# GERONIMO FRANCISCO, PETITIONER, VS. SEBASTIAN BOLIVAR, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 19, NAGA CITY, RESPONDENT.

*A.M. NO. P-06-2212. July 14, 2009*

Ponente: PERALTA, J.

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**PERALTA, J.:**

Before this Court is a verified complaint dated October 6, 2005 filed by complainant Geronimo Francisco alleging that respondent Sebastian Bolivar, Sheriff IV of the Regional Trial Court (RTC), Branch 19 of Naga City, acted with dishonesty and abuse of authority in implementing the writ of execution in connection with the judgment rendered by the said court in Civil Case No. RTC-3811, entitled Geronimo F. Francisco, et al. v. Danilo Soreta, et al.

Herein complainant was one of the plaintiffs in a civil case for damages, docketed as Civil Case No. RTC-3811, entitled Geronimo F. Francisco, et al. v. Danilo Soreta, et al., filed with the RTC, Branch 19 of Naga City, where judgment was rendered in his favor.[1] The dispositive portion of the Decision dated October 22, 2003, reads as follows:

> WHEREFORE, the Court renders judgment in favor of the plaintiffs and against the defendants, ordering the latter:
>
> 1) to pay plaintiffs the sum of P50,000.00 as civil indemnity for the death of Cheyserr B. Francisco;
>
> 2) to pay plaintiffs the sum of P28,797.10, less the sum of P10,800.00 already paid to plaintiffs, as actual damages for hospitalization, medical and funeral expenses;
>
> 3) to pay plaintiffs the sum of P50,000.00 as exemplary damages;
>
> 4) to pay plaintiffs the sum of P50,000.00 as moral damages;
>
> 5) to reimburse plaintiff Geronimo Francisco the sum of P4,200.00, representing lost income for twenty-one (21) days at P200.00 per day;
>
> 6) to pay plaintiffs the sum of P50,000.00 as attorney's fees and P10,000.00 litigation expense; and
>
> to pay the costs of suit.
>
> SO ORDERED.[2]

On February 19, 2005, the judgment in Civil Case No. RTC-3811 became final and executory. On May 13, 2005, the RTC granted therein plaintiffs' Motion for Execution and, on May 23, 2005, issued a Writ of Execution[3] of the judgment. Herein respondent was the Sheriff assigned to implement the writ of execution.

In his Complaint, complainant alleged that before the writ of execution was implemented, respondent submitted his Sheriff's Itemized Estimated Account of Expenses[4] dated May 24, 2005 in the total amount of P7,500.00

which he demanded that complainant deposit in his name with the Office of the Clerk of Court, RTC, Naga City. However, complainant was able to deposit only P2,000.00. Respondent then proceeded to lambast and humiliate complainant at the lobby of the Hall of Justice, Naga City. Respondent, in a loud voice, told them that they should not talk to the other sheriffs, as he was the only sheriff assigned to implement the writ. Respondent gave complainant a run-around. On another occasion, Francisco and his wife approached respondent who was then taking his snack at a canteen near the court, but the latter angrily told them that the canteen was not the proper place to discuss about the execution of judgment. After respondent Sheriff had eaten, they followed him to his office where complainant and his wife pleaded for the implementation of the writ. Aside from paying the P2,000.00 already deposited, they offered to shoulder the other expenses during the actual implementation of the writ, but respondent ignored their pleas.[5] Complainant later discovered that respondent had withdrawn the P2,000.00. Complainant also gave respondent an additional amount of P500.00, which the latter demanded as additional expense. Without a court order, respondent demanded that complainant file a bond, as there was a third-party claimant.

On June 6, 2005, as advised by respondent, complainant hired a truck and three laborers in order to haul properties belonging to the defendants. However, upon their arrival at the defendants' residence, respondent merely listed down and levied upon defendants' properties, attaching two tricycles registered in defendant Merly Soreta's name.[6]

On June 18, 2005, complainant and therein defendant Merly Soreta entered into a compromise agreement to reduce the amount of the money judgment from P232,997.10 to P210,000.00, after which defendant made a partial payment of P180,000.00. Defendant then executed a promissory note,[7] in which she promised to pay complainant the balance of P30,000.00 as follows: P20,000.00 on or before August 30, 2005, and P10,000.00 on or before September 15, 2005. However, as of September 13, 2005, when the instant complaint was filed, defendant had not yet paid the balance of P30,000.00. Respondent also deducted the amount of P10,000.00 from the partial payment of P180,000.00 without any explanation as to what expenses it represented.

