

**ELVIGIO PASCUAL, COMPLAINANT, VS. ANTONIO MARINAS, ET AL.,
RESPONDENTS.***A.M. No. P-1041. August 26, 1977*

Ponente: FERNANDEZ, J.

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In a sworn letter-complaint dated September 21, 1975, Elvigio Pascual, litigant in ejectment and collection cases Nos. 5643 and 5766 before the Municipal Court of Mandaluyong, Rizal, charged the herein respondent Antonio Mariñas, Deputy Sheriff of Rizal and Efren Paulino, Sheriff Guard, with "backsliding, extortion, gross negligence and conduct inimical to the service." He alleged that having secured a favorable judgment in Civil Case No. 5643, entitled "Elvigio Pascual vs. Eliseo Gaviola" the complainant went to the Office of the Provincial Sheriff of Rizal on August 25, 1975 and asked for the assistance of that office for the execution of said judgment. For the purpose, he was asked by respondent Antonio Mariñas to pay the usual execution fee of P4.40. The complainant paid the fee and was issued Official Receipt No. 8658651. The complainant said that he was sent to Sheriff Guard Efren Paulino who allegedly in the presence of Mariñas, asked for another fee of P4.40 and the amount of P300.00, half of which was to pay for the fees in another case, Civil Case No. 5766. Complainant alleged that in the execution of the judgment only Sheriff Guard Efren Paulino was present and an electric stove of the defendant in the case was levied upon as a consequence of which the said defendant filed a complaint with the DPI-PIAU, Malacañang for the illegal execution.

Mariñas and Paulino were required to appear for investigation before the DPI-PIAU, Malacañang. Mariñas allegedly sent for the complainant and told him to testify that Mariñas was present during the execution of the judgment.[1]

In his answer to the complaint, respondent Antonio Mariñas alleged that complainant Elvigio Pascual had been extended full courtesies by the Office of the Provincial Sheriff of Rizal when he sought its assistance and help; that he has no knowledge of the sum of P300.00 allegedly collected from the complainant; that he was not privy to the alleged exaction made by Paulino on complainant for another sum of P4.40; that as regards the electric stove, the same was not levied upon but it was the subject of a contract of pledge executed by the defendant Eliseo Gaviola in favor of the complainant; and that the judgment debtors in the ejectment case vacated the leased premises and possession of the same was restored to the herein complainant.[2]

The complaint against Sheriff Guard Efren Pascual was not endorsed to him because according to the Clerk of Court of the Court of First Instance of Rizal, 7th Judicial District, that person is not a regular employee of the court.

In his answer, the respondent does not deny the principal charge that there was an unlawful delegation of respondent's duty to execute the judgment of the Municipal Court of Mandaluyong, Rizal, in Civil Case No. 5643 to Sheriff Guard Efren Paulino. In view thereof, there is no need to conduct an investigation of the case. The respondent is guilty of failure to comply with his duty to personally execute the decision in Civil Case No. 5643

of the Municipal Court of Mandaluyong.

WHEREFORE, respondent Antonio Mariñas, Deputy Sheriff of Rizal Province, is hereby ordered sus-pended from office for one month without pay, with the warning that a repetition of the same offense or the commission of any other offenses will be dealt with severely.

Teehankee, (Chairman), Makasiar, Muñoz Palma, Martin, and Guerrero, JJ., concur.

[1] Sworn letter-complaint of Elvigio Pascual, dated September 21, 1975, Folder pp. 1-2;

[2] Answer to complaint dated October 10, 1975, Folder, pp. 10-11;

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