

**MARIO S. ROMERO, COMPLAINANT, PRESENT: VS. SHERIFF IV,
REGIONAL TRIAL COURT, BRANCH 44, MAMBURAO, OCCIDENTAL
MINDORO, RESPONDENT.**

A.M. NO. P-05-2041 (Formerly OCA IPI No. 99-667-P). September 15, 2006

Ponente: GARCIA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/51406ae4e8a1/>

GARCIA, J.:

Complainant, Mario S. Romero, publisher of Island Observer, a weekly newspaper with general circulation in Occidental and Oriental Mindoro, Marinduque, Palawan and Metro Manila, in a sworn affidavit-complaint[1] dated May 4, 1999 and filed with the Office of the Court Administrator (OCA), charges the herein respondent, Augusto R. Sison, Sheriff IV, Regional Trial Court (RTC), Branch 44, Mamburao, Occidental Mindoro, with violation of Presidential Decree (P.D.) 1079[2] and Supreme Court Circular No. 63-96.[3]

In his affidavit-complaint, Romero claimed that legal and judicial notices in the RTC, Branch 44, Mamburao, Occidental Mindoro, which were intended for publication after raffle, were being distributed by the respondent to different newspapers without the benefit of raffle. He cited two instances wherein he received from the respondent two legal notices for publication which he returned for lack of raffle. The notices adverted to were: 1) Notice for Extrajudicial Foreclosure of Mortgage filed by the Philippine National Bank against the spouses Virgilio del Rosario and Norma del Rosario in Petition No. F-217; and 2) Notice for the Extrajudicial Foreclosure of Mortgage filed by the Philippine Postal Savings Bank against the Alpha King Transit in Petition No. F-218. Complainant avers that the respondent's request for publication of the aforesaid two notices was evidently done to appease or to stop him (complainant) from insisting that raffle be held first before court notices could be published in a qualified newspaper of general circulation, as mandated by law.

Via a 1st Indorsement[4] dated July 7, 1999, then Court Administrator Alfredo Benipayo referred the aforesaid affidavit-complaint to the respondent for comment, which affidavit in effect charges him with serious misconduct and violation of Republic Act (R.A.) No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees). Copy of the indorsement was furnished the complainant.

In his comment[5] dated August 2, 1999, the respondent sheriff denied the accusations against him. He claimed that contrary to complainant's allegations, raffle was undertaken prior to the publication of the notices of extrajudicial foreclosure in Petition Nos. F-217 and F-218. He attached to his comment documents purporting to be minutes of the raffle of the aforesaid petitions.

On August 22, 1999, the OCA received a letter from the complainant reiterating his charges against the respondent for violation of Supreme Court Circular No. 63-96 and P.D. 1079, instead of R.A. No. 6713.

In a reply[6] thereto, then Court Administrator Alfredo L. Benipayo explained that complainant's charges had been duly considered, but that neither of said charges is included in those constituting administrative offenses committed by government employees under Book V of Executive Order No. 292 (Revised Administrative Code of 1987) nor under R.A. No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees).

In the same reply, however, Court Administrator Benipayo observed that complainant's charges, taken together with the other allegations found in his affidavit- complaint, may be considered as properly falling within the coverage of Grave/Serious Misconduct and/or Violation of R.A. No. 6713.

In a Resolution[7] dated March 24, 2003, the Court referred the case to the OCA for investigation, report and recommendation by any of its consultants.

True enough, the OCA assigned the matter for the purpose to retired Justice Narciso T. Atienza. The OCA, in its Memorandum dated May 24, 2004, summarizes the findings of Justice Atienza as reflected in the latter's Report, as follows:

FINDING OF THE INVESTIGATOR:

The Investigating Justice found respondent Augusto R. Sison guilty of violating Supreme Court Circular No. 63-96 in relation to P.D. 1079 and recommended that he be penalized to pay a fine of P10,000.00. The Investigating Justice likewise recommended that Judge Inocencio M. Jaurique, presiding judge of RTC, Branch 44, Mamburao, Occidental Mindoro, be directed to follow the aforesaid circular.

