RE: CRIMINAL CASE NO. MC-02-5637 AGAINST ARTURO V. PERALTA AND LARRY C. DE GUZMAN, BOTH EMPLOYEES OF METC, BRANCH 31, QUEZON CITY.

A.M. NO. 02-8-198-METC. June 08, 2005

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PER CURIAM:

On July 31, 2002, the Office of the Court Administrator (OCA) received from the Office of the City Prosecutor, Mandaluyong City a copy of the Information in Criminal Case No. MC-02-5637 for robbery (extortion) filed against Arturo Peralta, Deputy Sheriff, and Larry De Guzman, Branch Clerk of Court,[1] of the Metropolitan Trial Court (MeTC), Branch 31, Quezon City. Attached with the Information are pertinent documents relative to the said criminal case.

It appears that PO3 Hernani Aga of the Philippine National Police (PNP), and his wife, Dr. Ma. Perlita Aga, were the defendants in Civil Case No. Q-02-46194 for replevin filed with the Regional Trial Court (RTC), Branch 215, Quezon City by Christy Gonzales. This civil case stemmed from the following facts: that Dr. Ma. Perlita Aga bought a car from Christopher Hernandez; that it turned out that he was not the owner of the vehicle but one Christy Gonzales; that she filed the said civil case for replevin against spouses Aga; that eventually the trial court issued a writ of replevin against them; that sheriff Arturo Peralta served the writ and took possession of the car – Mitsubishi Galant Sedan with Plate No. TKA-325; that thereafter, spouses Aga filed a motion for the return of the car with a counter replevin bond; and that on July 9, 2002, the trial court issued a Resolution granting the motion and ordering sheriff Peralta to recover the seized vehicle from Christy Gonzales and to return it to spouses Aga.

On July 23, 2002, SPO3 Aga presented to sheriff Peralta a copy of the Resolution for implementation. However, Peralta and a certain "Larry" then demanded P5,000.00 from him. He had no choice but to agree to their demand. The pay-off was then set on July 24, 2002 at 2:00 p.m. inside the Jollibee fastfood outlet at Shaw Boulevard corner Acacia Lane, Mandaluyong City.

SPO3 Aga reported the matter to the National Bureau of Investigation (NBI) and an entrapment operation was set. Five (5) one hundred peso bills were dusted with fluorescent powder and mixed with boodle money to simulate the amount of P5,000.00. Shortly before the designated time, SPO3 Aga, together with several NBI Agents, positioned themselves strategically at the meeting place.

Peralta and "Larry" then arrived. Together with SPO3 Aga, they proceeded to the house of Christy Gonzales in P. Cruz St., Mandaluyong City to implement the trial court's Resolution directing sheriff Peralta to recover the vehicle from Christy Gonzales and turn it over to SPO3 Aga. Meanwhile, the NBI Agents followed them.

When the group reached the house of Christy, she was not there. Peralta and "Larry" then told SPO3 Aga, "Pare ganito, kami na ang bahala d'yan, kami na ang kukuha ng sasakyan, huwag kang mag-alala. Ibigay mo na yung pera." (Don't worry, we'll take care of it, we'll be the ones to get the vehicle. Just give us the money.")

SPO3 Aga then handed half of the marked money to "Larry" and the other half to Peralta. At that instance, the

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NBI operatives moved in and arrested Peralta and "Larry".

"Larry" turned out to be Larry De Guzman, the Branch Clerk of Court of the MeTC, Branch 31, Quezon City. He and Peralta were then brought to the NBI Forensic Chemistry Division for ultraviolet examination. Only De Guzman was found positive for fluorescent powder, while sheriff Peralta proved to be negative.[2]

As earlier mentioned, the Office of the City Prosecutor of Mandaluyong City charged Peralta and De Guzman with robbery (extortion); and that the records of Criminal Case No. MC-02-5637 were forwarded to the Office of the Court Administrator (OCA).

