

**MACARIO S. FLORES, COMPLAINANT, VS. NONILON A. CANIYA,
DEPUTY SHERIFF, REGIONAL TRIAL COURT, IMUS, CAVITE,
RESPONDENT.**

A.M. No. P-95-1133. April 26, 1996

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PER CURIAM:

The instant administrative matter arose from a letter of Macario S. Flores dated January 3, 1995 informing the Court Administrator of the alleged failure of Nonilon A. Caniya, Deputy Sheriff, Regional Trial Court, Imus, Cavite, to tender to him the amount of P3,000.00 paid by a judgment debtor in relation to a case for a sum of money he filed.

It appears that complainant Macario S. Flores obtained a favorable judgment in Civil Case No.093-18201, a civil action for sum of money he filed against Romy Perez. Accordingly, a writ of execution was issued to satisfy the judgment.

The records reveal that on July 28, 1994, August 11, 1994, September 16, 1994 and September 28, 1994, respondent Nonilon A. Caniya received from judgment debtor Romy Perez a total sum of nine thousand pesos (P9,000.00), broken down respectively: P3,000.00, P3,000.00, P1,500.00 and P1,500.00, as payment for the judgment debt. However, respondent did not issue any official receipts for the money. Rather, the payments were reflected in handwritten receipts marked in evidence as Exhibits "D", "E", "F", and "G".^[1] Of the P9,000.00, only P6,000.00 was tendered by respondent sheriff to complainant Flores.

Complainant thus brought the matter to the Court Administrator who required the respondent sheriff to comment on the letter-complaint.

In his comment, the respondent sheriff explained that he was not immediately able to turn over the P3,000.00 he received on August 11, 1994 to complainant Flores because whenever the latter would come by the office, he was out serving court processes. He assured the court that he already turned over the P3,000.00 to complainant on January 28, 1995.

Replying to respondent's comment, complainant refuted the allegation that respondent was always out of the office whenever the former would come by to see him. Complainant maintained that respondent sheriff was always in the office whenever he dropped by and the latter invariably told him that he was yet to collect the money from judgment debtor Perez when in truth and in fact, the money was already in his possession. Complainant, however, admitted that respondent tendered to him sometime in February, 1995 P2,900.00, P 100.00 short of the amount due because respondent sheriff appropriated the same for "transportation expenses."

Issues having been joined, this case was referred to Executive Judge Lucenito N. Tagle of the Regional Trial Court of Imus, Cavite for investigation, report and recommendation.

The parties presented their evidence in the investigation conducted by Executive Judge Tagle.

On October 4, 1995, the investigating judge submitted his report wherein he made the following findings and conclusions:

Admittedly, respondent-deputy sheriff had received the amount of P3,000.00 from Romy Perez way back in August, 1994. This is borne by the receipt dated August 11, 1994 (Exh 'F') which respondent signed acknowledging receipt of P3,000.00 from Romy Perez. But it was only after the lapse of several months when respondent tendered P2,900.00 to the complainant (sic). The excuse proffered (sic) by the respondent was that he was out of his office most of the time and that he and complainant failed to see each other. Evidently, the excuse advanced by respondent is flimsy and can not justify his omission to immediately turn over the amount of P3,000.00 to complainant. As deputy sheriff, he is bound to deliver the amount he received to the judgment-creditor. Assuming that he can not get in touch with complainant, the best thing for him to do was to deposit the amount with the Clerk of Court. Instead, what he did was to appropriate the money which he is holding only in trust. His failure to turn over the amount he received in implementing the writ of execution despite demands constitutes not only conduct prejudicial to the best interest of the service but also estafa.[2]

He then recommended that respondent sheriff be dismissed from the service.

On November 22, 1995, the Court resolved to refer the investigation report to the Office of the Court Administrator for evaluation, report and recommendation.

On December 6, 1995 however, the Court received a Motion to Dismiss filed by respondent sheriff on the ground that the complainant executed a Sinumpaang Salaysay ng Pag-uurong signifying his intention to withdraw the instant complaint as he is no longer interested to pursue the charge which was allegedly brought about by a misunderstanding with the respondent.

Based on the foregoing antecedents, the Deputy Court Administrator to whom the case was assigned for review affirmed the investigating judge's findings and echoed his recommendation for dismissal.

We are convinced that respondent had the intent to appropriate for his personal use the money when he failed to tender to herein complainant the amount of P3,000.00 as part of the judgment debt. The uncontroverted evidence shows that judgment debtor Romy Perez tendered the amount of P9,000.00 to respondent in order to satisfy the judgment in Macario Flores' favor. It however took respondent sheriff more than six (6) months to turn over P3,000.00 of that amount to herein complainant and only after the latter initiated the instant complaint.

Indeed, respondent had committed acts prejudicial to the best interest of the service. It is quite obvious that respondent detained the complainant's money for financial gain. The undue delay in turning over said amount leads only to one inescapable conclusion and that is, respondent had misappropriated the amount entrusted to him for his own personal use.[3]

Said money was entrusted to him in his official capacity as deputy sheriff for the specific purpose of satisfying a judgment debt. His failure to issue official receipts for the said amounts tendered to him is clearly in violation of the General Auditing and Accounting Rules.[4] Such glaring ineptitude supports the conclusion that he had really wanted to misappropriate the said amount.

