

P/SUPT. RENE MACALING ORBE, COMPLAINANT, VS. MARCOS U. DIGANDANG, PROCESS SERVER, REGIONAL TRIAL COURT, BRANCH 14, COTABATO CITY, RESPONDENT.

A.M. No. P-09-2685 [OCA-IPi No. 08-2839-P]. September 03, 2009

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PER CURIAM:

The issue for resolution is whether respondent Marcos U. Digandang, Process Server of the Regional Trial Court, Branch 14 of Cotabato City, is guilty of Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service for illegally releasing the accused in the case of *People of the Philippines v. Ombudsman Indag*.^[1]

On February 14, 2008, the operatives of the Philippine Drug Enforcement Agency-Autonomous Region of Muslim Mindanao (PDEA-ARMM) arrested Abdulsalam Indag and Baida Manabilang for alleged violation of Sections 5, 11 and 15 of Republic Act (R.A.) No. 9165 or The Dangerous Drugs Act of 2002, and were thus committed to the provincial jail.

On February 15, 2008, the accused were released from the custody of the Officer-in-Charge (OIC) Provincial Warden, Laman P. Malikol, on the basis of the Custody Receipt signed by the respondent.

In his complaint, Police Superintendent Rene Macaling Orbe, Acting Regional Director of PDEA-ARMM, alleges that the release was illegal because the accused were charged with a non-bailable offense.

Respondent admits in his Comment that the accused were his relatives and that he interceded for their release because they allegedly needed medical attention. After their medical check up, they were immediately brought back to their detention cell. He also claims that he did not file a motion for temporary release, since he could not secure the services of a lawyer, it being a Friday and it was already past 3:00 p.m.

Laman P. Malikol, the OIC-Provincial Warden, likewise admitted that he temporarily relinquished custody over the accused to herein respondent for humanitarian reasons.

In its Report dated September 19, 2008, the Office of the Court Administrator (OCA) found respondent guilty as charged and recommended his dismissal from service effective immediately with forfeiture of all benefits, except accrued leave credits, with prejudice to his re-employment in any branch or instrumentality of the government, including government- owned or controlled corporation. The case against the OIC Provincial Warden was recommended to be forwarded to the Department of Justice for appropriate action.

We adopt the findings and recommendation of the OCA.

It is undisputed that accused were charged with a non-bailable offense; that they were released from detention on the basis merely of the Custody Receipt signed by the respondent, which was a clear violation of Section 3, Rule 114 of the Rules of Court which explicitly provides that "no person under detention by legal process shall be released or transferred except upon order of the court or when he is admitted to bail." As a court employee, respondent is cognizant of this requirement as in fact he admitted in his Comment that a motion for temporary

release should have been filed in court.

We cannot lend credence to respondent's allegation that he was unable to file the motion because he could not immediately avail of the services of a lawyer as it was a Friday and already past 3:00 p.m. Assuming that he could not immediately hire the services of a private lawyer, he could always go to the Public Attorney's Office (PAO) for legal assistance. At 3:00 p.m., it is inconceivable that no PAO lawyer would be available.

The contention that respondent interceded for the release of his accused-relatives for humanitarian reasons is self-serving and deserves no consideration. As correctly noted by the OCA, no medical certificate was presented to substantiate the claim that the accused needed immediate medical attention. Moreover, the fact that the accused were returned to their detention cell soon after the medical check up does not justify respondent's culpability or mitigate his liability. Neither could it be considered a badge of good faith. An infraction had been committed and the accused's return to incarceration does not extinguish the violation.

As a court employee, respondent is expected to follow the law and the rules and procedures prescribed by the Court. The facts in this case clearly indicate that respondent deliberately circumvented the law to favor his accused-relatives. This is a grave misconduct which merits the penalty of dismissal.

WHEREFORE, the Court finds respondent Marcos U. Digandang, Process Server, Regional Trial Court, Branch 14, Cotabato City, GUILTY of GRAVE MISCONDUCT and is hereby sentenced to suffer the penalty of DISMISSAL from service, with forfeiture of all benefits, except accrued leave credits, and with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations. The case against Laman P. Malikol, OIC-Provincial Warden, Maguindanao Provincial Jail, is FORWARDED to the Department of Justice for appropriate action.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Corona, Carpio Morales, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, and Abad, JJ., concur.

[1] Docketed as Criminal Case No. 2008-2963.

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