In his Report dated August 12, 2002, Deputy Court Administrator (DCA) Christopher O. Lock recommended that:

> "1.
>
> Larry C. De Guzman and Arturo Peralta be directed to COMMENT on the Joint Affidavit of Arrest and Information relative to the robbery and extortion charges against them and that this be REDOCKETED as a regular administrative matter;
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> 2.
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> Larry C. De Guzman and Arturo Peralta be SUSPENDED pending the final outcome of the criminal case against them considering the evidence is prima facie strong; and
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> 3.
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> The Branch Clerk of Court of RTC, Branch 208, Mandaluyong City be DIRECTED to apprise the Court through the Office of the Court Administrator of the status of the proceedings of Criminal Case No. MC-02-5637 until its final termination."[3]

On March 5, 2003, we issued a Resolution adopting the above recommendation.

The comment of sheriff Arturo Peralta follows:

On April 16, 2002, the RTC of Quezon City, Branch 215, issued an Order appointing Peralta as special sheriff in Civil Case No. 02-46194 for replevin filed by Christy Gonzales against PO3 Hernani Aga and his wife. On April 18, 2002, Peralta, accompanied by Christy Gonzales, Larry De Guzman, and PO3 Randy Ruñez of the Quezon City PNP, went to the house of SPO3 Aga to execute the writ of replevin issued by the trial court. But SPO3 Aga remained obstinate until other police officers intervened.

On July 23, 2002, SPO3 Aga presented to Peralta a court Resolution directing him to recover the seized vehicle from Christy Gonzales. As it was already late in the day, he asked SPO3 Aga to meet him at 2:00 p.m. of the following day at the Jollibee, Shaw Blvd. corner Acacia Lane, Mandaluyong City.

On July 24, 2002, Peralta and De Guzman met SPO3 Aga at Jollibee as agreed upon. But in order to avoid a violent confrontation between the parties, only Peralta and De Guzman went to Christy's house. But she was not there.

Peralta and De Guzman then decided to return to their office. They were looking for a taxi when SPO3 Aga offered them money for snacks and taxi fare. They refused, but SPO3 Aga was insistent and suddenly thrust the money into the hands of De Guzman. It was then that several armed men ganged up on them and shoved them inside a waiting van. SPO3 Aga kept telling them, "Nakaganti na rin ako sa inyo. Sabi ko ipapatanggal ko kayo sa

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trabaho ninyo, para ninyo akong tinanggalan ng ulo nang kinuha ninyo ang kotse ko." ("I've had my revenge on you. I told you I will have you removed from work, as I felt like my head was chopped off when you got my car.")

Peralta further explained that as a mere sheriff, who does not have a firearm, he could not have extorted money from a police officer authorized to carry a gun and to apprehend malefactors; and that out of vengeance, considering that he (Peralta) seized the car of SPO3 Aga earlier, the latter conceived the scheme of entrapping him and De Guzman.

Larry De Guzman did not file his comment.

On August 11, 2003, we issued a Resolution referring this matter to Executive Judge Natividad Dizon, RTC, Quezon City for investigation, report, and recommendation.

In her Report and Recommendation dated January 29, 2004, Executive Judge Dizon made the following findings:

> "After a careful perusal and examination of the documentary evidence, the Investigating Judge is convinced that respondent Larry C. De Guzman is administratively liable for grave or serious misconduct and dishonesty. The Investigating Judge is in quandary why respondent Branch Clerk of Court Larry C. De Guzman was with the sheriff in the implementation of the writ of execution. Instead of being with the Sheriff, as the administrative officer in his Branch, he should be in his office to attend to his duties and responsibilities as Branch Clerk of Court MeTC, Branch 31, Quezon City. It is not one of his duties to assist the Sheriff in the enforcement of the writ of execution.
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> Despite notice to him, respondent Larry De Guzman did not submit his own evidence to explain his side and to attend during the entire hearing-investigation. Also, when he was ordered by the Office of the Court Administrator to file his comment, respondent Larry De Guzman failed to do so. A person who is innocent of a charge is bolder as a lion in asserting his innocence and rights. Moreover, it is clearly shown that when respondent Larry De Guzman was brought to the NBI Forensic Chemistry Division, he was found to have presence of the yellow fluorescent specks and smudges in his hands showing that he received the marked money during the entrapment. This piece of evidence speaks for itself, res ipsa loquitor.
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> The evidence on records is overwhelming that respondent Larry C. De Guzman was the one who accepted the money dusted with ultra violet powder; hence, he is administratively liable for grave or serious misconduct and dishonesty punishable by dismissal from the service.
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> Public officers must at all time be accountable to the people, serve them with utmost degree of responsibility, integrity, loyalty and efficiency. In the case at bar, respondent Larry C. De Guzman falls short of this mandate.
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> On the other hand, the Investigating Judge is not persuaded that respondent Arturo V. Peralta is administratively liable. Evidence reveals that there was no fluorescent powder found in his hands which will show that he received the marked money, contrary to the claim of complainant SPO3 Hernani Aga that he gave to and accepted by respondent Arturo Peralta the money dusted with fluorescent powder. If indeed said respondent received the said marked money, his hands should have been found with ultra violet powder when he was examined at the NBI Forensic Chemistry Division. The complainant could not explain why said respondent has no fluorescent powder in his hands. This creates doubt in the mind of the undersigned Investigating Judge."

