

**ACTING PRESIDING JUDGE LEOPOLDO V. CAÑETE, COMPLAINANT,
VS. NELSON MANLOSA, PROCESS SERVER, MTCC, BRANCH 4, CEBU
CITY, RESPONDENT.***A.M. No. P-02-1547. October 03, 2003*

Ponente: CALLEJO, SR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a4b9eb1e0da3/>**CALLEJO, SR., J.:**

The instant administrative case arose when Acting Presiding Judge Leopoldo V. Cañete, Branch IV, Municipal Trial Court in Cities (MTCC), 7th Judicial Region, Cebu City, wrote a Letter-Complaint dated July 5, 1999 addressed to Executive Judge Olegario R. Sarmiento, Jr., MTCC, Cebu City regarding the possible replacement of Nelson Manlosa, Process Server, Branch 4, MTCC, and charging the latter with gross neglect of duty.

According to Judge Cañete, the respondent was grossly remiss in the performance of his duties. Despite several warnings, the respondent failed to improve his performance, thus:

He did not only fail to submit the returns of services of subpoenas and notices but also unduly delay[ed] the service thereof, so much so, that for several times hearing of cases were either cancelled and postponed or conducted without the party litigants, who just presented themselves voluntarily, having received their subpoenas, notices and orders and worst of all, the calendared cases were already treated/terminated before the parties could receive or be served with subpoenas, notices and orders of this court[.] [T]his is not to mention the fact that he comes to this office only once or twice a week[1]

In a 1st Indorsement dated July 9, 1999, the Executive Judge required the respondent to appear before him on August 10, 1999.[2] The respondent thereafter wrote a letter[3] explaining that he had no intention of prejudicing party litigants with pending cases in their court, and expressing his desire that if given the chance, he would be sincere with his duties and responsibilities as process server.

On August 3, 1999, Presiding Judge Rosabella M. Tormis of the Municipal Trial Court of Cebu wrote the Executive Judge, requesting that a process server be detailed in the said branch in view of the respondent's continuous unauthorized absences.[4] Pursuant to the said letter, Executive Judge Sarmiento, Jr. declared the respondent guilty of Absence Without Official Leave (AWOL), and suspended the latter from the service for thirty days.[5] Rommel Longakit was designated as process server for Branch 4.[6]

In a Resolution dated September 21, 1999, Executive Judge Sarmiento found the respondent to be grossly negligent in the performance of his duties. The Executive Judge also based his finding on past experiences with the respondent, narrating the same, as follows:

My first encounter with the respondent was at the time (about 1995) when no permanent Process Server was assigned to each sala. The Process Servers were to serve the branches on rotation basis by the Clerk of Court. Respondent was assigned at Branch 01. In a Memorandum issued by Judge Mamerto Y. Coliflores, he requested for the replacement of respondent because of inefficiency in the performance of his duties. Herein Judge happened to read the memorandum because the former was requesting my Process Server in Branch 02

to replace respondent. Only that no copy of said memorandum can be retrieved. In a background check, it was found that the mother of respondent was connected with the Office of the Clerk of Court but presently has retired.

The next thing I know (sic), he was assigned as permanent Process Server of Branch 04, MTCC, Cebu City. Upon request of the accused being residents of Surigao in a case pending thereat, herein Judge who was Acting Executive Judge, conducted trial therein. In a Order dated 27 May 1998, respondent was required to explain in writing why he should not be subjected to disciplinary action for failing to serve the subpoena upon the accused who were detention prisoners at that time (see, Annex "G"). Respondent, in his explanation, asserted that all the court papers and processes or subpoenas to the parties in the captioned cases were left behind on the seat of the passenger jeepney when he jumped off therefrom (Annex "H"). Later on, a case was dismissed by the Court because of the negligence of respondent in serving the subpoena to the prosecution witness for which reason he was charged by the Ombudsman Visayas for Violation of the Anti-Graft and Corrupt Practices Act in giving unwarranted benefit to the accused and thereby causing injury to the government (Resolution dated March 21, 1999, Annex "I").

Until this writing, after the termination of his suspension on 03 September 1999, respondent has not reported for work to the Office of the Clerk of Court. In the attendance book, he appears to be absent. Nobody is signing for his Daily Time Record. Neither has he applied for Leave of Absence. Allegation of absenteeism is bolstered by this fact.

...

WHEREFORE, subject to further investigation or review of this resolution, dismissal of respondent from the service is highly recommended.[7]

In a 1[st] Indorsement dated October 12, 1999, the Office of the Court Administrator (OCA) required the respondent to Comment on Judge Cañete's Letter-Complaint.[8] In a 1[st] Tracer dated April 27, 2000, the OCA once more directed the respondent to submit the required Comment, otherwise, the case would be submitted for the consideration of the Court without it.

In his Comment/Answer dated June 22, 2000, the respondent reiterated that since he entered the service, he made it a point to perform his duties and responsibilities. He stated that he was presently detailed at the MTCC, Branch 6 as process server under Presiding Judge Donato Sotero Navarro, and that the entire staff of the said court could attest to the fact that he is "functioning well." He further averred -

4) That upon receipt of the suspension order of Judge Sarmiento about one week after the date thereof, I immediately complied with the order and was indeed suspended for thirty (30) days;

5) That after the lapse of thirty (30) days, I reported back for duty and submitted my daily time records every month thereafter which were signed by our then Clerk of Court, Mrs. Gloria Agravante; though there were days/months wherein I was on sick leave, but I was able to submit the corresponding medical certificate thereto;

6) That I personally mailed to your office all my daily time records in each month until the present; however, If I remember it right, there were daily time records of mine that were signed by our OIC Clerk of Court, Ms. Teresita Remotigue, considering that Mrs. Agravante already retired from the service; ...

