

SERVILLANO MAMARIL, COMPLAINANT, VS. JUAN CONTACTO, JR. AND JOSE BLANCA, DEPUTY SHERIFFS OF ALBAY, LEGASPI CITY, PROVINCE OF ALBAY, RESPONDENTS.*ADM. MATTER No. P-89-281. March 29, 1990*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/457b7a1dd273/>**PER CURIAM:**

Complainant, an employee of the National Electrification Administration which is in charge of the electrification program of the Government, charges respondents, deputy sheriffs of Albay, Legaspi City, with abusive acts and conduct unbecoming of public officers, and prays for their dismissal.[1]

In a resolution of this Court dated March 8, 1989,[2] respondents Contacto, Jr. and Blanca were required to comment on the administrative complaint filed against them. On May 12, 1989, respondents filed their comment,[3] together with their counter-affidavits and the affidavits of their witnesses.

Thereafter, the Court referred the administrative case to Judge Emmanuel S. Flores, Executive Judge of the Regional Trial Court of Legaspi City for investigation, report and recommendation.[4]

On October 31, 1989, the investigating judge submitted his report and recommendation, with the following findings of fact:

"After an evaluation of the evidence for both sides, the facts, in the opinion of the Investigator, are as follows: that at around 9:35 a.m. of December 2, 1988, the Office of the Clerk of Court, RTC, Legaspi City received from Branch 4, RTC, Legaspi City, a Writ of Attachment for implementation in Civil Case No. 8018 entitled 'Virgilio David vs. Albay Electric Cooperative, Inc. II and George Din', considering that Mr. Crispin Jadie, Deputy Sheriff of Branch 4, was on official leave (Exhibit 3-A); that the implementation of the Writ was assigned to Deputy Sheriff Juan Contacto, Jr. by the Clerk of Court, who is at the same time an Ex-Oficio (sic) Sheriff, after following the procedure in the office; that considering the substantial amount of P1,202,473.18 to be levied upon, Deputy Sheriff Juan Contacto, Jr. requested for an assisting deputy sheriff, and Deputy Sheriff Jose Blanca was designated by the Clerk of Court to assist Juan Contacto, Jr. in the implementation of the Writ of Attachment, per Memorandum dated December 2, 1988 (Exhibit 3-B); that the Clerk of Court instructed Juan Contacto, Jr. to request for a representative from RTC, Branch 4, and the designated representative was Manuel Arimado; that before the Deputy Sheriffs left the office of the Clerk of Court, they were briefed by the Clerk of Court on the manner of implementing the writ of attachment.

"That at about 10:00 o'clock in the morning of December 2, 1988, the two respondents, together with Manuel Arimado, went inside the compound of the Albay Electric Cooperative, Inc. II at the Old Albay District, Legaspi City, and they entered the office of complainant Servillano Mamaril, the Finance Officer of the electric cooperative and at that time the Officer-in-Charge, in view of the absence of the Manager, George Din; that respondents introduced themselves as sheriffs, and told complainant that they are serving and enforcing a writ of attachment issued by the Regional Trial Court; that complainant told the sheriffs that the General Manager of the cooperative is in Manila and he requested the respondents to suspend the enforcement of the attachment for about 5 days since the same can be enforced within a period of thirty days; that respondent Juan Contacto, Jr. then asked in a low voice complainant for P600.00 'para sa mga bata', meaning, for the boys,

which was turned down by complainant who offered to respondents two motor vehicles which were unserviceable, as they needed repairs, so that respondents rejected complainant's offer; that after about an hour, respondents took their leave and proceeded back to the Office of the Clerk of Court.