On June 22, 2005, complainant sent a letter[8] to the Presiding Judge of the RTC, Branch 19 of Naga City, requesting the latter to require respondent to make a proper liquidation of the expenses incurred in enforcing the writ of execution and to return the excess amount to complainant.

On July 21, 2005, complainant wrote respondent, demanding, among others, the return of the excess amount of the sheriff's fees collected within five (5) days; otherwise, he would file an administrative complaint.

In his Counter-Affidavit[9] dated January 17, 2006, respondent denied being the cause of the delay in the implementation of the writ pursuant to the judgment rendered by the trial court in Civil Case No. RTC-3811. He claimed that after the issuance of the writ, he required complainant to deposit the amount of P7,500.00 with the Office of the Clerk of Court to cover incidental expenses, but complainant deposited only P2,000.00. Respondent added that despite complainant's failure to pay the amount in full, respondent still implemented the writ by attaching two (2) tricycles belonging to therein defendant Merly Soreta as partial satisfaction of the judgment. Thereafter, on June 18, 2005, the parties in the civil case agreed to settle the money judgment in the amount of P210,000.00. Respondent admitted the existence of the acknowledgment receipt[10] dated June 18, 2005 covering the amount of P10,000.00, as evidence of payment by complainant, but claimed that it was therein defendant who paid the said amount which she borrowed from complainant because the latter insisted that defendant should pay the balance of the sheriff's fees. Respondent also averred that the total amount of P12,500.00 he received was insufficient as shown by the breakdown of expenses. He denied having knowledge of the complainant's expenses because it was the former who paid for all the expenses. Moreover, respondent stated that he submitted the itemized breakdown of the expenses to the complainant's lawyer, and when complainant requested a report on the


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liquidation of expenses, the writ had not yet been fully satisfied. Respondent insisted that the amount being claimed by complainant as exorbitant had already been duly liquidated and was covered by a supplemental breakdown of expenses.

In its Report[11] dated May 19, 2006, the Office of the Court Administrator (OCA) recommended that respondent Sheriff be found guilty of simple misconduct and suspended for one (1) month and one (1) day without pay, with a warning that a repetition of the same or similar acts be dealt with more severely. The pertinent portions of the said Report state:

> In the discharge of the sheriff's duty of enforcing writs issued pursuant to court orders for which expenses are to be incurred, Section 10 of Rule 141 of the Rules of Court, as amended by A.M. No. 04-2-04-SC which took effect on August 16, 2004, expressly provides:
>
> x x x x
>
> With regard to sheriff's expenses in executing writs issued pursuant to court orders or decisions or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guard's fees, warehousing and similar charges, the interested party shall pay said expenses in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court and ex officio sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. The liquidation shall be approved by the court. Any unspent amount shall be refunded to the party making the deposit. A full report shall be submitted by the deputy sheriff assigned with his return, and the sheriff's expenses shall be taxed as costs against the judgment debtor. (Emphasis and underscoring supplied).

The clear import of the above-mentioned provision is that the interested party shall deposit the court-approved estimate of the sheriffs' expenses with the Clerk of Court. The Clerk of Court shall then disburse the same to the executing sheriff subject to liquidation within the same period for rendering a return on the writ. The liquidation shall then be approved by the court.

Although respondent seemingly observed the procedure laid down under Section 10 of Rule 141 by submitting an estimate of the expenses and a liquidation of the same, it appears that he did not completely follow the procedure. Aside from directly receiving sums of money from the party litigants, respondent received an amount more than the court-approved sheriff's fees. There is also no showing that the liquidation of expenses he submitted to the court was approved.

Record shows that the estimate of expenses amounting to P7,500.00 was approved by the court. However, respondent admitted that he received the total amount of P12,500.00 as sheriff's fees. Out of the amount he received, P2,000.00 was disbursed by the Clerk of Court, the rest were received by the respondent directly from the party litigants. Respondent did not deny demanding and receiving the additional amount of P500.00 from the complainant. He also acknowledged receiving the amount of P10,000.00 which he claims to have been paid by the defendant as sheriff's fees.