9) That the allegation that I am an AWOL, that is otherwise (sic), [be]cause record would show that I have submitted all my daily time records on every month since I reported for work after my suspension order with the corresponding medical certificate attached thereto until the present; ...[9]

In the Report dated December 5, 2001, the OCA found that the respondent failed to sufficiently explain his

absence before Executive Judge Sarmiento suspended him on August 3, 1999. "Apparent lack of dedication of the respondent to his work hampered the speedy disposition of justice and prejudiced the interest of the litigants and the integrity of the Judiciary." [10] Deputy Court Administrator Zenaida N. Elepaño made the following recommendations:

- That the instant administrative case be RE-DOCKETED as an administrative matter;
- Respondent be found GUILTY of gross neglect of duty and be SUSPENDED for a period of six (6) months;
- The matter of the Absence Without Official Leave by the respondent be REFERRED to the Office of Administrative Services for appropriate action. [11]

The instant case was referred to Executive Judge Pampio A. Abarintos of the Regional Trial Court, 7th Judicial Region, Cebu City for investigation, report and recommendation. [12]

The Investigating Judge, in a Report dated July 18, 2003, made the following recommendation:

Considering that respondent Nelson Manlosa had already been suspended for thirty (30) days by former Executive Judge Olegario Sarmiento, his length of service (18 years), his promise to be dedicated in his service, and the fact that complainant himself, Judge Cañete, made it known to the undersigned that it was never his intention to formally file charges against the respondent, the undersigned recommends that respondent process server be retained in the service but he should be admonished for his acts of simple neglect of duty.

Considering the financial difficulty of the respondent, no fine is recommended. [13]

The Court agrees with the recommendations of the Investigating Judge. The respondent is guilty of simple neglect of duty, which has been defined as the failure of an employee to give attention to a task expected of him, and signifies a disregard of a duty resulting from carelessness or indifference. [14] Civil Service Commission (CSC) Memorandum Circular No. 19 classifies simple neglect of duty as a less grave offense, punishable by suspension without pay for one (1) month and one (1) day to six (6) months, for the first offense. [15]

The respondent's offense is not of the same gravity or odiousness as would warrant a finding of gross neglect of duty. As found by the Investigating Judge:

Respondent Manlosa's allegation that he left behind his small bag containing subpoenas to be served to parties litigants demonstrates his carelessness and failure to give proper attention to the task expected of him. Moreover, as attested to by former MTCC Executive Judge Sarmiento, the usual complaint against respondent was that the latter did not really care about his duties. [16]

It bears emphasizing that the process server's duty is vital in the administration of justice. It is through him that defendants learn of the action brought against them by the complainant. It is also through the service of summons by the process server that the trial court acquires jurisdiction over the defendant. It is, therefore, crucial that summons, writs and other court processes be served expeditiously, consonant with the mandate of speedy dispensation of justice stressed by the Constitution. [17]

Executive judges must be reminded that they have no authority to directly penalize a court employee. Administrative Order No. 6 [18] provides that Executive Judges can only recommend the necessary disciplinary sanction. Furthermore, the preventive suspension of a court employee charged with grave or less grave offenses shall be referred to the Supreme Court for appropriate action. [19]

WHEREFORE, the Court finds respondent Nelson Manlosa, Process Server, MTCC, Branch 4, Cebu City, GUILTY of simple neglect of duty. He is hereby SUSPENDED without pay for a period of one (1) month and

one (1) day. The suspension imposed upon the respondent under Memorandum Order No. 1-0-99 issued by Executive Judge Olegario R. Sarmiento, Jr. shall be considered as the penalty imposed, and thus considered already served.[20]

The respondent is sternly warned that a repetition of the same or similar acts in the future shall be dealt with more severely.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Austria-Martinez and Tinga, JJ., concur.

[1] Annex "A," Rollo, p. 3.

[2] Annex "B," id. at 4.

[3] Annex "C," id. at 5.

[4] Annex "E," id. at 7.

[5] Annex "D," id. at 6.

[6] Annex "F," id. at 8.

[7] Rollo, pp. 1-2.

[8] Id. at 15.

[9] Id. at 17-18.

[10] Id. at 8.

[11] Id. at 22.

[12] Id. at 23.

[13] Report, p. 4.

[14] Philippine Retirement Authority v. Rupa, 363 SCRA 480 (2001).

[15] Nery v. Gamolo, A.M. No. P-01-1508, February 7, 2003; Office of the Court Administrator v. Perlez, 349 SCRA 417 (2001).

[16] Report, p. 3.

[17] Nery v. Gamolo, A.M. P-01-1508, *supra*.

[18] Issued by the Court on June 30, 1975.

Specific Powers, Prerogatives and Duties of the Executive Judge:

...

To recommend to the Supreme Court the imposition upon erring employees of such disciplinary sanctions as may be necessary and proper; and, pending the administrative investigation or its review by the Supreme Court, to place the respondent under preventive suspension in accordance with Civil Service rules and regulations, furnishing the Supreme Court a copy of the order of suspension and the grounds therefore without unnecessary delay.

[19] *Diamante v. Alambra*, 365 SCRA 531 (2001).

[20] *Reyes v. Vidor*, A.M. P-02-1552, December 3, 2002.

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.