

PAG-ASA G. BELTRAN, COMPLAINANT, VS. ROMEO MONTEROSO, SHERIFF, REGIONAL TRIAL COURT, BRANCH 34, CABADBARAN, AGUSAN DEL NORTE, RESPONDENT.

A.M. No. P-06-2237. December 04, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

In 2001, the Third Municipal Circuit Trial Court (MCTC), Kitcharao-Jabonga, Kitcharao, 10[th] Judicial Region, Agusan del Norte, decided Civil Case Nos. 150 & 153,[1] for sum of money, in favor of plaintiff Pag-asa G. Beltran. On October 22, 2003, the MCTC issued the writs of execution to satisfy the monetary awards to plaintiff totaling P148,932.89.

However, on February 1, 2006, Beltran filed with the Office of the Court Administrator (OCA) this complaint[2] for dereliction of duty and grave misconduct against Sheriff IV Romeo Monteroso. She alleged that respondent committed acts of dishonesty and unlawful collection of money. Complainant further averred that respondent did not implement the writs of execution, in consideration of the amount of P1,000.00 which he received from defendant Josephine Reyes.

In his Comment, respondent did not deny that he collected from complainant the total amount of P900.00 without any receipt in consideration of the service of the writs. He likewise claimed that defendants have no other properties to be levied upon.

During the investigation, it was established that respondent received the writs on October 22, 2003; that on November 27, 2004, the MCTC ordered respondent to submit a report of his proceedings; on July 13, 2005 respondent was directed by Atty. Custodio Compendio, Jr., Clerk of Court, Regional Trial Court (RTC), Branch 34, Cabadbaran, Agusan del Norte, to submit a partial report to the MCTC; that in December 2006, respondent was also reminded thrice by Ms. Armelita Aguillon, Clerk of Court of the MCTC about his report; that respondent submitted his report to the investigating judge only on August 28, 2007, when the investigation was already deemed terminated.

On October 4, 2007, Executive Judge Dax G. Xenos, RTC, Cabadbaran City, submitted to the OCA his undated report[3] finding respondent sheriff guilty of neglect of duty, misconduct, and unlawful collection of money. The investigating judge recommended that an appropriate penalty be imposed on him.

In its Evaluation Report and Recommendation[4] to the Court dated February 1, 2008, the OCA recommended that:

- a) Respondent Romeo Monteroso, Sheriff IV, RTC, Branch 34, Cabadbaran, Agusan Del Norte, be found guilty of Simple Neglect of Duty for the delayed implementation of the writs of execution;
- b) Respondent should likewise be found guilty of Abuse of Authority for violating Section 10, Rule 141, and Section 14, Rule 39 of the Revised Rules of Court, which require a sheriff to prepare an estimate of expenses for

the enforcement of a writ of execution approved by the lower court and to submit to the same court a return/report of his proceedings, respectively;

c) For both Less Grave Offenses, respondent should be meted a penalty of fine equivalent to six (6) months salary with a stern warning that a repetition of similar infraction in the future shall be dealt with more severely.

There is no dispute that since respondent's receipt of the writs on October 22, 2003, only the following properties were levied on execution:

- (1) One (1) dining set made of gemilina wood amounting to more or less P500.00; and
- (2) One (1) VHS player and tape.

We cannot accept respondent's excuse that defendants have no other properties to be levied upon. It is self-serving. Besides, he failed to update the lower court of the progress of the proceedings. When a writ is placed in the hands of a sheriff, it is his duty to proceed with reasonable celerity and promptness to execute it in accordance with its mandates.[5]

We agree with the findings of the OCA and the investigating judge that respondent is administratively liable for not complying with the basic rules on execution. He violated Section 9, Rule 141 (now Section 10, Rule 141, Revised Rules of Court) for not preparing an estimate of expenses approved by the MCTC. He failed to submit to the same court a timely return of the proceedings, in violation of Section 14, Rule 39. He also failed to render an accounting of expenses, and inventory of properties levied upon. Lastly, he failed to completely enforce the writs.

