

ELIZABETH ASUMBRADO, COMPLAINANT, VS. FRANCISCO R. MACUNO, JR., SHERIFF, REGIONAL TRIAL COURT, AGUSAN DEL SUR, BRANCH 7, RESPONDENT.

A.M. No. P-94-1071. March 28, 1996

Ponente: ROMERO, J.

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ROMERO, J.:

In a letter-complaint dated September 16, 1993, Elizabeth Asumbrado charged Francisco R. Macuno, Jr., Sheriff, Regional Trial Court of Agusan del Sur, Branch 7, with dishonesty for allegedly falsifying his daily time record for the month of December 1992 by making it appear that he was present or served court process on December 9, 21, 22, and 23, when actually he was simply absent.

Respondent denied said allegations and claimed that he reported for work on the dates stated above as certified by his immediate supervisor, Judge Zenaida P. Placer.

On September 28, 1994, the Court referred the case to Executive Judge Evangeline S. Yuipco, Regional Trial Court, Agusan del Sur, Branch 6, for investigation, report, and recommendation.

In her Investigation Report dated April 10, 1995, Judge Yuipco made the following findings and conclusions: (a) respondent's signature did not appear in the court's attendance logbook of the employees for December 9, 21, 22, and 23, 1992; (b) he did not rebut the certification of Clerk III Perfecto S. Calamba, which stated that he was absent or did not report to the office on said dates; (c) the acts of falsification were positively committed by respondent despite the approval of his daily time record by Judge Placer; and (d) independently of any criminal liability, respondent's misdeeds constitute grave misconduct, gross dishonesty, and conduct prejudicial to the administration of justice and the best interest of public service.

Judge Yuipco, however, deferred the imposition of any penalty to the Court after considering that respondent is already about to retire.

The policy of the Court in the matter of falsification of public documents duly proven to have been committed by government employees, especially those under its administrative supervision, is to impose the maximum administrative penalty, that is, dismissal from the service with forfeiture of all retirement benefits and with prejudice to reemployment in any other branch of the government, including government-owned or controlled corporations.

This penalty may seem a bit harsh, but its imposition is not without basis. The *raison d'être* for maintaining such severity was succinctly stated in *Mirano v. Saavedra*,^[1] where the Court made the following pronouncements:

"Public service requires utmost integrity and strictest discipline. A public servant must exhibit at all times the highest sense of honesty and integrity. The administration of justice is a sacred task. By the very nature of their duties and responsibilities, all those involved in it must faithfully adhere to, hold inviolate, and invigorate the principle solemnly enshrined in the 1987 Constitution that a public office is a public trust; and all public

officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency. The conduct and behavior of everyone connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility. Their conduct, at all times, must not only be characterized by propriety and decorum but, above all else, must be above suspicion. Indeed every employee of the judiciary should be an example of integrity, uprightness and honesty."[2] (*Italics supplied*)

Under normal circumstances, respondent would be meted out such appropriate penalty. We note, however, that respondent's misdeed is a single infraction which he has never before committed; neither has he ever been subject to any form of administrative sanction. Judge Yuipco pointed out that respondent is about to retire. Aside from this, he has 33 years of faithful public service to his credit, that is, as clerk in the then Court of First Instance of Agusan del Sur from 1954 to 1963, and as sheriff in the Regional Trial Court of Agusan del Sur from 1970 to 1994.

While it is ideal to uphold the highest degree of honesty and integrity in the judiciary, the Court cannot simply close its eyes to certain realities, such as those obtaining in this case, when to do so would promote injustice and unfairness. Dismissal of respondent from the service is hardly a disciplinary option in light of his impending retirement: It is the forfeiture of his retirement benefits which would strike a mighty blow against this first-time, one-time offender. Such forfeiture would leave him with nothing to live by in the twilight of his years. Present disposition is a more realistic and humane option.

IN VIEW OF THESE CONSIDERATIONS, the Court hereby IMPOSES a FINE of TEN THOUSAND PESOS (P 10,000.00) upon respondent Sheriff Francisco R. Macuno, Jr., payable to this Court within thirty (30) days from notice.

SO ORDERED.

Regalado (Chairman), Puno, and Mendoza, JJ., concur.
Torres, Jr., J., on leave.

[1] A.M. No. P-89-383, August 4, 1993, 225 SCRA 77.

[2] Citing *Hipolito v. Mergas, etc.*, 195 SCRA 6(1991), and *Sy v. Academia, et al.*, 198 SCRA 705 (1991).

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