FRANCISCO D. MARTILLANO, COMPLAINANT VS. SHERIFF MANUEL L. ARIMADO, REGIONAL TRIAL COURT, BRANCH 4, LEGASPI CITY, RESPONDENT.

A.M. NO. P-06-2134 [FORMERLY OCA I.P.I. NO. 05-2180-P]. August 09, 2006

Ponente: TINGA, J.

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TINGA, J.:

Francisco Martillano (Martillano) is the respondent in I.S. No. 04-0531 for violation of Section 3(b) in relation to Sections 2(g) and 4 of Republic Act No. 9287, filed against him by a certain Emerito Zamora with the Office of the City Prosecutor of Legaspi City. During the preliminary investigation of the case, Martillano submitted a Counter Affidavit[1] in which he alleged as a defense that his liability for the offense had already been settled by his payment of a fine in the amount of P2,500.00 which he handed to respondent Sheriff Manuel Arimado (Sheriff Arimado). Finding probable cause against Martillano, Assistant City Prosecutor Solon Sison (Prosecutor Sison) recommended the filing of an Information against him. Prosecutor Sison, however, advised Martillano to "initiate the appropriate action against certain individuals who may have exercised on him deceit, or otherwise inflicted on him financial loss."[2]

The Information against Martillano was docketed as Criminal Case No. 110479 in the sala of Judge Henry Basilia (Judge Basilia) of the Regional Trial Court (RTC) of Legaspi City, Branch 3. Taking Prosecutor Sison's advise, Judge Basilia referred the matter to Sheriff Arimado's immediate superior, Judge Edgar Armes (Judge Armes), who required Sheriff Arimado to comment on the allegations of Martillano. Upon Sheriff Arimado's compliance, Judge Armes returned to Judge Basilia his First Indorsement. The latter, in turn, forwarded the matter to the Office of the Court Administrator (OCA) for the possible institution of an administrative case against Sheriff Arimado. Thus, with his Counter Affidavit filed in I.S. No. 4-0531, Martillano stands as the complainant in the instant administrative case.

Martillano alleges that Sheriff Arimado received from him the amount of P2,500.00 upon the latter's representation that he will assist them in settling I.S. No. 04-0531. Sheriff Arimado allegedly told Martillano that he was able to persuade and convince Prosecutor Sison not to prosecute the case in exchange for Martillano's admission of his guilt and payment of a fine of P2,500.00. However, in an Order dated September 24, 2004, Martillano learned that the case was dismissed for lack of probable cause and not because he paid the appropriate fine.[3]

In his Compliance[4] dated November 26, 2004, which he adopts[5] as his comment to the present case, Sheriff Arimado avers that it was Martillano's wife and two (2) companions who sought his help in looking for counsel to assist them in the case against Martillano. Martillano's wife allegedly left with him the amount of P2,500.00 as advance payment for said counsel. The following day, however, Martillano's wife returned to inform him that they no longer needed counsel as the case had already been dismissed. Sheriff Arimado told the supposed counsel about the new development but the latter replied that a case would still be filed with the Municipal Trial Court in

Cities because the penalty imposable is only fine. Sheriff Arimado claims that he relayed this message to Martillano. He adds that his only intention was to extend assistance to Martillano and that he would return the money to the latter upon "retrieval."

The case was referred to Hon. Romeo S. Dañas, Executive Judge, RTC of Legaspi City, for investigation, report and recommendation.[6]

After due proceedings in which both parties were heard, the case was submitted for resolution.[7] Executive Judge Avelino V. Rodenas, Jr. issued a Resolution[8] dated June 13, 2006, finding that although Sheriff Arimado is liable for simple misconduct, the case has been rendered moot and academic because of Martillano's lack of interest in pursuing the case. However, since Sheriff Arimado admits that he received money from Martillano, Judge Rodenas recommends that Sheriff Arimado be reprimanded.

It should be stated at the outset that Martillano's lack of interest in pursuing this case does not affect the Court's jurisdiction, under Section 6, Article VIII of the Constitution, to investigate and decide complaints against erring employees of the judiciary.

The fact that Sheriff Arimado received P2,500.00 from Martillano's wife[9] is not in dispute. The only variance in the testimonies of the parties is that while Martillano claims that the money was given to Sheriff Arimado supposedly to pay for the fine imposed against Martillano, Sheriff Arimado claims that it was intended for the lawyer whose services he was supposed to procure to assist Martillano.

This difference, however, is irrelevant because Sheriff Arimado was unauthorized to receive money from a litigant for whatever purpose especially since he was the sheriff in the sala of Judge Armes before whom Martillano's case was then pending. Sheriff Arimado's act is a misconduct defined as "any unlawful conduct on the part of a person concerned in the administration of justice prejudicial to the rights of the parties or to the right determination of the cause."[10]

In Office of the Court Administrator v. Duque,[11] we held respondent liable for simple misconduct in view of the absence of evidence that she was moved by bad faith, dishonesty or hatred when she received the amount of P120,000.00 from a litigant without authority. Likewise, the Executive Judge did not mention and we do not glean any dishonest or fraudulent motive in Sheriff Arimado's action.

Sec. 52(B)(2) of the Uniform Rules on Administrative Cases in the Civil Service penalizes simple misconduct with suspension ranging from one (1) month and one (1) day to six (6) months for the first offense, and dismissal for the second offense. This is not Sheriff Arimado's first offense. He admits that he was previously suspended in two (2) administrative cases filed against him.[12]

However, in view of the fact that Sheriff Arimado was not motivated by any evil intention and had already returned the P2,500.00 which he received from Martillano,[13] we are moved by compassion not to dismiss Sheriff Arimado but merely to suspend him again without pay for two (2) months. This suspension comes with a reminder to everyone in the judiciary to act with utmost circumspection for any misbehavior, whether true or only perceived, on the part of court personnel would most certainly reflect never too kindly on the judiciary.[14]

WHEREFORE, Sheriff IV Manuel D. Arimado of the Regional Trial Court, Branch 4, Legaspi City, is found GUILTY of SIMPLE MISCONDUCT for which he is SUSPENDED without pay for two (2) months.
SO ORDERED.

Quisumbing, (Chairperson), Carpio and Carpio Morales, JJ., concur.Velasco, Jr., J., No part due to prior action in OCA.

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[1] Rollo, pp. 7-8.

[2]Id. at 6.

[3] It appears that after the case was dismissed for lack of probable cause, the City Prosecutor's Office re-entertained the case on the basis of additional allegations and evidence against Martillano. Martillano then filed the Counter Affidavit which was made the basis of this administrative case.

[4] Rollo, p. 11.

[5]Id. at 22; Manifestation dated June 17, 2005.

[6] Id. at 27; Resolution dated March 6, 2006.

[7] Id. at 31; Order dated May 22, 2006.

[8] Id. at 33-34.

[9] TSN, May 22, 2006, p. 6. Martillano and his wife testified that it was the latter who gave Sheriff Arimado the amount of P2,500.00.

[10] Office of the Court Administrator v. Duque, A.M. P-05-1958, February 7, 2005, 450 SCRA 527, 532 citing Office of the Court Administrator v. Judge Octavio A. Fernandez, A.M. No. MTJ-03-1151, August 20, 2004, 437 SCRA 81.

[11] Id.

[12] TSN, May 22, 2006, p. 12.

[13] Sheriff Arimado handed to Martillano the amount of P2,500.00 during the hearing conducted by the Executive Judge.

[14] Racca v. Baculi, A.M. No. P-02-1627, August 7, 2003, 408 SCRA 465.

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