"That respondents, together with Manuel Arimado, returned to the compound of ALECO II at around 4:00 o'clock in the afternoon of the same day, December 2, 1988, and posted themselves inside the compound after conferring with Atty. Delfin Salvosa who introduced them to a certain Maristaza, the Regional Director of the National Electrification Administration; that when two (2) motor vehicles, one a Toyota Tamaraw with Plate No. EAN-347 and the other a Ford Fiera with Plate No. DON-669, entered the compound, the respondents took possession of the same; that from the compound of ALECO II, respondent Juan Contacto, Jr. had the said vehicles to be (sic) driven to Marquez Street, where his residence was, for safekeeping and custody; that the said vehicles were parked inside the yard of Damaso Ayque because of the latter's generosity and only upon the request of Juan Contacto, Jr., whose residence is situated in the interior portion of the neighborhood; that the decision to store the two vehicles at Damaso Ayque's residence was arrived at by respondent Contacto, Jr., for two reasons: (a) the place is the nearest available space to respondent's residence, affording him easier opportunity for sudden and unexpected inspection, and (b) safety of the vehicles, considering that the yard of Damaso Ayque is adequately surrounded by concrete walls; that as added security for the vehicles, respondent Contacto, Jr. assigned three persons to act as guards in three shifts daily; that once the vehicles were safely parked, the respondents reported to the Office of the Clerk of Court and submitted a copy of the acknowledgment receipts for the two vehicles attached (Exhibits 7 and 8).

"That the following Monday, December 5, 1988, respondent Juan Contacto, Jr., convinced that the levied vehicles were not sufficient to satisfy plaintiff's claim, went back to the premises of ALECO II, together with respondent Jose Blanca and Manuel Arimado, arriving at the office of complainant at around 10:00 o'clock in the morning, and started to distrain office equipments found thereat as evidenced by a Receipt (Exhibit 9); that then respondent Jose Blanca entered the office of complainant, and uttered the following: 'Putang-ina ninyo, bakit pinutol ninyo and koryente ko, ha? Naghahamon kayo, ha? Gusto mo, pakocontempt ko, kayo!'; that respondent Jose Blanca got mad at complainant because at 9:00 a.m. of that December 5, 1988, the electrical service at respondent Blanca's residence was disconnected as a result of his non-payment of electric bills corresponding to the period October, 1986 to November, 1987 (inclusive), and April, 1988 to August, 1988 (inclusive), as shown in the Notice of Delinquency/Disconnection (Exhibit G) and in the Service Disconnection Notice (Annex C of the complaint).

"That between 9:00 a.m. and 10:00 a.m. on December 8, 1988, Melchor Bueno, an ALECO II Wiring Inspector, saw the Toyota Tamaraw, with Plate No. EAN-347, which was levied upon and pulled out by respondents from the ALECO premises, parked along Marbella Shoppers Garden and loaded with merchandise and market goods with a person seated at the front seat; that the vehicle in question could be driven out of the parking area at Marquez Street because the ignition key was with respondent Contacto, Jr." [5]

The investigating judge concluded that respondent Juan Contacto, Jr. is administratively liable on two counts: (a) for asking for P600.00 from complainant although he was turned down by the latter, and (b) for unauthorized use of an attached vehicle, both of which constitute abuse of authority and conduct unbecoming of a public officer; while respondent Jose Blanca is administratively liable on one count: (a) for belligerently and impolitely uttering, as earlier stated, thus: "Putang-ina ninyo, bakit pinutol ninyo ang koryenteko; ha?, Naghahamon kayo, ha? Gusto mo, pakocontempt ko kayo!", which statements and demeanor constitute abuse of authority and conduct unbecoming of a public officer. Considering that respondents are first offenders, it was recommended that they be severely reprimanded, with a stern warning of a much graver administrative sanction in case of similar repetition.

On the basis of the aforecited facts, which are amply supported by the evidence adduced in a duly conducted investigation, we find and so hold that respondents Deputy Sheriffs Juan Contacto, Jr. and Jose Blanca are guilty of abuse of authority and of conduct unbecoming of a public officer and an officer of the court. The bare denials

of respondents cannot prevail over the positive evidence of the complainant. The defense raised by respondents that complainant filed the instant complaint because he was embarrassed when he was served the writ of attachment is too simplistic, effete and unworthy of credence.