Complainant submits that judicial and legal notices in RTC, Branch 44, Mamburao, Occidental Mindoro are being distributed by respondent Sheriff for publication to different newspapers without having been raffled. To support his allegation, complainant submitted the following documentary evidence:

- Letter dated 2 March 1999 addressed to the Editor of the Island Observer which complainant received on 4 March 1999. In said letter, respondent Augusto R. Sison, Sheriff IV of Branch 44, RTC, Mamburao, Occidental Mindoro requested the Editor of the Island Observer to publish, once a week, for three (3) consecutive weeks, the Notice for Extra-Judicial Foreclosure of Mortgage by Philippine National Bank against Spouses Virgilio and Norma del Rosario.
- Letter of complainant to Mr. Augusto R. Sison dated 4 March 1999 returning the Notice for Extra- Judicial Foreclosure of Mortgage mentioned in the preceding paragraph on the ground that it was not raffled.
- Undated letter of Augusto R. Sison addressed to the Editor of the Island Observer. In this letter, respondent Augusto R. Sison, requested the Editor of the Island Observer to publish once a week, for three (3) consecutive weeks, the Notice for Extra-Judicial Foreclosure of Mortgage in the case of Philippine Postal Savings Bank against Alpha King Transit.
- Letter of complainant to Augusto R. Sison dated 13 March 1999 returning the Notice for Extra-Judicial Foreclosure of Mortgage by the Philippine Postal Savings Bank against Alpha King Transit on the ground that it was not raffled.

Respondent Sheriff Sison denies the allegation of Mr. Romero that publications are caused without the benefit of raffle. According to him, raffles were conducted as shown in the minutes of raffle dated 11 March 1999 in Petition No. F-217 in the foreclosure of PNB vs. Sps. Virgilio and Norma del Rosario and in the minutes of raffle dated 23 March 1999 in Petition F-218 in the foreclosure proceedings of Philippine Postal Savings Bank vs. Alpha King Transit.

Respondent likewise denies the allegation of complainant Romero that the legal notices for publication were sent to the latter in order to appease him. He claims that he could not have sent the notice for publication to the Island Observer because the latter is not accredited to publish legal notices in Mamburao, Occidental Mindoro. Respondent rested his case after the admission of the following documentary evidence:

(1) Exhibit "1", Minute of the raffle of Petition No. 218;

Exhibit "1-a" signature of Judge Jaurigue and Exhibit "1-b" signature of Cirilo Q. Tejoso, Jr.;

(2) Exhibit "2", Minute of raffle of Petition No. 217;

Exhibit "2-a", signature of Judge Jaurigue and Exhibit "2-b" signature of Cirilo Q. Tejoso, Jr.;

(3) Exhibit "3", Certification issued by Atty. Cirilo Q. Tejoso to the effect that petitions F-217 and F-218 were raffled;

(4) Exhibit "4", Receipt issued by the Island Observer to respondent Sison as proof that the P16,000.00 was received by the Island Observer, and Exhibit "4-a", signature of Cirilo Q. Tejoso, Jr.;

(5) Exhibit "5", Postal Money Order Remitter's Receipt dated September 4, 2000; Exhibit "5-a", signature of Cirilo Q. Tejoso; and

(6) Exhibit "6", Certification issued by Judge Inocencio M. Jaurigue to the effect that the Island Observer is not duly accredited in Branch 44, RTC, Mamburao, Occidental Mindoro; Exhibit "6-a", signature of Judge Jaurigue; and Exhibit "6-b", signature of Cirilo Q. Tejoso.

