ATTY. AURORA P. SANGLAY, COMPLAINANT, VS EDUARDO E. PADUA II, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 29, SAN FERNANDO CITY, LA UNION, RESPONDENT.

A.M. No. P-14-3182. July 01, 2015

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is an administrative complaint[1] for simple neglect of duty filed by complainant Atty. Aurora P. Sanglay (Atty. Sanglay) against respondent Eduardo E. Padua II (Padua), Sheriff IV, Regional Trial Court (RTC), Branch 29, San Fernando City, La Union.

The Facts

On 13 May 2009, Atty. Sanglay filed with the RTC a motion[2] for the issuance of a writ of execution in Civil Case No. 6031. In its 29 May 2009 Order,[3] the RTC granted the motion and issued a writ[4] of execution, dated 8 June 2009, ordering Padua "to execute the x x x dispositive portion of the Decision and make a return of [his] proceeding unto [the] Court within thirty (30) days from the date of receipt [of the writ] and every thirty (30) days thereafter until [the] Writ shall have been fully satisfied."[5]

Padua failed to make reports as ordered. On 9 March 2010, Atty. Sanglay filed with the RTC a motion[6] to direct Padua to enforce the writ of execution and render a report. Because of Padua's inaction, Atty. Sanglay filed with the RTC two more motions dated 4 July 2010[7] and 20 January 2011.[8]

On 10 May 2011, Padua made a partial report.[9] Padua failed to make any other report. Hence, the present complaint. In its 1st Indorsement[10] dated 29 July 2011, the Office of the Court Administrator (OCA) directed Padua to comment on the complaint. Padua submitted his comment[11] dated 24 August 2011.

OCA's Report and Recommendations

In its Report[12] dated 4 October 2013, the OCA found Padua guilty of simple neglect of duty and recommended that the complaint be re-docketed as a regular administrative matter and that Padua be fined P5,000. The OCA held that:

> The records of the case clearly support the allegation of neglect of duty against respondent Sheriff Padua. Complainant Sanglay's motion for issuance of a writ of execution was approved by the court on 29 May 2009. She subsequently filed two (2) other motions, dated 4 March 2010 and 4 July 2010, reiterating her request for the enforcement of the writ. Respondent Sheriff Padua did not file any report on the status of the writ until 17 May 2011 or almost two (2) years after the court directed him to enforce the same. The report, in fact, was submitted by respondent Sheriff Padua only after the filing of the instant administrative complaint against him.
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> Under Rule 10, Section 46, paragraph (d) of the Revised Rules on Administrative Cases in the Civil Service, promulgated on 18 November 2011, simple neglect of duty is classified as a less grave offense which carries the penalty of suspension for one (1) month and one (1) day to six (6) months for the first offense and dismissal for the second offense. However, under Section 48 of the same rules, it is provided that in the determination of the penalties to be imposed, mitigating circumstances (i.e., physical illness, length of service, first offense) attendant to the commission of the offense shall be considered. Since this is the first time that respondent Sheriff Padua will be penalized for simple neglect of duty, the penalty of fine in the amount of Five Thousand Pesos (P5,000.00) is appropriate.[13]

Court's Ruling

The Court agrees with the OCA's finding that Padua is guilty of simple neglect of duty but increases the fine to an amount equivalent to his salary for one month.

Section 14, Rule 39 of the Rules of Court states that sheriffs must make a report to the court every thirty days until the judgment is satisfied in full:

> SEC. 14. Return of writ of execution. —The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefor. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties. (Boldfacing supplied)

In the present case, Padua failed to report to the court and state the reason why the judgment was not satisfied in full within 30 days after his receipt of the writ. Despite the 9 March 2010, 4 July 2010 and 20 January 2011 motions filed by Atty. Sanglay, Padua failed to make a report to the court every 30 days on the proceedings taken. In fact, Padua made a partial report only after almost two years and only after Atty. Sanglay filed the present administrative complaint.

In Tablate v. Rañeses,[14] the Court found a sheriff guilty of simple neglect of duty and fined him an amount equivalent to his salary for one month for failing to make reports. The Court held that:

