IYO, AT SA PAMILYA MO." [20] (Capitalization in the original; italics supplied).

The Court is not unaware of the heavy workload of court personnel in Manila, given the number of cases filed and pending before it. It does not, however, serve as a convenient excuse to evade administrative liability; otherwise, every government employee faced with negligence and dereliction of duty would resort to that excuse to evade punishment, to the detriment of the public service.[21]

To fault respondent only for simple neglect of duty on account of the observation of Judge Eugenio that "no single instance where respondent's neglect of duty resulted in the disruption of service to the public nor did it damage or prejudice any litigant" does not sit well with the Court.

. . . Neglect of duty is the failure of an employee to give one's attention to a task expected of him. Gross neglect is such neglect which, from the gravity of the case or the frequency of instances, becomes so serious in its character as to endanger or threaten the public welfare... [22] (Emphasis and underscoring supplied)

Judge Eugenio himself found that respondent's infractions were "habitual" which, under Section 53, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service,[23] could be appreciated as either extenuating, mitigating, or aggravating. It can not be gainsaid that respondent's habituality of infractions calls for its treatment as aggravating in the present case.

It may not be amiss to state that in another case against respondent, A.M. No. P-06-2109, "Reyes v. Pablico," this Court, by Decision of November 27, 2006, [24] found respondent guilty of simple neglect of duty, on similar

grounds, in which it imposed a penalty of suspension for three months, with a stern warning against repetition of similar acts.

Under the same Uniform Rules, gross neglect of duty is classified as a grave offense punishable by dismissal even for the first offense.[25] This Court having, as priorly stated, ordered the dropping of respondent from the rolls in another administrative matter, in line with *Sibulo v. San Jose*[26] where the therein respondent was found guilty of gross neglect in the performance of his duty but was earlier dropped from the rolls, now imposes upon him a fine in the amount of P5,000, and orders all his benefits, except accrued leave credits, forfeited, with prejudice to his re-employment in any branch or instrumentality of the government, including government-owned and controlled corporations and financial institutions.

WHEREFORE, respondent, MARIO M. PABLICO, former Process Server, Regional Trial Court, Manila, Branch 40, is found guilty of gross neglect of duty. He would have been ordered dismissed from the service were he not, by this Court's Resolution in A.M. No. 06-2-92-RTC, dropped from the rolls. He is thus FINED in the amount of Five Thousand Pesos (P5,000). All his benefits, except accrued leave credits, if any, are declared FORFEITED, with prejudice to re-employment in any branch or instrumentality of the government, including government-owned and controlled corporations and financial institutions.

SO ORDERED.

Quisumbing, (Chairperson), Austria-Martinez, Tinga, and Brion, JJ., concur.

[*] Additional member per Raffle dated July 2, 2008 pursuant to Administrative Circular No. 84-2007 in lieu of Justice Presbitero J. Velasco, Jr. who inhibited.

[1] Judge Marquez filed a notice of change of address dated March 20, 2006 (rollo, Vol. I, pp. 637-638) to Bauan, Batangas in view of his retirement on October 5, 2006.

[2] Rollo, Volume I, pp. 41-45.

[3] Id. at 39.

[4] Id. at 47-48.

[5] Id. at 46.

[6] Id. at 4-5.

[7] Id. at 8-9. Respondent was directed to explain within five days from receipt of the memorandum his neglect of duty and absences.

[8] Annexes "D" to "Z," id. at 10-38.

[9] Id. at 77.

[10] Id. at 493-506.

[11] Id. at 505-506.

[12] Id. at 506.

[13] Id. at 563.

[14] Id. at 602-603.

[15] Id. at 580.

[16] Id. at 623-631.

[17] Id. at 633.

[18] Respondent was also charged with neglect of duty, incompetence and other acts prejudicial to the best interest of the service in OCA IPI No. 01-1228-P, redocketed as A.M. No. P-06-2109, and Grave Misconduct for Falsification of Daily Time Record in OCA IPI No. 05-2171-P

[19] Id. at 639.

[20] Id. at 642.

[21] Vide Laguio, Jr. v. Amante-Casicas, A.M. No. P-05-2092, November 10, 2006, 506 SCRA 705, 711.

[22] Rodrigo-Ebron v. Adolfo, A.M. No. P-06-2231, April 27, 2007, 522 SCRA 286, 293.

[23] CSC Resolution No. 991936, series of 1999.

[24] 508 SCRA 146.

[25] Section 52 (A) (2), Rule IV, CSC Resolution No. 991936, series of 1999.

[26] A.M. No. P-05-2088, November 11, 2005, 474 SCRA 464. Vide Soberano, Jr. v. Nebres, A.M. No. P-00-1426, February 23, 2001, 352 SCRA 597.

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