Respondent knew fully well, as it was he who submitted the estimate of expenses to the court, that the amount of P12,500.00 he received is beyond the court-approved sheriff's fees. His contention that it was the defendant in the civil case and not herein complainant who paid the amount of P10,000.00 is of no moment. Likewise, the justification that the amount he received was insufficient to cover the amount of expenses incurred in the implementation of the writ is unacceptable. A sheriff may receive only the court-approved sheriff's fees and acceptance of any other amount is improper. (Bernabe v. Eguia, A.M. No. P-03-1742, 18 September 2003).

There is also no showing that the court has approved the liquidation of expenses submitted by the respondent wherein he itemized his expenses in the implementation of the writ amounting to P13,000.00. Said liquidation is not even supported by documents. In his counter-affidavit, respondent was only able to attach two (2) receipts representing payment of guarding fee for the [(2) levied] units of tricycles and hiring fee for the jeepney used in the implementation of the writ amounting to P2,000.00 and P1,500.00, respectively. The said receipts are not sufficient to cover the amount of the expenses that the respondent allegedly incurred in the implementation of the writ.

x x x x

Respondent's act of demanding and receiving sums of money, for expenses incurred in the implementation of the writ, directly from party- litigants shows his propensity to disregard the procedural steps in defraying expenses in the implementation of court processes, which puts at risk the integrity of the judiciary. Such demand and receipt of money compounded by the fact that he received an amount exceeding the court-approved sheriff's fees and by submitting an unsupported liquidation report may arouse suspicion and impression that the same were received for less than noble purposes.

To our mind, respondent's deviation from the procedure of requiring the party interested to deposit the court-approved sheriff's fees with the Clerk of Court by directly receiving the same compounded by the fact that he received an amount more than the court-approved sheriff's fees is clearly a misconduct in office.[12]

In a Resolution[13] dated February 14, 2007, the Court referred the matter to the Executive Judge of the RTC, Naga City, for investigation, report and recommendation within ninety (90) days from notice.

On September 20, 2007, Executive Judge Jaime Contreras submitted his Report[14] which contained the following findings:

> The defense of the respondent that the Php10,000.00 which he received was given to him by the defendants, who borrowed the said amount from the complainant, as payment for sheriff's expenses per their agreements, do not evince belief even if said version was corroborated by fellow sheriff, Pielagio Papa, Jr., and court interpreter, Jesus Almero. Why should the defendants (losing party) pay for the sheriff's expenses which must be borne by the prevailing party (complainant)? Such tale was not in accordance [with] the ordinary course of human nature and experience that the prevailing party, who was not fully satisfied of the money judgment would still lend money to the losing party just to pay for the sheriff's expenses.
>
> Further, complainant bewailed the shabby treatment he received and the conduct or arrogance displayed by the respondent in several occasions thereby causing him (complainant) embarrassments when he persistently made several follow-ups for the enforcement of the writ, and the same were as follows: (1) for seeking the reduction of the court-approved sheriff's estimated expense of Php7,500.00, (2) for publicly berating the complainant by telling him while at the lobby of the Hall of Justice that he must not talk with other sheriffs because he was the only one who could enforce the writ; (3) When he approached the respondent while the latter was taking his snack at the canteen and respondent rudely told complainant that such was not the proper place but at their office where they must talk about the enforcement of the writ.
>
> Receiving money from the litigants without being covered with official receipt under the guise of sheriff's expenses is an act of dishonesty. So with the failure of a sheriff to account or liquidate the money he received as sheriff's expense.
>
> Also, one's conduct to treat a litigant or one with official transactions in court shabbily, rudely or in a manner that would cause insult, embarrassment or humiliation, to whom they must serve, is condemnable conduct not befitting of a public servant.

> RECOMMENDATION
> It is respectfully recommended that respondent be held liable as charged and be penalized with suspension from service for two (2) months without pay with the admonition to tone his conduct in dealing with the public most especially court litigants.
>
> RESPECTFULLY SUBMITTED.

In a Resolution[15] dated November 14, 2007, the Court referred the report dated September 20, 2007 to the OCA for evaluation, report and recommendation within thirty (30) days from notice.