Undoubtedly, the same foregoing acts constitute grave misconduct and/or gross dishonesty. Not only is respondent guilty of conduct prejudicial to the administration of justice and to the best interest of the service[5] as we have earlier mentioned, but also of gross neglect of duty,[6] for which dismissal from the service is warranted. Respondent sheriff brazenly made a mockery of the principle enshrined in our fundamental law that public office is a public trust. Public officers and employees are duty bound to serve with the highest degree of responsibility, integrity, loyalty and efficiency, and shall remain accountable to the people. In *Caña v. Santos*,[7] we ruled that:

x x x Persons involved in the administration of justice, ought to live up to the strictest standard of honesty and integrity in the public service. The conduct of every personnel connected with the courts, from the presiding judge to the lowliest clerk, should at all times be circumspect to preserve the integrity and dignity of our courts of justice.

This Court has emphasized time and again that the conduct and behavior of everyone connected with an office charged with the dispensation of justice, from the presiding judge to the sheriff and to the lowliest clerk should be circumscribed with the heavy burden of responsibility. Respondent sheriff is a court employee. He is thus required to conduct himself with propriety and decorum. His actions must be beyond suspicion. In this case, he simply failed to comply with the strict and rigorous standards required of all public officers and employees[8] and for that he will have to pay dearly for it.

The Court likewise observes that this is not the first time that a complaint for misconduct has been filed against herein respondent. In Administrative Matter No. P-93-796,[9] respondent was found guilty for misconduct and conduct prejudicial to the best interest of the service by this Court for using property in custodia legis for his own personal benefit. As a result, he was suspended from office for three (3) months without pay. Obviously, respondent has not learned his lesson. Neither is he repentant of his misdemeanor considering the proximity of his present and past infractions. He no longer deserves to stay in the service a minute more. His more than twenty-six (26) years in government service would not tilt the balance in his favor.

One final note. As in respondent's first administrative case where the complainant submitted an affidavit of desistance midway of the investigation of the case, complainant herein likewise manifested his desire to withdraw his complaint and desist from prosecuting it. We find this strange coincidence both disturbing and deplorable and we wish to reiterate our disposition in the former case with strict alacrity:

Even as we discipline the respondent on the basis of the complainant's grievance, we have to express our displeasure on the latter's desistance to prosecute this case after he had involved this Court and the investigating Judge for sometime into this matter. Administrative cases against public officers and employees are not private in nature. They are impressed with public interest, for they relate to public office, which is a public trust that, at all times, exacts from the holder thereof accountability to the people and demands utmost responsibility, integrity, loyalty, and efficiency (Section 1, Article XI Constitution). These cases transcend beyond the complainants' personal interest, pique or pride, whims and caprices. After this Court has taken cognizance of such complaints, the complainants are not anymore at liberty to dismiss or withdraw their complaints just because they filed the same out of a misunderstanding, as in this case as claimed by the complainant, or that they are no longer interested in prosecuting the said cases because the respondents have apologized for their misconduct (*Zamora vs. Jumamoy*, 238 SCRA 587 [1994]). Such withdrawal could only invite suspicions that the complaints were not filed with sincerity of purpose (*Id.*) but for some improper motives, or that the respondents entered into an amicable settlement with the complainants not necessarily to buy peace but to cover up their misconduct.[10]

PREMISES CONSIDERED, respondent NONILON A. CANIYA, Deputy Sheriff, Regional Trial Court, Imus, Cavite, is hereby declared guilty of dishonesty, grave misconduct, gross neglect of duty and conduct prejudicial to the best interest of the service. Accordingly, respondent sheriff is **DISMISSED** from the service with forfeiture of all retirement benefits and accrued leave credits and with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations. This dismissal is immediately executory upon his receipt of a copy of this decision which must be served through personal service by the Office of the Court Administrator.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Hermosisima, Jr., Panganiban, and Torres, Jr., JJ., concur.

Francisco, J., on leave.

[1] Rollo, pp. 10-11.

[2] Id., at 34; Report, p. 2.

[3] Onasa v. Villaran, A.M. No. P-94-1012, July 14, 1995 citing Valenton v. Melgar, 219 SCRA 372 [1993].

[4] Hernandez v. Borja, A.M. No. P-95-1120, March 7, 1995.

[5] Section 36(b), sub-paragraph (27) of P.D. 807 known as the Civil Service Decree of the Philippines.

[6] Section 46(b), (1), (3), (4) and (27), Chapter 6, Sub-Title A, Title 1, Book V of E.O. No. 292 known as the Administrative Code of 1987.

[7] 234 SCRA 17, 23 [1994].

[8] Office of the Court Administrator v. Fuentes, et al., A.M. No. RTJ-94- 1270, August 23, 1995, Ong v. Meregildo, 233 SCRA 632 [1994]; GVM, Inc. v. De Guzman, 227 SCRA 684 [1993].

[9] Marieta Briones v. Nonilon A. Caniya, First Division, promulgated on September 22, 1995.

[10] Ibid.

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