Executive Judge Dizon then recommended as follows:

> "WHEREFORE, in view of the foregoing, it is respectfully recommended that respondent LARRY C. DE GUZMAN be DISMISSED from the service for grave misconduct and dishonesty with forfeiture of all his benefits and with prejudice to re-employment in any instrumentality of government.

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> With respect to respondent ARTURO V. PERALTA, it is recommended that this administrative matter against him be DISMISSED, for failure of complainant to substantiate his charge against him.
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> RESPECTFULLY RECOMMENDED."[4]

Court Administrator Presbitero J. Velasco, Jr., in his Memorandum dated June 4, 2004, adopted the findings of Executive Judge Dizon and made the following recommendation:

> (1)
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> that the administrative case against respondent Deputy Sheriff Arturo V. Peralta be DISMISSED for failure of the complainant to fully substantiate the charges against him and that his preventive suspension effected through the Resolution dated March 5, 2003 be LIFTED effective immediately. However, respondent Peralta should be advised to be extra careful and circumspect in the implementation of the court's writs and other court processes so that the faith, trust and confidence of the people in the judiciary, particularly litigants, will remain unaffected; and
>
> (2)
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> that respondent Clerk of Court III Larry C. De Guzman be found GUILTY of Grave Misconduct, Dishonesty, and Conduct Prejudicial to the Best Interest of the Service and be DISMISSED from the service, with forfeiture of all his benefits and with prejudice to re-employment in the government or any of its subdivisions, instrumentalities, or agencies including government-owned or controlled corporations.[5]

First, with respect to Branch Clerk of Court Larry De Guzman. His failure to file the required comment constitutes a disregard of the duty of every employee in the judiciary to obey the orders and processes of this Court without delay.[6] It seems he was not at all interested in clearing his name. It is totally against human nature to just remain reticent and say nothing in the face of accusations.[7] Consequently, we are left with no alternative but to conclude that he impliedly admits the charges against him. As both the Investigating Judge and the Court Administrator correctly pointed out, the assigned task of a special sheriff is not within the scope of duties of a Branch Clerk of Court. A Clerk of Court is an essential and ranking officer of our judicial system who performs delicate administrative functions vital to the prompt and proper administration of justice.[8] De Guzman should have remained at the MeTC of Quezon City attending to his duties. Instead, he went out with sheriff Peralta to execute the trial court's Resolution, got caught in an entrapment operation, and tested positive for fluorescent powder used to dust the marked money handed to him by SPO3 Aga. This resulted in the filing of the Information for robbery against him. We cannot countenance such serious misconduct and dishonesty.

Second, as to respondent sheriff Peralta, we cannot sustain the finding of the Investigating Judge, adopted by the Court Administrator, that the evidence presented against him is insufficient to prove the charges. Being the special sheriff to implement the trial court's Resolution, there is a strong probability that indeed, he was the one who demanded money from SPO3 Aga. Even assuming that he was found negative for fluorescent powder, still he cannot evade liability. The records show that he and De Guzman were together in implementing the trial court's Resolution. This shows that prior thereto, they already had an understanding or agreement on what action to take. In other words, they had a unity of purpose or design. Obviously, the liability of one is the liability of both. It bears emphasis that as a special sheriff, Peralta is the central figure in the operation involved. Verily, he had a hand in the extortion which, according to the Investigating Judge, constitutes serious misconduct and dishonesty.

