

**ESTRELLA V. ALVAREZ, COMPLAINANT, VS. JOY ALBERT B. BULAO,  
PROCESS SERVER, MUNICIPAL CIRCUIT TRIAL COURT,  
LIBMANAN-CABUSAO, CAMARINES SUR, RESPONDENT.**

*A.M. No. P-05-2090. November 18, 2005*

Ponente: PANGANIBAN, J.

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**PANGANIBAN, J.:**

The Court once again underscores the paramount importance of sowing seeds of professionalism and responsibility in all ranks and levels of government service. Consistent with this objective, process servers are duty-bound to serve summonses, writs and other court processes promptly, diligently and carefully. Unjustified delay in their performance of official functions constitutes neglect of duty and warrants the imposition of administrative sanctions.

**The Case and the Facts**

This case stems from the sworn Letter-Complaint[1] filed on August 11, 1999 by Clerk of Court II Estrella V. Alvarez of the Municipal Circuit Trial Court (MCTC) of Libmanan-Cabusao, Camarines Sur, against Process Server Joy Albert Bulao. The Complaint charged Bulao with falsification of his Daily Time Records (DTRs), habitual absenteeism, gross neglect of duty, inefficiency, insubordination and conduct prejudicial to the best interest of the service.

According to complainant, respondent

- rarely reported to the office and, when he did, he stayed for about 15 minutes only, on the pretext that he would be serving summonses and subpoenas, even if he would not in fact do so;
- falsified his DTRs by registering his name in the attendance logbook to make it appear that he had reported for work when he had actually been absent the whole day;
- repeatedly ignored and disobeyed various Memoranda issued to him by complainant, who had required him to comply with office rules and to explain his subsequent non-compliance;
- showed gross inefficiency in the performance of his work by refusing and neglecting to serve summonses and other notices, thereby incurring the ire of litigants and lawyers who were unduly prejudiced by the unreasonable delay in the disposition of their cases; and resulting in the accumulation of unserved court processes, such that the court had to request the assistance of the Libmanan police in the timely service of court notices; and
- did not cooperate with his co-workers for the smooth and efficient running of the office.

In his Comment[2] dated October 13, 1999, respondent denied all the accusations of complainant, contending that the charges were unfounded, biased and contrary to the records of their office. He averred that she had (1) wanted to terminate his services in order to replace him with her chosen employee; (2) unjustly refused to furnish him a copy of his previously submitted Itinerary of Travel, which was vital to his defense; and (3) refused without

justifiable ground to sign his DTRs from November 1998 to July 1999, and arbitrarily withheld them from the Leave Division of the Supreme Court, resulting in his being declared "absent without official leave" (AWOL). Hence, he failed to receive his salary and benefits from July 1999 to the present.

A material conflict, which could not be resolved on the basis of the evidence on record, existed between the respective allegations of the parties. Thus, the Court referred the Complaint to the executive judge of the RTC of Libmanan, Camarines Sur, for investigation, report and recommendation.[3]

The dismissal of the Complaint without prejudice was recommended by Executive Judge Lore R. Bagalacsa in her Investigation Report[4] dated April 23, 2003. She noted that the Complaint was replete with procedural infirmities, and that it had failed to substantiate complainant's allegations against respondent.

In its Evaluation, Report and Recommendation dated September 9, 2003, the OCA likewise recommended the dismissal of the Complaint, on the ground that complainant failed to prove the charges with substantial evidence.

In a Resolution dated October 20, 2003, the Court resolved to adopt the following recommendation of the OCA:

"In the case at bar, the required quantum of proof has not been met. Complainant was unable to effectively discharge the burden of proving the charges she has made. While she submitted the joint affidavit of two (2) employees of the MCTC of Libmanan to show that respondent failed to report for work for three (3) consecutive weeks for the month of May 1999, respondent, however, countered this by likewise submitting the affidavits of two (2) other employees of the same court, stating that they saw respondent report for work for the period stated.

"Further, while complainant alleged that the refusal of respondent to serve court processes has earned the ire of lawyers and litigants whose cases are unduly delayed thereby, she however failed to submit the affidavits of said persons.

"Finally, it is significant to note that, based on the allegation of respondent in his comment, complainant deliberately withheld submission of respondent's DTRs to the Leave Section of the OCA, which resulted in respondent being declared on AWOL. x x x. Such act of complainant clearly shows bad faith and indicates the possible existence of a personal grudge against respondent. This may have motivated complainant to file the instant administrative complaint[.]"[5]

Complainant subsequently filed a Motion for Reconsideration. She explained that she had withheld respondent's DTR for November 2001 because of his failure or refusal to attach his application for almost one month of sick leave, as well as a medical certificate to support his absences.[6] She gave the same explanation in her letter[7] dated January 24, 2002, addressed to Ma. Corazon M. Molo of the Supreme Court's Office of Administrative Services. Complainant also attached to her Motion a copy of her letter[8] dated August 16, 1999, stating her reasons for disapproving respondent's DTRs for November 1998 to July 1999.

