

ALBERTO O. VILLARAZA, COMPLAINANT, VS. CATALINO Y. ATIENZA, DEPUTY SHERIFF OF QUEZON CITY, RESPONDENT.

Adm. Matter No. P-2403. October 30, 1981

Ponente: DE CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/86f5938fc045/>

DE CASTRO, J.:

Complainant, Atty. Alberto O. Villaraza, is a practicing lawyer. Respondent Catalino Y. Atienza, at the time pertinent to the instant case (Administrative Matter No. P-2403), was the Deputy Sheriff assigned to Branch VIII of the City Court, Quezon City.

In a letter-complaint^[1] dated July 2, 1980, Atty. Alberto O. Villaraza charged Deputy Sheriff Catalino Y. Atienza of the Office of the City Sheriff of Quezon City "for conduct unbecoming of a public officer and an officer of the court" in connection with the enforcement of a writ of execution under Section 7 of Rule 141 of the Revised Rules of Court pertaining to the payment of legal fees.

The evidence discloses that complainant is the counsel for the plaintiff in Civil Case No. VIII-34212 entitled "Aldymac, Inc. vs. Facilities Printing, Inc." before Branch VIII of the City Court of Quezon City which issued the writ of execution for the ejectment of the defendant and for collection of unpaid rentals. In the morning of June 18, 1980, complainant instructed his office messenger Ernesto N. Monis to go to the Office of the City Sheriff of Quezon City and deliver to respondent Catalino Atienza, Branch VIII assigned-deputy sheriff, the writ of execution including the sum of P150.00 in cash for expenses. Upon receipt thereof, respondent told Ernesto N. Monis that the P150.00 was not enough as he needed P500.00 for initial expenses, exclusive of his "fee" for the recovery of the collectible amount of P141,000.00, computed by him as 5% thereof, more or less. Having no authority to decide the matter, Monis then called up Atty. Alberto O. Villaraza by telephone to report that respondent was asking for an additional amount of P350.00 to complete the initial expenses of P500.00 aside from his "fee." When the respondent took the phone, complainant asked him what it was he really wanted and respondent told the complainant that he better see him in his office to discuss the matter because it was not proper to take it up over the telephone. Responding, complainant then suggested to the respondent to meet him at the 6th Floor of the City Hall of Quezon City inasmuch as he had to attend to a hearing in the sala of Judge Ricardo Tensuan of the Court of First Instance of Rizal, Quezon City Branch the following afternoon, and respondent agreed. When Monis returned to the complainant's office, he told complainant that the respondent was asking for a fee of 5% of the amount of P141,000.00 recoverable from the defendant under the writ of execution. This demand shocked the complainant.

In the afternoon of June 19, 1980, complainant Villaraza saw respondent Atienza with a companion at the 6th Floor of the City Hall of Quezon City. Complainant asked respondent if the law on sheriff's fees had already been amended and respondent answered that the amount of P500.00 was initially needed to pay the men who would help him in serving the writ of execution. When complainant replied that no people were needed because no personal effects would be moved out of the building as the equipment would only be levied upon, respondent just kept quiet. When complainant confronted him about the 5% fee, respondent answered that unless they agree

on his fee, he would not move. Complainant not acceding to the 5% fee, respondent then told him to take up the matter with Deputy Sheriff Roberto Garcia whose telephone number, 98-85-09, was given to complainant. But when complainant tried to contact Garcia the following day as well as the days thereafter, the latter was always out and he never returned complainant's call.

On June 24, 1980, complainant sent his messenger Monis to see respondent and deliver a letter which reads:

"June 23, 1980

Deputy Sheriff Atienza

Office of the Sheriff

Quezon City

Re: Civil Case No. 34213

City Court, Quezon City

Aldymac, Inc. vs.

Facilities Printing

Sir:

In view of your apparent reluctance to implement the Writ of Execution in the above-mentioned case unless we first agree on your 'fee' which, we consider rather irregular, kindly return to the bearer the said writ of execution and the amount of P150.00 earlier given for initial expenses.