There is no plausible reason to doubt the testimony of the complaining witness that respondent Juan Contacto, Jr. tried to exact money from complainant and that he was drunk when he served the writ of attachment. There is no showing whatsoever of any antecedent encounter between the parties or any motive on the part of complainant and his witnesses to foist any liability on respondents, a consideration which must also have been taken into account by the investigating judge in assessing the veracity of the complaint.

We do not, however, subscribe to a mere reprimand of respondent Juan Contacto, Jr., as recommended by Judge Flores. The finding of said investigating judge that respondent Contacto, Jr. demanded money from the complainant in consideration of a promise that he would not immediately implement the writ of attachment, which offered delay is itself violative of the Rules of Court and compounds his malfeasance with an intended nonfeasance, and his unjustified use of one of the attached vehicles for his own personal benefit demand his dismissal from the government service.

In the case of Villaraza vs. Atienza,[6] respondent deputy sheriff of Quezon City was considered resigned from the service, with prejudice to reemployment in any national or local government office or agency, for asking from complainant the total amount of P500.00 which he justified as necessary to properly serve and implement the writ of execution.

In Tangingco vs. Aguilar,[7] the respondent provincial deputy sheriff of Lanao del Norte was found guilty of dishonesty and was dismissed from the service, with forfeiture of all retirement privileges and with prejudice to reinstatement in the national and local governments, for having appropriated for his own use some of the properties under attachment in his custody as deputy sheriff.

Respondent Jose Blanca's display of arrogance and vulgarity in resorting to the abrasive language hereinbefore quoted warrant disciplinary action. We are not persuaded that the electric service was disconnected in respondent Blanca's house in retaliation for his high-handed manner in enforcing the writ of attachment. The disconnection was justified and properly supported by pertinent documents and notices showing non-payment of his electric bills dating back to 1986 and 1987, which defaults were never refuted by said respondent.

Respondent Blanca, as an officer of the court, is charged with the duty to observe courtesy and civility in his official actuations with the public. It is his obligation to act with self-restraint and civility at all times even when confronted with rudeness and insolence.[8]

We are also convinced, there being credible testimony on the matter, that respondents were under the influence of liquor when they enforced the writ of preliminary attachment. While the records do not show their degree of inebriation on that occasion or habituality of intoxication on their part during working hours, such conduct must not pass unnoticed in our evaluation of the norm demanded of those who are entrusted with judicial writs and processes.

In Bello vs. Mabbun, et al.[9], respondent Mabbun was dismissed from the service for frequently reporting for work drunk, while respondent Carbonell was reprimanded for reporting for duty while noticeably drunk once. We there declared that "for a court personnel, reporting for work while under the influence of alcohol or imbibing intoxicating liquor during office hours, whether habitually or not, constitutes not only a gross and serious violation of the Civil Service Rules and Regulations but more importantly creates an image of irresponsibility which ultimately impairs the reputation of the judiciary as a whole."

WHEREFORE, we find respondent Juan Contacto, Jr., guilty of grave misconduct, abuse of authority and dishonesty and he is hereby DISMISSED from the service, with forfeiture of all retirement benefits and with prejudice to reemployment in any branch or agency of the national or local governments, including government-owned or controlled corporations; and respondent Jose Blanca is hereby declared guilty of abuse of authority and conduct unbecoming of a public officer and is imposed a FINE equivalent to one (1) month of his present salary, with a stern warning that the commission of the same or a similar offense in the future will be dealt with more severely. Let a copy of this resolution be entered in the personal records of respondents.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Grino-Aquino, Medialdea, and Regalado, JJ., concur.

[1] Rollo, 1.

[2] Ibid., 20.

[3] Ibid., 21.

[4] Ibid., 49.

[5] Ibid., 81-85.

[6] 108 SCRA 559 (1981).

[7] 81 SCRA 599 (1978).

[8] Flores vs. Ganaden, 61 SCRA 216 (1974).

[9] A.M. No. P-88-178, Res., April 29, 1988.

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