Moreover, complainant pointed out that the Resolution had failed to consider the series of Orders[9] issued by Judges Jovito B. Palo Jr. and Daniel C. Joven, both of whom had acted as presiding judge of the MCTC of Libmanan-Cabusao, Camarines Sur. The Orders, which were attached to the letter-Complaint, showed that respondent had repeatedly been given stern warnings for his failure to serve subpoenas/summonses on time. In addition, complainant submitted copies of the latest Orders[10] of Judge Palo and the December 2, 2003 Affidavit of Atty. Jose C. Claro,[11] a private practitioner, showing respondent's persistent failures to perform official duties.

In his Comment on the Motion for Reconsideration dated July 22, 2003,[12] respondent vehemently denied anew the charges against him. He averred that they had already been included in the earlier Complaint dismissed by the Court.[13] He further averred that he and complainant had talked about the case; and that the latter had admitted

having filed the Motion because of a misunderstanding between them; but that she did not want him to be removed from office. Thus, she allegedly told him that they should just forget about the case and resolve it simply by performing their duties and responsibilities as public servants.

#### Evaluation and Recommendation of the Office of the Court Administrator

In its Memorandum submitted to the Court on October 27, 2004, the OCA expressed satisfaction over the explanation given by complainant for her failure to submit the DTRs of respondent to the Leave Division of the Court. In addition, it remarked that he had been declared AWOL due to his own fault.

More important, the OCA found merit in the Motion for Reconsideration. The new documents attached to the Motion evidently showed "that respondent had indeed been negligent in the performance of his duty." He, however, merely made a general denial and "absolutely failed to refute the additional claims" and evidence presented by complainant. Thus, the OCA found him guilty of simple neglect of duty, punishable by suspension without pay for one (1) month and one (1) day to six (6) months, for the first offense, as prescribed under Memorandum Circular No. 19 of the Civil Service Commission (CSC).

#### The Court's Ruling

We agree with the findings of the OCA, but modify the penalty, commensurate with the gravity of the offense.

#### Administrative Liability

After a close review of the records, we are convinced that respondent was indeed negligent in the performance of his duties as a process server. The evidence<sup>[14]</sup> submitted by complainant clearly indicated that because of his failure to serve notices, summonses and subpoenas on litigants in various cases, the parties failed to appear on the scheduled hearings, which then had to be reset to other dates. Undoubtedly, the resettings caused delays in the dispositions of those cases.

The duties of process servers are vital to the machinery of the justice system.<sup>[15]</sup> Utmost care is required in the performance of their functions.<sup>[16]</sup> They must see to it that summonses, writs and other court processes are duly and expeditiously served upon the parties,<sup>[17]</sup> consistent with the constitutional mandate of speedy and fair dispensation of justice.<sup>[18]</sup> To be sure, the wheels of justice will not run without the cooperation of court personnel composed of, among others, process servers. Thus, there is no room for any lackadaisical attitude that would show inefficiency and incompetence.

In the present case we find that, on many occasions, complainant and the judge-designate of the MCTC advised and warned respondent against repeatedly neglecting his duties and delaying returns of service.<sup>[19]</sup> Time and time again, for a period spanning over seven years, he was castigated by his superiors for being remiss in his duties, reminded to perform them with diligence, and warned that negligence and similar acts would be dealt with accordingly. He was given more than enough time and leniency to explain and reform his conduct. Despite the seriousness of the allegations, however, he has not bothered to give any satisfactory explanation.

As early as June 10, 1996,<sup>[20]</sup> complainant directed him to submit his Itinerary of Travel. Allegedly, litigants and their counsels had complained about his continued delay and laxity in the performance of his functions, resulting in the derailment of the court's case outflow. Respondent failed to comply.

Complainant reiterated her directive on February 12, 1997,<sup>[21]</sup> and again on June 26, 1998.<sup>[22]</sup> The latter directive further required him to explain in writing why he should not be recommended for disciplinary action for insubordination, inefficiency and incompetence in the performance of official duties. While he seemed to have

subsequently complied with the submission of an Itinerary of Travel, nowhere in the records is there any written explanation of his alleged insubordination and incompetence.

From the foregoing, his propensity to disregard and disobey lawful orders of his superior is quite evident. His indifference to and disregard of the directives issued to him clearly constituted insubordination.[23]

Respondent should be fully cognizant of his duties. His actuations in relation to them demonstrate a disturbing attitude that is detrimental to the speedy dispensation of justice. Considering the heavy backlog of cases in the lower courts, negligence of this kind, if lightly taken, will definitely hinder their speedy disposition.

We cannot overly emphasize our previous pronouncements that, circumscribed as it is with a heavy burden of responsibility, the official and nonofficial conduct required of court personnel -- from the presiding judge to the rank and file -- must always be beyond reproach.[24] It is imperative that they maintain the good name and standing of the court as a true temple of justice,[25] the administration of which is a sacred task. By the very nature of their duties and responsibilities, all those involved in it -- from the highest officials to the lowest employees -- must faithfully adhere to and hold inviolate the principle solemnly enshrined in our Constitution: that a public office is a public trust.