Serious misconduct is such conduct which affects a public officer's performance of his duties as such officer and not only that which affects his character as an individual.[9] For serious misconduct to warrant a dismissal from

service, the misconduct must be serious, important, weighty, momentous, and not trifling.

Dishonesty is a "disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness.[10]

Receiving marked money from a litigant in exchange for the execution of a writ is, by any standard, serious misconduct and dishonesty.

We have consistently held that employees of the judiciary should be living examples of uprightness not only in the performance of official duties, but also in their personal and private dealings with other people so as to preserve at all times the good name and standing of the courts in the community.[11] The administration of justice is a sacred task and by the very nature of their responsibilities, all those involved in it must faithfully adhere to and hold inviolable the principle that public office is a public trust. By their dishonest conduct, De Guzman and Peralta failed to live up to this standard.

Corollarily, in Re: Ma. Corazon M. Molo,[12] we held:

> "No position demands greater moral righteousness and uprightness from the occupant than the judicial office. Those connected with the dispensation of justice bear a heavy burden of responsibility. Clerks of court, in particular, must be individuals of competence, honesty and probity, charged as they are with safeguarding the integrity of the court and its proceedings. This Court has consistently held that persons involved in the administration of justice ought to live up to the strictest standards of honesty and integrity in the public service. The conduct required of court personnel, from the presiding judge to the lowliest clerk, must always be beyond reproach.
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> The Court is left with no choice but to declare the respondent guilty of dishonesty and gross misconduct. Dishonesty alone, being in the nature of a grave offense, carries the extreme penalty of dismissal from the service with forfeiture of retirement benefits, except accrued leave credits, and perpetual disqualification for re-employment in the government service. This penalty is in accordance with Section 52 and Section 58, Rule IV, of the Civil Service Commission Memorandum Circular No. 19, Series of 1999 (Revised Uniform Rules on Administrative Cases in the Civil Service)."

Pursuant to Section 52(A), Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service, dishonesty and serious misconduct are grave offenses punishable by dismissal from the service.

WHEREFORE, respondents Larry De Guzman and Arturo Peralta are hereby found GUILTY OF SERIOUS MISCONDUCT and DISHONESTY. They are DISMISSED from the service with forfeiture of all benefits, except accrued leave credits, if any, and with prejudice to reemployment in the Government or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations.

SO ORDERED.

Davide, Jr., C.J., Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.
Puno, J., on official leave.

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[1] His item is Clerk of Court III.

[2] Joint Affidavit of Arrest, Rollo at 13-14; Certifications of Forensic Chemist, Rollo at 62-63.

[3] Id. at 2-3.

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[4] Id. at 252.

[5] Id. at 307-308.

[6] Pacual vs. Duncan, A.M. No. R-668-P, December 23, 1992, 216 SCRA 786, 789.

[7] Naawan Community Rural Bank vs. Martinez, A.M. No. P-02-1587, June 5, 2002, 383 SCRA 1, 4, citing Grefaldo vs. Lacson, 293 SCRA 524 (1998).

[8] Angeles vs. Eduarte, A.M. No. P-03-1710, August 28, 2003, 410 SCRA 40, 45, citing Reyes-Domingo vs. Morales, 342 SCRA 6 (2000).

[9] Aspiras vs. Abalos, A.M. No. OCA-01-06, September 3, 2003, 410 SCRA 274, 280, citing Mamba vs. Garcia, 359 SCRA 427 (2001).

[10] OCA vs. Ibay, A.M. No. P-02-1649, November 29, 2002.

[11] Judge Santelices vs. Samar, 424 Phil. 90, 96 (2002).

[12] A.M. No. SCC-00-6-P, October 16, 2003, cited in Report on the Financial Audit conducted at the MTC of Bani, Alaminos and Lingayen, Pangasinan, A.M. No. 01-2-18-MTC, December 5, 2003.

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