

HON. VICENTE P. SIBULO, COMPLAINANT, VS. ERNESTO RAMIREZ, RESPONDENT.

Adm. Matter No. R-494-P. September 17, 1987

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PER CURIAM:

In an Order dated August 8, 1983, Judge Vicente P. Sibulo[1] initiated a complaint against his former deputy sheriff Ernesto Ramirez[2] for acts which directly or indirectly impede and obstruct the administration of justice, committed in the following manner:

"On March 1, 1982, Deputy Provincial Sheriff Ernesto Ramirez was required by the Court to make a return within 10 days from receipt of the Order of the writ of execution issued on October 15, 1981. The Order of the Court was received by said Deputy Provincial Sheriff Ernesto Ramirez on March 9, 1982. More than one (1) year had elapsed since then and Deputy Provincial Sheriff Ramirez failed to make a return in complete disregard of the Order of the Court.

"Upon motion of the plaintiff, on March 18, 1983, the Court issued an Order directing said Deputy Sheriff Ernesto Ramirez to comply with the Order of the Court dated March 1, 1982 and to show cause why he should not be punished for contempt for ignoring the Order of the Court.

"In spite of these Orders of the Court, said Deputy Provincial Sheriff failed to comply with the same compelling again the plaintiff to move the Court for an Order requiring Deputy Provincial Sheriff Ramirez to comply with the Order of the Court dated March 18, 1983 and the previous Order dated March 1, 1982.

"On August 4, 1983, said Deputy Sheriff filed an Officer's Return of Service making it appear that said return was made as of March 29, 1983.

"It is apparent from the records that the actuation of Deputy Provincial Sheriff Ernesto Ramirez is a willful disregard of the authority of the Court tantamount to an improper conduct of an employee of the Court tending, directly or indirectly, to impede x x x." [3]

In the same Order of August 8, 1983, the complainant referred the matter to the Executive Judge of the RTC of Legazpi for appropriate action. Executive Judge Domingo Coronel Reyes required the respondent to submit his explanation, to which the respondent requested for an extension of time to comply. This was granted in an Order dated September 7, 1983. Another motion for extension was filed which was also granted. Yet respondent did not submit his explanation.

In a final effort to make the respondent explain his side and defend himself, the Executive Judge issued an Order dated October 15, 1983 directing the respondent to file his explanation on or before October 21, 1983, with the following admonition:

"Failure to do so shall constrain this Office to recommend to the Supreme Court disciplinary action."

SO ORDERED.[4]

Still the respondent did not comply at all, even up to now, completely disobeying legal orders of his superiors. The Executive Judge, therefore, referred the matter to this Court through the Office of the Court Administrator.

There is ample evidence on record of respondent's unpardonable conduct as an officer of the court warranting the drastic penalty of dismissal.

Not only did respondent fail to make a return of the writ of execution within the period specified in the order. He did not make a return for a period of more than one year counted from March 9, 1982, when the respondent received the order, up to August 8, 1983, when Judge Sibulo referred the matter to the Executive Judge. As an officer of the court, a sheriff has the duty to serve and make a return of a writ of execution "to the clerk or judge of the court issuing it, at any time not less than ten (10) days nor more than sixty (60) days after its receipt by the officer (sheriff) x x x." [5] The law is mandatory. The Sheriff is left with no discretion on whether or not to execute and to make a return of the writ within the period provided by the Rules of Court aforesated.

Moreover, the respondent persistently left unheeded the several orders of the court directing him to comply with the order requiring him to make a return of the writ. The court, in one of these orders even required the respondent "to show cause why he should not be punished for contempt for ignoring the Order of the Court." [6]

And worse, when the respondent decided to comply with his duty, he falsified the Officer's Return of Service on August 4, 1983, stating therein that said return was made on March 29, 1983 when in truth that was not the case.

Finally, the respondent insolently defied at least two orders of the Executive Judge. The first dated August 31, 1983 required him "to explain within 72 hours from receipt (of the order) why he should not be charged administratively for acts which tend to directly or indirectly impede, obstruct or degrade the administration of justice and/or for wilful disregard of a lawful order of the Court relative to his official duties x x x." [7] The second [8] dated October 15, 1983 gave the respondent until October 21 to answer the charge.

From the foregoing, there is no reasonable doubt that the actuations of the respondent sheriff constitute disrespect and disregard, if not outright defiance, of the court's authority. He ignored altogether the fact that as an officer of the court he is charged with certain official duties which must be performed honestly and faithfully, [9] and within the period specified in the Revised Rules of Court or in the orders of the court.

Moreover, as an officer of the court, Deputy Sheriff Ramirez is subject to the Civil Service law, [10] particularly the Article on Discipline. His acts, from his unwarranted failure to make a return of the writ of execution, to his obstinate refusal and continued failure to present his side of the charge could easily fall under the following grounds for disciplinary action:

(1) Dishonesty;

x x x

(4) Misconduct;

x x x;

(6) Being notoriously undesirable;

x x x

(8) Inefficiency and incompetence in the performance of official duties;

x x x

(13) Falsification of official document;

x x x

(27) Conduct prejudicial to the best interest of the service.[11]

Furthermore, in *Smith Bell & Co. v. Saur*, [12] we held that a sheriff who failed to make a return of the writ of execution within the required period was guilty of malicious non-feasance in office. So is respondent in this case for he has caused unwarranted delay in the proceedings and consequently has contributed to the impairment of public confidence in the judiciary.[13]

Clearly, therefore, the acts of the respondent "disturb the ethics of public life and vitiate the integrity of the court personnel as well as the court itself." [14] He certainly does not deserve to remain in the government service.

WHEREFORE, this Court finds the respondent guilty of serious misconduct in the performance of his official duties and hereby orders his DISMISSAL from the service, with prejudice to re-employment in any branch of the government service, effective upon receipt hereof.

All benefits accruing to the respondent by virtue of his government service are hereby forfeited in favor of the government

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

[1] RTC, Legazpi City, Fifth Judicial Region, Branch IV.

[2] Now a Deputy Sheriff in MTCC, Legazpi City.

[3] Rollo, pp. 5-6.

[4] Id., p. 11.

[5] Sec. 11, Rule 39, Rules of Court.

[6] Rollo, 5.

[7] Rollo, 4.

[8] Id., 11.

[9] *Vizcaya v. Penalosa*, 84 SCRA 298, Adm. Matter No. P-1391, July 31, 1978.

[10] Sec. 36, P.D. 807, Providing for the Organization of the Civil Service Commission in Accordance With Provisions of the Constitution, Prescribing its Powers and Functions and for Other Purposes.

[11] Id., sec. 36(b).

[12] 96 SCRA 668, Adm. Matter No. P-1142, March 31, 1980.

[13] *Sy Tian v. Macapugay*, 106 SCRA 241, 242, Adm. Matter No. P-1176, July 31, 1981.

[14] *Ganaden v. Bolasco*, 64 SCRA 50, 53, Adm. Matter No. P-124, May 16, 1975.

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