All public officers and employees, especially those in the judiciary, must at all times exercise a high degree of professionalism and responsibility, which includes optimum performance of duties.[26] Hence, this Court shall never countenance any conduct, act or omission that would violate the norm of public accountability and diminish -- or even just tend to diminish -- public confidence in the judiciary.[27]

Section 52, Rule IV of the Civil Service Commission's Memorandum Circular No. 19, Series of 1999,[28] classifies simple neglect of duty and insubordination as less grave offenses, for which the penalty of suspension for one month and one day to six months for the first offense is imposed. Considering the propensity of respondent to neglect his official functions and to disregard reasonable orders of his superiors, we deem it just and proper to impose upon him a penalty of three-month suspension without pay.

WHEREFORE, for his neglect of duty and for insubordination, Process Server Joy Albert Bulao is hereby **SUSPENDED** from the service for three months without pay. He is **STERNLY WARNED** that a repetition of the same or similar acts will be dealt with more severely. Let a copy of this Decision be entered in respondent's personal record.

### **SO ORDERED.**

Corona, Carpio-Morales, and Garcia, JJ., concur.

Sandoval-Gutierrez, J., on official leave.

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[1] Rollo, pp. 2-5. The Letter was dated July 21, 1999, and addressed to then Court Administrator Alfredo L. Benipayo Jr.

[2] Id., pp. 38-39.

[3] Resolution dated December 10, 2001; id., p. 50.

[4] Rollo, unnumbered pages following p. 15.

[5] Resolution dated October 20, 2003.

[6] Rollo; Motion for Reconsideration dated December 2, 2003.

- [7] Rollo; Annex "A" of the Motion for Reconsideration.
- [8] Rollo; Annex "C" of the Motion for Reconsideration.
- [9] Rollo; Annexes "J," "K," "P," "Q" & "R" of the Complaint; rollo, pp. 22-24 & 29-31.
- [10] Rollo; Annexes "G" to "L" of the Motion for Reconsideration.
- [11] Rollo; Annex "N" of the Motion for Reconsideration.
- [12] The year should have been "2004." The Comment was received by the OCA on August 13, 2004.
- [13] Rollo; Comment on the Motion for Reconsideration.
- [14] Annexes "J," "K," "P," & "R" of the Complaint; Annexes "D," "E," "G," "H," "I," "K," "L" & "M" of the Motion for Reconsideration.
- [15] *Monserate v. Adolfo*, 434 SCRA 117, July 12, 2004; *Cañete v. Manlosa*, 412 SCRA 580, October 3, 2003; *Judge Nery v. Gamolo*, 445 Phil. 76, February 7, 2003.
- [16] "The Process Server serves Court processes such as subpoenas, subpoenas duces tecum, summonses, Court orders and notices; prepares and submits returns of service of processes, monitors messages and/or delivers Court mail matters; keeps in custody and maintains a record book of all mail matters received and dispatched by the Court; and performs such other duties as may be assigned by the Presiding Judge/Clerk of Court." *Manual for Clerks of Court*, p. 33.
- [17] *Monserate v. Adolfo*, supra; *Atty. Dajao v. Lluch*, 429 Phil. 620, April 3, 2002; *Musni v. Morales*, 373 Phil. 703, September 23, 1999.
- [18] *Judge Nery v. Gamolo*, supra.
- [19] Annexes "A," "E," "G," "H," "I," "J," "K," "P" & "R" of the Complaint; Annexes "D," "E," "G," "H," "I," "K," "L" & "M" of the Motion for Reconsideration.
- [20] Annex "A" of the Complaint; rollo, p. 10.
- [21] Annex "E" of the Complaint; id., p. 14.
- [22] Annex "G" of the Complaint; id., p. 17.
- [23] See *Misajon v. Feranil*, 440 SCRA 315, October 18, 2004, in which one of the respondents (also a process server) was held liable for insubordination for his repeated disregard of the presiding judge's Orders requiring him to submit his Itinerary of Travel.
- [24] *Domingo-Regala v. Sultan*, 452 SCRA 385, February 28, 2005; *De la Victoria v. Mongaya*, 352 SCRA 12, February 19, 2001; *Musni v. Morales*, supra.
- [25] *Ulat-Marrero v. Torio Jr.*, 416 SCRA 177, November 19, 2003; see also *Dionisio v. Gilera*, 312 SCRA 287, August 12, 1999 (citing *Recto v. Racelis*, 70 SCRA 438, April 30, 1976, per Muñoz-Palma, J.).
- [26] *Office of the Court Administrator v. Mallare*, 415 SCRA 368, November 11, 2003.
- [27] *Monserate v. Adolfo*, supra; *Basilisa v. Becamon*, 420 SCRA 608, January 22, 2004.
- [28] Revised Uniform Rules on Administrative Cases in the Civil Service.

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