The investigation revealed that there was no raffle conducted prior to the sending to the Island Observer of the notice for publication of Petition Nos. F-217 and F-218. The minutes of the raffle submitted by respondent Sheriff did not prove that the petitions were raffled before they were sent to the editor of the Island Observer for publication. On the contrary, these were incontrovertible evidence that the petitions were raffled only after they were returned to the respondent by the complainant because of the latter's refusal to participate in the violation of the Decree and the Supreme Court Circular. It may be noted that Petition No. F-217 was returned by the complainant by mail on 4 March 1999 and it was raffled on 17 March 1999 as shown in Exhibit "2" while Petition No. F-218 was returned by the complainant on 13 March 1999 and it was raffled on 23 March 1999 as shown in Exhibit "1".

In a letter dated 10 January 2001, then Court Administrator Alfredo L. Benipayo directed respondent Sheriff Sison to submit certified true copies of the minutes of all raffles conducted for the distribution of all legal notices for publication. Records show that respondent did not answer the letter which could only be interpreted to mean that he could not produce the minutes because no raffle was ever conducted in RTC, Branch 44, Mamburao, Occidental Mindoro.

When asked during the investigation why he did not respond to the letter of the Court Administrator, respondent alleged that he did not know the records of raffles because their court had been transferring from one place to another and sometimes records are lost.

The investigation likewise established that respondent was lying when he testified earlier that their court's judicial and legal notices are raffled before these are distributed to different newspaper for publication. When asked to give the procedure on how judicial and legal notices are raffled, respondent admitted that these were not raffled but were distributed to different newspapers for publication by drawing of lots because there are only few newspaper joining.

Investigating Justice also reported that respondent suddenly developed amnesia when Exhibit "A" and "G" were shown to him, thusly:

Q: Do you remember having sent to Mr. Romero the case of PNB vs. Virgilio and Norma del Rosario for publication in the Island Observer. (referring to Exhibit "A")

A. This is a xerox copy.

Q Yes, but the signature, find out?

A. I am doubtful about this.

Q. You mean to say you cannot remember this letter, will you please read the contents of the letter?

A. This is 1999 sir, I could no longer remember.

Q. And how about this letter, do you remember having sent this to the Editor of the Island Observer? (referring to Exhibit "G").

A. No date sir, I could no longer remember.

Q. How about this signature appearing here on top of the typewritten name, Augusto Sison?

A. I don't know sir.

Q. Do you remember having received letters from Mr. Romero in connection with these two (2) cases for publication, the Postal Savings Bank and the PNB, rejecting them according to him they were not raffled?

A I could no longer remember.

Respondent testified that he could not remember whether he sent the notice for judicial foreclosure filed by PNB against Sps. Virgilio and Norma del Rosario and the notice for extra-judicial foreclosure filed by Philippine Postal Savings Bank against Alpha King Transit to the editor of the Island Observer. He maintains that the newspaper is not accredited to publish judicial notices in Mamburao, Occidental Mindoro.

These assertions of respondent Sheriff was belied by the letter that he himself sent to the editor of the Island Observer, requesting the latter for the name and complete address of its authorized representative who will represent their company in raffles to be conducted relative to foreclosures. If the Island Observer is not an accredited newspaper in RTC, Mamburao, Occidental Mindoro, respondent would not have asked the editor of the Island Observer to give him the name and complete address of its authorized representative.

Another evidence that belied the allegation of respondent Sheriff that the Island Observer is not an accredited newspaper in RTC, Mamburao, Occidental Mindoro, is the letter dated 21 June 2002 which states that respondent personally talked to the wife of Mr. Romero about the payment for the publication.