> Time and again, this Court stressed upon those tasked to implement court orders and processes to see to it that the final stage of the litigation process — the execution of judgment — be carried out promptly. Sheriffs, in particular, should exert every effort and consider it their bounden duty because a decision left unexecuted or delayed indefinitely is nothing but an empty victory on the part of the prevailing party.
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> In this case, it is clear from respondent Rañeses' own narration that: despite the issuance of the writ of execution on March 6, 2003, he only acted in October 2003 after complainant's counsel "first coordinated" with him; upon verification from the City Assessor and Register of Deeds of Quezon City that accused has no real property registered in her name and reporting the same to the complainant's counsel, he again waited almost a year — until August 2004, when the complainant made her "follow-up" — before he went to the residence of the accused but only to be told allegedly by the neighbors that the accused was no longer residing thereat; in March 2005, following another visit to the same address, he received an information that the accused has a carinderia (eatery) business near the subdivision gate of her residence; and it was only after eight months, in November 2005, that respondent was finally able to serve a copy of the writ on the accused.
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> The lapse of time alone evidently shows that respondent Rañeses has been wanting in diligence and initiative in the enforcement of the writ. His reason — that the delay was because he awaited further instructions from complainant and her private prosecutor and that neither of them made "follow-ups" in due time — is not an

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> excuse. The duty of the sheriff in the execution of a writ is mandatory and purely ministerial, not directory. Once the writ is placed in his hands, it is his duty, unless restrained by the court, to proceed with reasonable alacrity to enforce it to the letter, ensuring at all times that the implementation of a judgment is not unduly delayed. Thus, the tolerance or forgiving attitude, or even a seeming indifference, of the prevailing party is wholly immaterial. In the enforcement of a writ, a sheriff owes fervor and obedience to the law, not to the whims and caprices of a party. This Court emphasized on numerous occasions that there is no need for the litigants to "follow-up" the matter before the sheriff should act.
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> Moreover, extant from the records is respondent Rañeses' failure to comply with the requisite submission of progress reports as regards the action he had taken on the assigned writ. Instead of submitting a monthly update to the court from the time the writ of execution was issued on March 6, 2003 up to the filing of this administrative case on November 22, 2005, he only did it thrice, to wit: September 17, 2004, April 28, 2005, and November 23, 2005.
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> The mandatory character of Section 14 of Rule 39 of the Revised Rules of Court is unmistakable, as it reads:
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> SEC. 14. Return of writ of execution. — The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefor. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties.

A similar rule is found in Administrative Circular No. 12 dated October 1, 1985, which vests upon the sheriffs the primary responsibility to speedily and efficiently serve all court processes and writs. The Circular directs them to submit a report to the judge concerned on the action taken on all assigned writs and processes within 10 days from receipt thereof. Moreover, it provides that a monthly report shall be submitted to the OCA indicating the number of writs and processes issued and served (or unserved) during the month, with the unserved writs and processes further explained in the report.

The submission of the return and periodic reports by the sheriffs is not a duty that must be taken lightly. It serves to update the court as to the status of the execution and to give it an idea as to why the judgment was not satisfied. It also provides insights for the court as to how efficient court processes are after judgment has been promulgated. The overall purpose of the requirement is to ensure speedy execution of decisions.

Undoubtedly, the foregoing circumstances only evince that respondent Rañeses is remiss in performing the duty of his office to conscientiously and expeditiously implement the writ as well as to comply with the submission of monthly progress reports. Under the Revised Uniform Rules on Administrative Cases in the Civil Service, he is, therefore, guilty of simple neglect of duty, which is defined as the failure of an employee to give attention to a task expected of him and signifies a disregard of a duty resulting from carelessness or indifference. It is classified as a less grave offense which carries the penalty of suspension for one (1) month and one (1) day to six (6) months for the first offense and dismissal for the second offense. As it appears that there has been no previous administrative case against him and in order not to hamper the duties of his office, instead of suspending him, he is fined in an amount equivalent to his one (1) month salary.[15]

WHEREFORE, the Court finds respondent Eduardo E. Padua II, Sheriff IV, Regional Trial Court, Branch 29, San Fernando City, La Union, GUILTY of simple neglect of duty and FINES him an amount equivalent to his salary for one month, with a STERN WARNING that a repetition of the same or similar offense will be dealt with more severely.

Let a copy of this Resolution be attached to the records of Padua in the Office of Administrative Services, Office of the Court Administrator.

SO ORDERED.

Bersamin,[*] Del Castillo, Mendoza, and Leonen, JJ., concur.

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[*]Designated acting member per Special Order No. 2079 dated 29 June 2015.

[1] Rollo, pp. 1-4.

[2] Id. at 5-6.

[3] Id. at 7. Penned by Judge Robert T. Cawed.

[4] Id. at 16.

[5] Id.

[6] Id. at 8-9.

[7] Id. at 10-11.

[8] Id. at 12-13.

[9] Id. at 17.

[10] Id. at 18. Signed by Court Administrator Jose Midas P. Marquez, Deputy Court Administrator Raul B. Villanueva and OCA Chief of Legal Office Wilhelmina D. Geronga.

[11] Id. at 20-21.

[12] Id. at 23-25.

[13] Id. at 24-25.

[14] 574 Phil. 536 (2008).

[15] Id. at 545-548.

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