Very truly yours,

(Sgd) ALBERTO O. VILLARAZA"

On that day, however, respondent was not in his office, so Monis left the letter to one Rafael Pagdanganan who told him to return the following day.

On June 25, 1980, Monis returned to respondent's office and got back from the latter the amount of P150.00 and the writ of execution. Complainant then called up Sheriff Alfredo Abeja of the Office of the City Sheriff of Quezon City and inquired if he (Abeja) would himself serve the writ. Abeja consented, thus, the writ of execution was delivered to him the following day, June 26, 1980.

On the other hand, respondent Atienza did not deny having asked from complainant the total amount of P500.00 which he justified as necessary to properly serve and implement the writ "inasmuch as the properties that would be levied upon will thereafter be under the custody of the sheriff, it would become necessary for the sheriff to have four (4) guards posted in the premises where the printing equipment was found, working eight (8) hours each for the twenty-four (24) hour-day, that is: one (1) guard for the night shift, 4:00 P.M. to 12:00 M.N.; two (2) guards for the graveyard shift, 12:00 M.N. to 8:00 A.M.; and one (1) guard for the day shift, 8:00 A.M. to 4:00 P.M., at P30.00 per day for five (5) days." [2] But respondent denied having demanded 5% of the sum of P141,000.00 as his fee, stating that "the same is not true, it being only a clever concoction of Atty. Villaraza, to add color to his baseless complaint against the undersigned who is fully aware that no such fee has ever been demanded and/or collected by any Deputy Sheriff of Quezon City." [3]

Executive Judge Aloysius Alday of the City Court of Quezon City, to whom this case was referred by the Office of the Court Administrator for investigation, report and recommendation, submitted his findings, [4] the pertinent portion of which reads:

"x x x the undersigned is convinced and so finds that, as borne out by the testimonies of the complainant and Ernesto Monis, the respondent not only asked the complainant to give him an additional amount of P350.00 (in addition to the P150.00 already given him) for expenses he anticipated would be incurred in serving and implementing the subject writ of execution, but also asked the complainant to first agree on his 'fee' of 5%, more or less, of the amount of P141,000.00 collectible from the defendant, before he (respondent) moves to serve and undersigned finds no cogent reason, cause, or motive for the complainant, much less Ernesto Monis, to perjure or testify falsely against the respondent herein. That the respondent was not willing--indeed, that he refused--to move to serve and implement the subject writ of execution unless he was first given the additional amount of P350.00 and the complainant first agreed on his 'fee,' is amply indicated by the fact that while the said writ of execution had been delivered to him for service as early as June 18, 1980, he did not make any move to serve and implement the said writ up to the time Monis got it back on June 25, 1980. The Undersigned finds no probable cause or reason for the respondent's inaction on the said writ from June 18, 1980 to June 25, 1980, other than the complainant's refusal to accede to the respondent's demand for an additional amount of P350.00 and a prior agreement between them on his 'fee.'

"Certainly, the respondent had no right to ask for such a 'fee' or even for such additional amount of P350.00 for him to move to serve and implement the subject writ of execution. What he asked for does not find sanction in the Rules.

"The pertinent provisions of Rule 141 of the Rules of Court are clear:

'SECTION 1. Persons authorized to collect legal fees. - Except as otherwise provided in this rule, the officers and persons hereinafter mentioned, together with their assistants and deputies, may demand, receive, and take the several fees hereinafter mentioned and allowed for any business by them respectively done by virtue of their several offices, and no more.

xxx xxx xxx

'SEC. 7. Sheriffs, and other persons serving processes. - (a) For executing process, preliminary, incidental, and final of any court, for each kilometer of travel in the service of process, reckoned from the place of service to the place to which the process is returnable, ten centavos, but if the process is executed by a municipal deputy sheriff residing in the municipality where the party served is, such officer shall receive the fees for the service of process, without kilometrage;

xxx xxx xxx

(g) For executing a writ of process to put a person in possession of real estate, four pesos;

xxx xxx xxx

(m) For leaving an execution on property, four pesos;

(n) For money actually collected by him by order, execution, attachment, or any other process, the following sums, to wit: On the first two hundred pesos or less, two per centum; on the second two hundred pesos, one and one-half per centum; on all sums between four hundred pesos and two thousand pesos, one per centum; on all sums in excess of two thousand pesos one-half per centum.'