It is worth mentioning that in the Villaluz and Tria foreclosures, complainant on 13 August 2000 sent a letter to respondent demanding the remittance of the amount of P6,883.80 representing the balance of payment that the latter collected from the Rural Bank of Rubang, Occidental Mindoro without authority. In his letter of demand, complainant stated that the cost of the publication was P22,883.30 but what respondent remitted to the Island Observer on 17 September 1998 was only P16,000.00. In view of the letter of demand, respondent on 4 September 2000, paid the balance of P6,883.30 in Postal Money Orders. From 17 September 1998 up to 4 September 2000, respondent was in possession of the P6,883.30 which was part of the payment for the publications of the Notices for Extra-Judicial Foreclosure of Rural Bank of Rubang against Villaluz and Tria in 1998. The allegation of respondent that the Manager of the Rural Bank gave him the money and that he purchased money order is incredible. The payment for the publication of the notices of the Villaluz and Tria extra-judicial foreclosure of mortgages was collected by the respondent without the knowledge and consent of the complainant. The cost of the publication, as stated earlier, was P22,883.30 but respondent kept in his possession the amount of P6,883.30 from 1998 until he received the letter of demand dated 12 August 2000 from the complainant.

Then Court Administrator Presbitero J. Velasco, Jr., now a member of this Court, concurred with the findings of the Investigating Justice and accordingly recommends the following:

- That respondent Augusto R. Sison, Sheriff IV, RTC, Branch 44, Mamburao, Occidental Mindoro be FINED in the amount of Ten Thousand (P10,000) Pesos for violation of Supreme Court Circular No. 63-96 in relation to PD No. 1079; and
- That Judge Inocencio M. Jaurique, RTC, Branch 44, Mamburao, Occidental Mindoro be REMINDED to strictly comply with Supreme Court Circular No. 63-96 in relation to P.D. No. 1079 with a WARNING that a

repetition of the same or similar acts in the future shall be dealt with more severely.

After going over the record of this case, we agree with the factual findings of Justice Atienza and are convinced, along with the OCA, that the respondent sheriff indeed deserves to be administratively sanctioned.

Administrative Order No. 3, dated October 19, 1984, provides for the procedures to be followed in extrajudicial foreclosure of mortgages, as follows:

- All application for extra-judicial foreclosure of mortgage under Act 3135, as amended by Act 4118, and Act 1508, as amended, shall be filed with the Executive Judge, through the Clerk of Court who is also the Ex-Oficio Sheriff;
- Upon receipt of an application for extra-judicial foreclosure of mortgage, it shall be the duty of the Office of the Sheriff to:
 - a) receive and docket said application and to stamp the same with the corresponding file number and date of filing;
 - b) collect the filing fees therefor and issue the corresponding official receipt;
 - c) examine, in case of real estate mortgage foreclosure, whether the applicant has complied with all the requirements before the public auction is conducted under its direction or under the direction of a notary public, pursuant to Sec. 4, of Act 3135, as amended;
 - d) sign and issue certificate of sale, subject to the approval of the Executive Judge, or in his absence the Vice-Executive Judge; and
 - e) turn over, after the certificate of sale has been issued to the highest bidder, the complete folder to the Records Section, Office of the Clerk of Court, while awaiting any redemption within a period of one (1) year from date of registration of the certificate of sale with the Register of Deeds concerned, after which the records shall be archived.
- The notices of auction sale in extra-judicial foreclosure for publication shall be published in a newspaper of general circulation pursuant to Section 1, Presidential Decree No. 1709, dated January 26, 1977, and non-compliance therewith shall constitute a violation of Section 6 thereof;
- The Executive Judge shall assign with the assistance of the Clerk of Court and Ex-Oficio Sheriff, the cases by raffle among the deputy sheriffs, under whose direction the auction sale shall be made. Ruffling shall be strictly enforced in order to avoid unequal distribution of cases and fraternization between the sheriff and the applicant-mortgagee, such as banking institutions, financing companies, and others.

The respondent, as sheriff, ought to know the procedures attendant to the application for extrajudicial foreclosure of mortgages, considering that, more often than not, foreclosure sales are conducted by sheriffs as duly authorized representatives of the RTC Clerks of Court who are also the ex-officio sheriffs. There is nothing in Administrative Order No. 3 authorizing the respondent, or for that matter, any sheriff, to conduct the raffle to choose which of the newspapers or periodicals is qualified to publish court notices, nor to decide that the distribution of the notices for publication be made by the drawing of lots.