On January 18, 2008, the OCA submitted its evaluation, report, and recommendation[16] with the following observation:

> The expenses to be incurred by the sheriff in the execution of a judgment are clearly treated in the Rules of Court. Section 10 of Rule 141 of the Rules of Court, as amended by A.M. No. 04-2-04-SC which took effect on August 16, 2004, expressly provides: x x x
>
> x x x x
>
> Verily, the clear import of the above-mentioned provision is that the interested party shall deposit the court-approved estimate of the sheriff's expenses with the Clerk of Court. The Clerk of Court shall then disburse the same to the executing sheriff subject to liquidation within the same period for rendering a return on the writ. The liquidation shall then be approved by the court.
>
> Although respondent seemingly observed the procedure set forth under Section 10 of Rule 141 submitting an estimate of the expenses and a liquidation of the same, it appears that he did not completely follow the procedure. Aside from directly receiving sums of money from the party litigants, respondent received an amount more than the court-approved sheriff's fees. There is also no showing that the liquidation of expenses he submitted to the court was approved.
>
> Record shows that the estimate of expenses amounting to P7,500.00 was approved by the court. However, respondent admitted that he received the total amount of P12,500.00 as sheriff's fees. Out of the amount received, P2,000.00 was disbursed by the Clerk of Court, the rest was received by the respondent directly from the party-litigants. Respondent did not deny demanding and receiving the additional amount of P500.00 from the complainant. He also acknowledged receiving the amount of P10,000.00 which he claims to have been paid by the defendant as sheriff's fees. This contention, however, was found by the investigating judge to be perplexing and contrary to human experience.
>
> It was, likewise, noted that there is no showing that the court has approved the liquidation of expenses submitted by the respondent wherein he itemized his expenses in the implementation of the writ amounting to P13,000.00. Said liquidation is not even supported by documents. In this counter-affidavit, respondent was only able to attach two (2) receipts representing payment of "guarding" fee for the two (2) levied units of tricycles and hiring fee for the [jeepneys] used in the implementation of the writ amounting to P2,000.00 and P1,500.00, respectively. The said receipts are not sufficient to cover the amount of the expenses that the respondent allegedly incurred in the implementation of the writ.
>
> x x x x
>
> Respondent's act of demanding and receiving sums of money, for expenses incurred in the implementation of the writ, directly from party-litigants shows his disregard of procedural steps in defraying expenses in the implementation of court processes. This puts at risk the integrity of the judiciary. Such demand and receipt of money compounded by the fact that he received an amount exceeding the court-approved sheriff's fees, and the submission of an undocumented liquidation report created suspicion and the impression that the same were received for less than noble purposes. The respondent's deviation from procedure compounded by his receipt of


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> an amount more than that which the court approved is clearly misconduct in office.
>
> Finally, during the investigation it was found by the investigating judge that respondent likewise acted in a hostile way in dealing with complainant concerning the progress of the execution of the decision. While the matter was not included in the complaint and respondent was not able to file his comment thereon, this Office deems it wise to call nonetheless the attention of respondent regarding his manners in dealing with the public and court users. It is believed that the finding made as a result of an investigation participated in by respondent can rightfully be made an additional basis for administrative penalty.
>
> Wherefore, premises considered, the undersigned most respectfully recommends that respondent Sebastian Bolivar, Sheriff IV, RTC, Branch 19, Naga City after having been found guilty of simple misconduct in office be penalized with SUSPENSION for One (1) Month without pay with STERN warning that the commission of the same or similar acts in the future shall be dealt with more severely.

In a Resolution[17] dated February 20, 2008, the 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 within ten (10) days from notice, to which the respondent complied on April 14, 2008 and, likewise, the complainant on May 30, 2008.

The Court modifies the recommendation of the OCA.

Respondent alleged that complainant refused to reimburse the expenses he incurred in implementing the writ, and that it was only after the parties had entered into a compromise agreement that complainant agreed to pay respondent P10,000.00 on behalf of therein defendant.

On the other hand, complainant stated that aside from giving the P2,000.00 which he and his wife deposited with the trial court on May 26, 2005, he gave respondent an additional amount of P500.00 on June 6, 2005 for the implementation of the writ. Moreover, complainant pointed out that he offered to shoulder the other expenses and even rented a truck, then again paid respondent P10,000.00 on June 18, 2005.