In *De Guzman, Jr. v. Mendoza*,^[6] *Adoma v. Garcheco*,^[7] and *Tan v. Dela Cruz*,^[8] the Court has declared that lapses in procedure coupled with unlawful exaction of unauthorized fees are equivalent to grave misconduct and dishonesty. The sheriff's conduct of unilaterally demanding sums of money from a party-litigant purportedly to defray expenses of execution, without obtaining the approval of the trial court for such purported expense and without rendering an accounting constitutes dishonesty and extortion and falls short of the required standards of public service. Such conduct threatens the very existence of the system of administration of justice.^[9]

It should be noted that in A.M. No. P-08-2461,^[10] this Court found the same respondent Sheriff Monteroso guilty of grave misconduct, dishonesty, and conduct prejudicial to the best interest of the service for failure to implement the writs of execution. The Court imposed on him the penalty of six (6) months suspension without pay.

It is thus crystal clear that respondent persistently disregarded the basic rules on execution.^[11] The Court accordingly holds him administratively liable for grave misconduct, dishonesty and conduct prejudicial to the best interest of the service.

Grave misconduct and dishonesty are grave offenses each punishable by dismissal on first offense under Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service. Conduct prejudicial to the best interest of the service is likewise a grave offense which carries the penalty of suspension for six (6) months and one (1) day to one (1) year, and dismissal on the second offense. Hence, for respondent's successive commission of serious offenses, the appropriate penalty is dismissal from the service.

However, in several cases, the Court has mitigated the imposable penalty for special reasons.^[12] In *Almera v. B.F. Goodrich, Philippines, Inc.*,^[13] this Court stated that where a penalty less punitive would suffice, whatever missteps may have been committed ought not to be meted a consequence so severe. The law is concerned not only with the employee but his family as well. Unemployment brings untold hardship and sorrow to those dependent on the wage-earner. We have also considered length of service in the judiciary, acknowledgment of infractions,

remorse and other family circumstances, among others, in determining the proper penalty.[14] Thus, in this case, respondent is entitled to the following mitigating circumstances: (a) his more than twenty-three (23) years of service in the government; (b) this is only his second offense; and (c) humanitarian reasons.

Respondent's infractions are not beyond rectification. He is, therefore, given one last chance to correct his ways.[15]

ACCORDINGLY, respondent Sheriff IV Romeo Monteroso is SUSPENDED from office without salary and other benefits for one (1) year, with a STERN WARNING that another transgression of a similar nature will merit dismissal from the service.[16]

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Nachura, JJ., concur.

[1]Pag-asa Gomez Beltran v. Spouses Liwelyn and Leonie Fie, and Pag-asa Gomez Beltran v. Spouses Pedmar and Josephine Reyes.

[2] Rollo, pp. 1-4.

[3]Pp. 1-8, attached to rollo (A.M. No. P-06-2237).

[4] Pp. 1-6, id.

[5] Casaje v. Gatbalite, A.M. No. P-99-1353, May 9, 2000, 331 SCRA 508.

[6] A.M. No. P-03-1693, March 17, 2005, 453 SCRA 565, 572.

[7] A.M. No. P-5-1942, January 17, 2005, 448 SCRA 299.

[8] A.M. No. P-04-1892, September 30, 2004, 439 SCRA 555, 565.

[9]Ong v. Meregildo, A.M. No. P-93-935, July 5, 1994, 233 SCRA 632, cited in Bercasio v. Benito, 341 Phil. 404 (1997), citing Rules of Court, Rule 141, Sec. 9.

[10] Bonifacio M. Cebrian v. Romeo M. Monteroso, Sheriff IV, Regional Trial Court, Branch 34, Cabadbaran, Agusan del Norte, April 23, 2008.

[11]De Guzman, Jr. v. Mendoza, supra.

[12]See Re: Imposition of Corresponding Penalties for Habitual Tardiness Committed During the First and Second Semesters of 2003, A.M. No. 00-06-SC, March 16, 2004, 425 SCRA 508.

[13]157 Phil. 110 (1974).

[14] Re: Administrative Cases for Dishonesty against Elizabeth Ting, Court Secretary I, and Angelita C. Esmerio, Clerk III, Office of the Division Clerk of Court, Third Division, A.M. No. 2001-7-SC and No. 2001-8-SC, July 22, 2005, 464 SCRA 1.

[15] Sy v. Fineza, A.M. No. RTJ-03-1808, October 15, 2003, 413 SCRA 374.

[16] Dropping from the Rolls, Christopher Bernard N. Ibangga, RTC, Branch 132, Makati City, A.M. No. 04-10-589-RTC, February 11, 2005, 451 SCRA 1; Sy v. Fineza, supra.

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