Quite the contrary, Section 2 of P.D. 1079 categorically requires the executive judges to personally distribute judicial notices to qualified newspapers for publication, which distribution should be done by raffle, thus:

SECTION 2. The executive judge of the court of first instance shall designate a regular working day and a definite time each week during which the said judicial notices or advertisements shall be distributed personally by him for publication to qualified newspapers or periodicals as defined in the preceding section, which

distribution shall be done by raffle: Provided, That should the circumstances require that another day be set for the purpose, he shall notify in writing the editors and publishers concerned at least three (3) days in advance of the designated date: Provided, further, that the distribution of the said notices by raffle shall be dispensed with in case only one newspaper or periodical is in operation in a particular province or city. (Emphases supplied.)

The record shows that during the investigation of this case, the respondent sheriff admitted that no raffle ever took place before the notices for publication in Petition Nos. F-217 and F-218 were distributed, the same having been made only through drawing of lots because, according to him, only few newspapers joined in the raffle. Obviously, the respondent's decision to distribute court notices for publication thru drawing of lots was made without any authorization from the executive judge who is personally in charge thereof. For sure, no proof to the contrary was presented by the respondent. Respondent does not only exceed his authority but his act even constitutes misconduct which destroys the image of the Judiciary.

Respondent ought not forget that as sheriff, he plays an important role in the administration of justice. And as agent of the law, high standards of propriety are expected of him. Being an officer of the court and an agent of the law, respondent must discharge his duties with great care and diligence. It is well to remind all persons serving the government through its judicial arm that the conduct and behavior of every person connected with an office charged with the dispensation of justice, from the presiding judge to the lowest clerk, is laden with a heavy burden of responsibility. Their conduct, at all times, must not only be characterized by propriety and decorum but above all, be beyond suspicion.[8]

From the respondent's admission that he was the one in charge of the distribution of court notices for publication thru raffle, it would appear that the executive judge, Judge Inocencio M. Jaurique of the RTC, Branch 44, Mamburao, Occidental Mindoro, had been evading a judicial duty mandated by this Court in Supreme Court Circular No. 63-96, directing all executive judges to comply strictly with the said Circular and P.D. 1079.

WHEREFORE, Sheriff Augusto R. Sison, Sheriff IV, of the RTC, Branch 44, Mamburao, Occidental Mindoro, is hereby FINED in the amount of Ten Thousand (P10,000.00) Pesos with a stern WARNING that any repetition of the same or similar acts shall be dealt with more severely.

While we are inclined to remind Executive Judge Inocencio M. Jaurique to comply strictly with Supreme Court Circular No. 63-96 in relation to P.D. 1079, for apparent evasion of a positive duty, the OCA's recommendation for the purpose has indubitably become moot and academic, it appearing that Judge Jaurique had already retired (optional) from the service on January 31, 2005.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Corona and Azcuna, JJ., concur.

[1] Rollo, pp. 1-6.

[2] Revising and Consolidating All Laws and Decrees Regulating Publication of Judicial Notices, Advertisements for Public Biddings, Notices of Auction Sales and other Similar Notices.

[3] Strict Compliance of P.D. 1079.

[4] Id. at 19.

[5] Id. at 20-22.

[6] Id. at 24.

[7] Id. at 27.

[8] Anonymous Complaint Against Pershing T. Yared, Sheriff III, Municipal Trial Court in Cities, Canlaon City, A.M. No. P-05-2015, June 28, 2005, 461 SCRA 347, citing *Llamado v. Ravelo, Jr.*, 345 Phil. 843, 853 [1997]; *Magat v. Pimentel*, 399 Phil. 728, 736 [2000]; *Bornasal, Jr. v. Montes*, 345 Phil. 401, 406 [1997]; *Chupungco v. Cabusao, Jr.*, A.M. No. P-03-1758, December 10, 2003, 417 SCRA 365, 369.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.