The Court is more inclined to believe the complainant's contention. The procedure for payment and liquidation of sheriff's expenses is provided under Section 10, Rule 141 of the Rules of Court.[18] Thus,

> SEC. 10. Sheriffs, process servers and other persons serving processes. - x x x
>
> With regard to sheriff's expenses in executing writs issued pursuant to court orders or decisions, or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, the interested party shall pay said expenses in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court and ex officio sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. The liquidation shall be approved by the court. Any unspent amount shall be refunded to the party making the deposit. A full report shall be submitted by the deputy sheriff assigned with his return, and the sheriff's expenses shall be taxed as costs against the judgment debtor.

The said provision clearly states that it is the interested party, herein complainant, who shall pay the sheriff's expenses and deposit the same with the clerk of court. In the present case, however, respondent would like the Court to believe that the P10,000.00 he received was for the payment of defendant's loan from complainant. His explanation is implausible. There would be no reason for the defendant to pay respondent in order to effect the levy on execution on his own property. Moreover, the receipt for the said P10,000.00 confirms that payment was made by complainant.

Even assuming that the payment of P10,000.00 was made on behalf of the defendant, respondent acknowledged

having received a total of P12,500.00 as sheriff's expenses. The estimated expenses which he submitted to and were later approved by the RTC amounted to only P7,500.00, which reveals that complainant had, in fact, overpaid him by P2,500.00. While respondent was able to submit a Liquidation of Expenses[19] dated August 30, 2005 in which he claimed to have spent P13,000.00, he was only able to present two receipts[20] to prove his expenses: (1) P1,500.00 issued on June 6, 2005 as rent for the jeep hired to haul objects and (2) P2,000.00 issued on July 1, 2005 as guarding fee for two (2) tricycles. Notably, it does not appear that said liquidation was approved by the RTC. Respondent has undoubtedly violated Section 4, Canon I of the Code of Conduct for Court Personnel,[21] which provides that court personnel shall not accept any fee or remuneration beyond what they receive or are entitled to in their official capacity. Respondent failed to substantiate that the expenses amounting to P9,500.00, without receipts to qualify the same, was actually incurred and duly accounted for.

Respondent likewise did not follow the correct procedure under Section 10, Rule 141 of the Rules of Court and exceeded the scope of his duties. Aside from receiving an amount more than the stated estimated expenses, he collected sums of money directly from the party litigants instead of coursing them through the clerk of court. Without a court order, he allowed the parties to enter into a compromise agreement, and as a consequence thereof, the money judgment in favor of the complainant was reduced. There is also no showing that he rendered a sheriff's report to clear himself from any accountability. During trial, respondent testified:

> ATTY. CAAYAO:
>
> Did you hear or were you able to get the statement just manifested a while ago by your counsel about your role as sheriff?
>
> RESPONDENT:
>
> Yes, it is ministerial.
>
> Q:
>
> Meaning, you have no discretion?
>
> A:
>
> Nothing.
>
> Q:
>
> Will you agree with me that on June 18, 2005 you allowed partial payment of the monetary obligation of the judgment?
>
> A:
>
> Yes, sir.
>
> Q:
>
> Is that an exercise of discretion?
>
> A:
>
> I think that is not an exercise of discretion because...
>
> x x x x
>
> COURT:


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Continue with your answer.

A:

On that date, it was the idea of the plaintiff's counsel to initiate that both parties must meet at plaintiff's [counsel's] office, so I did really contacted (sic) the plaintiff and the defendant so that both minds will meet.

ATTY. CAAYAO:

Q:

In whose instinct was that agreement discussed?

A:

It was called for by Atty. Luis Ruben General that plaintiff and defendant must meet so we decided that since the prevailing party was his client we must go on with the discussion at his counsel's office.

Q:

As Sheriff, do you not know that your powers are limited to the faithful execution of the court's orders?

A:

Yes, sir.

Q:

Did you faithfully execute the court's order that you implement the decision?

A:

Yes, sir.

Q:

Were you able to collect the entire amount due complainant on June 18, 2005?

A:

Not yet.

Q:

So you did not faithfully comply with the execution of the order?

A:

I complied, he complied, both parties complied because when we were already at his counsel's office, Atty. General told us "okay, let us discuss the matter so that if matters are all in place, let me know. I will just go out of my office." When we agreed to a certain idea beneficial to both parties, we informed Atty. General already.

Q:

Did it not occur to your mind that by acceding to a partial payment of the monetary judgment you were extending undue favor to the defendant?