"In sum, the undersigned finds that the respondent displayed conduct prejudicial to the best interest of the service; at the very least, it tended to impair and vitiate the integrity of the court personnel as well as the court itself."

On the basis of the aforecited findings, Executive Judge Aloysius C. Alday recommended that respondent Deputy Sheriff Catalino Atienza be found guilty of conduct prejudicial to the best interest of the service (No. 27, Sec.

36(b) Presidential Decree No. 807) and meted the penalty of forced resignation without prejudice to reinstatement (No. 2, Sub-paragraph C, Paragraph IV, Civil Service Memorandum Circular No. 8, Series of 1970).

As shown by the evidence on the record, We find as established and so hold, that respondent Deputy Sheriff Atienza demanded a fee of 5% of the recoverable amount of P141,000.00 mandated under the writ of execution. By doing such a reprehensible act, which puts in bad light the court personnel and the court itself, respondent Atienza, as an officer of the court, is guilty of malfeasance and gross misconduct in office. His denial of the charges filed against him are far from convincing. There was no motive for com-plainant Atty. Alberto Villaraza to testify falsely against respondent Deputy Sheriff Atienza.

Relevant in the case at bar is the salutary reminder from this Court that 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 true temple of justice.[5] At the grassroots of Our judicial machinery, sheriffs and deputy sheriffs are indispensably in close con-tact with the contending parties of a case, performing func-tions essential to the well-ordered administration of justice. It is thus imperative that respondent Deputy Sheriff, for one, must always remember the yardstick of public service enshrined in Our Constitution under Section 1 of Article XIII which stressed that a public office is a public trust and public officers and employees must serve with the highest degree of responsibility, integrity, loyalty, and efficiency, and at all times remain accountable to the people.

On one point, respondent should bear in mind that when a writ is placed in his hands as a sheriff, it is his duty, in the absence of instruction, to proceed with reasonable celerity and promptness to execute it in accordance with its mandates. He had no discretion whether to execute it or not.[6]

It is the reprehensible act as demonstrated by the herein respondent that undermines and erodes people's faith and confidence in the administration of justice in Our country. Displaying such conduct shows his unfitness to continue in office.

In reviewing the findings and recommendation of the investigating Judge, Quezon City Executive Judge Aloysius C. Alday, Court Administrator Lorenzo Relova of this Court expresses the opinion that for conduct prejudicial to the best interest of the service, respondent Atienza should be separated from the service with prejudice to reemployment in any national or local government office or agency, and with forfeiture of retirement privileges. The penalty recommended by the Court Administrator is thus more severe than that recommended by the investigating Judge. However, being com-paratively new in the position when respondent committed the offense, and not having been previously charged administrative-ly, respondent may be accorded some degree of compassion and leniency.

WHEREFORE, premises considered, respondent Catalino Y. Atienza, Deputy Sheriff of Quezon City, for conduct preju-dicial to the best interest of the service, is hereby consi-dered resigned from the service immediately, with prejudice to reemployment in any national or local government office or agency.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., and Abad Santos, JJ., concur.

[1] pp. 1-4, Rollo.

[2] p. 9, Rollo.

[3] p. 10, Rollo.

[4] pp. 36-40, Rollo.

[5] Recto vs. Racelis, Administrative Matter No. P-182, April 30, 1976, 70 SCRA 438.

[6] Smith Bell & Co. vs. Saur, 96 SCRA 667 (1980), and the cases cited therein.

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.