

JUDGE FLORENTINO L. LABIS, JR., Complainant, vs. GENARO ESTAÑOL, Process Server, Municipal Trial Court in Cities (MTCC), Himamaylan, Negros Occidental, Respondent.

A.M. No. P-07-2405 (Formerly OCA I.P.I No. 05-2342-P). February 27, 2008

Ponente: CORONA, J.

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CORONA, J.:

In a letter-complaint,[1] complainant Judge Florentino L. Labis, Jr. (presiding judge of the Municipal Trial Court in Cities, Himamaylan, Negros Occidental) charged respondent Genaro Estañol with dereliction of duty.

According to the complainant, a petition for indirect contempt was filed in his sala on August 12, 2005. He issued an order setting the case for hearing on September 5, 2005 and directed respondent, the court's process server, to serve the order and summons on the defendant. On the date of the hearing, the complainant learned that respondent failed to make a return of service. There was no way of knowing whether the defendant was furnished with the court orders. The hearing was reset to another date and respondent was required to explain his omission.

In his explanation, respondent claimed that he lost the court order and summons while he was serving other court processes. He apologized to the court but the complainant considered his explanation unsatisfactory and warned him against repeating the infraction.

On September 28, 2005, the complainant issued summons in an ejectment case and directed respondent to serve it and a copy of the complaint on the defendant. An order setting the hearing on October 19, 2005 was also issued. However, the hearing had to be postponed because respondent again failed to attach the return of service.

The Office of the Court Administrator (OCA) required respondent to submit his comment on the complaint.[2]

In his comment,[3] respondent explained that he failed to serve the summons and order in the ejectment case because the defendant had already vacated the disputed premises and could no longer be located. According to him, this fact was reflected in the return of service but he failed to promptly attach it to the records due to oversight.

In a memorandum,[4] the OCA found respondent guilty of dereliction of duty. According to the OCA:

Respondent admitted that he failed to promptly make a return of the service of court processes and summons [in] two cases pending before the court. His explanations for such failure are unjustifiable. It must be noted that respondent had previously been warned by complainant to be more circumspect in the discharge of his functions. Despite the previous warning, respondent had been negligent in the discharge of his duties.[5]

The OCA recommended that respondent be fined P5,000 and sternly warned that a repetition of the same or similar act would be dealt with more severely.

We agree with the OCA that respondent was guilty of (simple) neglect or dereliction of duty.

A process server's primary duty is to serve court notices. This requires utmost responsibility on his part by ensuring that all notices assigned to him are duly served on the parties.[6] The significance of the duties of a process server was enunciated in *Musni v. Morales*[7]:

It is through the process server that defendants learn of the action brought against them by the complainant. More important, it is also through the service of summons by the process server that the trial court acquires jurisdiction over the defendant. It is therefore important that summonses, other writs and court processes be served expeditiously.

Respondent's explanation as to why he failed to serve the trial court's issuances was lame and inexcusable. The records indicate that he twice failed to serve the trial court's orders and summons on the defendants (in the petition for indirect contempt and in the ejectment case.) Though he insisted that his failure to serve the court's issuances in the latter case was justified, he, however, also admitted that he failed to promptly attach the return of service to the records.

Considering the grave responsibilities imposed on him, respondent could not afford to be careless and imprudent in discharging his duties. Neither neglect nor delay should be allowed to stall the expeditious disposition of cases.

Every employee of the judiciary plays an important role in the dispensation of justice.[8] It is the mandate of each and every employee to show a high degree of professionalism in the performance of his duties and to reinforce the Court's commitment to efficiency and integrity. Respondent should be reminded that a court employee's conduct is reflective of the Court's role as a staunch guardian of justice.

Neglect of duty is defined as the failure to give proper attention to a task expected of an employee because of carelessness or indifference.[9]

Under Section 23, Rule XIV of the Omnibus Civil Service Rules and Regulations, (simple) neglect of duty is punishable by suspension of one month and one day to six months for the first offense. Under Sec. 19, Rule XIV of the same Rules, the penalty of fine (instead of suspension) may also be imposed in the alternative.[10] Following the Court's ruling in several cases involving (simple) neglect of duty,[11] we find the penalty of fine in the amount of P5,000 just and reasonable.

WHEREFORE, respondent Genaro Estañol is found guilty of (simple) neglect of duty and is hereby FINED P5,000. He is likewise STERNLY WARNED that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Rollo, pp. 1-3.

[2] *Id.*, p. 22.

[3] *Id.*, p. 26.

[4] Dated October 8, 2007. *Id.*, pp. 32-35.

[5] *Id.*, p. 33.

[6] *Rodrigo-Ebron v. Adolfo*, A.M. No. P-06-2231, April 27, 2007.

[7] 373 Phil. 703 (1999).

[8] Vilar v. Angeles, A.M. No. P-06-2276, February 5, 2007.

[9] Tiu v. Dela Cruz, A.M. No. P-06-2288, June 15, 2007.

[10] See also Patawaran v. Nepomuceno, A.M. No. P-02-1655, February 6, 2007.

[11] Id. See also Balanag, Jr. v. Osita, 437 Phil. 452 (2002); Casano v. Magat, 425 Phil. 356 (2002); Tiongco v. Molina, 416 Phil. 676 (2001); Beso v. Daguman, 380 Phil. 544 (2000).

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