A:

No, sir.


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Q:

But you are aware as Sheriff that you have no discretion to receive partial payment?

A:

No discretion, sir.

Q:

But yet you agreed to the payment of partial payment?

A:

It was agreed by both parties, something of that kind.[22]

In De La Cruz v. Bato,[23] the Court held that a sheriff's duty in the execution of the writ is purely ministerial. He is to execute the order of the court strictly to the letter,[24] and has no discretion whether to execute the judgment or not.[25] As an officer tasked with the administration of justice, he is also expected to expeditiously enforce rules and implement orders of the court within the limits of his authority. Clearly, respondent deviated from the mandated duties and responsibilities expected of him in the implementation of the writ of execution.

Lastly, complainant claimed that he had been humiliated and lambasted by respondent. In his Affidavit[26] dated May 28, 2007, he alleged that:

> 7. x x x There were times when I and my wife were seen by respondent talking with some court personnel at the court lobby. Then and there, respondent sheriff berated us in public in a loud voice that we should not talk to other sheriffs as he is the only existing sheriff that could implement the writ. At one time, we saw respondent sheriff taking his snack at a canteen near the court and courteously approached him, but as we approached he angrily told us that the canteen was not the proper place to discuss the matter regarding execution. We thus waited. When respondent sheriff was done eating his snack, we followed him to his office where again we pleaded for the implementation of the writ. We thus offered him that aside from the P2,000.00 already deposited, we will just shoulder the other expenses during the actual implementation of the writ. But respondent simply ignored our pleas; x x x

In his Affidavit[27] dated July 17, 2007, respondent denied that the execution of the writ had been delayed, without refuting complainant's allegation about his abrasive behavior.

Indeed, at the grassroots of our judicial machinery, sheriffs and deputy sheriffs are indispensably in close contact with the litigants; hence, their conduct should be geared towards maintaining the prestige and integrity of the court, for the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel; hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a temple of justice. [28] Respondent's discourtesy and braggadocio in dealing with complainant and his wife with regard to an official matter should not be tolerated. The Court will not allow respondent to use his position to throw his weight around when dealing with party-litigants like herein complainant.

In addition, respondent failed to abide by Section 2, Canon IV of the Code of Conduct for Court Personnel, which states that court personnel shall carry out their responsibilities as public servants in as courteous a manner as possible.[29]

The Court has declared that lapses in procedure, coupled with unlawful exaction of unauthorized fees, are equivalent to grave misconduct and dishonesty. Herein respondent's conduct of unilaterally demanding sums of

money from a party-litigant, herein complainant, purportedly to defray expenses of execution, without obtaining the approval of the trial court for such purported expense and without rendering an accounting, constitutes dishonesty and extortion and falls short of the required standards of public service. Such conduct threatens the very existence of the system of administration of justice.[30] Moreover, by completely disregarding the proper procedure for implementation of the writ of execution and failing to notify the trial court of the compromise agreement entered into between the complainant and therein defendant in the subject civil case, respondent also committed abuse of authority or oppression, which the Court has defined as an act of cruelty, severity, or excessive use of authority.[31]

As to the penalty to be imposed, the Investigating Judge recommended that respondent be suspended from the service for two (2) months, while the OCA recommended one (1) month suspension. Respondent having been found liable by the Court for dishonesty and abuse of authority or oppression, the corresponding penalty under Section 52(A)(1) and (14) of the Uniform Rules on Administrative Cases in the Civil Service Commission[32] would be dismissal.

In the following cases where therein respondent sheriffs were first-time offenders -- in De Guzman, Jr. v. Mendoza[33] for grave misconduct and dishonesty; Adoma v. Gatcheco[34] for grave misconduct, dishonesty and conduct prejudicial to the best interest of the service; Apuyan, Jr. v. Sta. Isabel[35] for grave misconduct, dishonesty and conduct grossly prejudicial to the best interest of the service; and Albello v. Galvez[36] for dishonesty -- the Court meted the penalty of one (1) year suspension.

However, this is not the first time that an administrative complaint has been filed against respondent. Upon verification from the OCA, we found that respondent was charged with grave abuse of authority, which was dismissed in a Resolution dated October 17, 2006 (Third Division).[37] To date, there is also a pending administrative case[38] against respondent for violation of Republic Act No. 6713 and dereliction of duty, which has been referred to the OCA for evaluation, report and recommendation and is awaiting its appropriate action. The frequency of his offenses demonstrates respondent's tendency to wilfully and deliberately exceed the scope of his functions as exhibited by his uncalled for remarks and arrogance in dealing with party-litigants, like herein complainant. In view of respondent's propensity to violate the Rules of Court and the Code of Conduct for Court Personnel, the Court deems it appropriate to impose upon him the penalty of suspension for a period of two (2) years for dishonesty and grave abuse of authority in the implementation of the writ of execution with regard to Civil Case No. RTC-3811, instead of the penalty of dismissal.

WHEREFORE, respondent Sebastian Bolivar, Sheriff IV of the Regional Trial Court, Branch 19, Naga City, is found GUILTY of dishonesty and grave abuse of authority and is hereby SUSPENDED from the service without pay for a period of two (2) years, with a stern warning that a repetition of the same or similar acts in the future shall be dealt with more severely.

This Decision shall be immediately executory.

**SO ORDERED.**

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Corona, Carpio Morales, Chico-Nazario, Nachura, Leonardo-De Castro, Brion, and Bersamin, JJ., concur.
Velasco, Jr.,[*] J., no part due to prior action in OCA.

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[1] Based on the records, the veracity of the proceedings that transpired in the trial court cannot be determined with certainty.

[2] Writ of Execution dated May 23, 2005, rollo pp. 23-24.

[3] Id.

[4] Id. at 15.

[5] Affidavit dated May 28, 2007, id. at 100-103.

[6] Rollo, pp. 67-68.

[7] Id. at 18.

[8] Id. at 20.

[9] Id. at 40-42.

[10] Id. at 9.

[11]Id. at 86-89.

[12] Id. at 87-89.

[13] Id. at 91.

[14] Id. at 182-184.

[15] Id. at 386.

[16] Id. at 387-391.

[17] Id. at 399.

[18] Revised by A.M. No. 04-2-04-SC, effective August 16, 2004.

[19] Rollo, p. 85.

[20] Id. at 54 & 53, respectively.

[21] A.M. No. 03-06-13-SC, effective June 1, 2004.

[22] TSN dated July 18, 2007, pp. 17-20.

[23] A.M. No. P-05-1959, February 15, 2005, 451 SCRA 330.

[24] Id. at 336, citing Wenceslao v. Madrazo, 247 SCRA 696, 704 (1995); Eduarte v. Ramos, 238 SCRA 36, 40 (1994).

[25] Id., citing Aristorenas v. Molina, 246 SCRA 134 (1995); Evangelista v. Penserga, 242 SCRA 702, 709 (1995).

[26] Rollo, pp. 100-103. (Emphasis supplied).

[27] Id. at 139-142.

[28] Danao v. Franco, 440 Phil. 181 (2002).

[29] Supra note 21.

[30] Pag-asa G. Beltran v. Romeo Monteroso, etc., A.M. No. P-06-2237, December 4, 2008.


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[31] Rafael v. Sualog, A.M. No. P-07-2330, June 12, 2008, 554 SCRA 278, 287, citing Stilgrove v. Sabas, 508 SCRA 383, 400 (2006).

[32] Promulgated by the Civil Service Commission through Resolution No. 99-1936 dated August 31, 1999 and implemented by Memorandum Circular No. 19, series of 1999.

[33] A.M. No. P-03-1693, March 17, 2005, 453 SCRA 565, 572.

[34] A.M. No. P-5-1942, January 17, 2005, 448 SCRA 299.

[35] A.M. No. P-01-1497, May 28, 2004, 430 SCRA 1.

[36] 443 Phil. 323 (2003).

[37] A.M. No. RTJ-06-2024 (Formerly OCA-IPI No. 06-2410-RTJ), entitled Tirso P. Mariano v. Judge Zaida Aurora B. Garfin, Clerk of Court Jesusa I. Mambo, and Sheriff Sebastian T. Bolivar, Regional Trial Court, Branch 19, Naga City.

[38] OCA-IPI, No. 09-03110, entitled Mary Jane Dychiao v. Jesusa I. Mambo, Clerk of Court V, and Sebastian Bolivar, Sheriff IV, Regional Trial Court, Branch 19, Naga City.


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