

**JUDGE EDDIE P. MONSERATE, MUNICIPAL CIRCUIT TRIAL COURT,
MAGARAO, CAMARINES SUR, COMPLAINANT, VS. JERRY V. ADOLFO,
PROCESS SERVER, MUNICIPAL CIRCUIT TRIAL COURT,
MAGARAO-CANAMAN...**

A.M. No. P-04-1823. July 12, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Judge Eddie P. Monserate, Municipal Circuit Trial Court, Magarao-Canaman, Camarines Sur, has charged Jerry V. Adolfo, Process Server of the same court, with gross inefficiency, habitual absenteeism, and failure to report for work regularly.

It appears that the complainant warned the respondent in an Office Memorandum dated July 5, 2002[1] for failing to report for work regularly and failing to file the duly approved official leave. He was thereafter required to explain why no administrative sanctions should be meted against him for failing to serve court processes issued by the court in another Memorandum dated December 4, 2002.[2] The respondent was similarly warned and required to explain in two other Memoranda dated April 10, 2003,[3] and March 3, 2003.[4]

Thus, in a Letter-Complaint[5] dated April 30, 2003, the complainant judge requested that the respondent be dropped from the service for failing to report for work and to attend to his duties as shown by the unauthorized absences he incurred in January, February, and March 2003. According to the complainant, the respondent ignored repeated reminders, both verbal and written, and even sent an unverified Form 48 to the Leave Section in order to cover up for his absences.

The complainant also pointed out that in a Resolution[6] dated October 1, 2001, the Court found the respondent guilty of gross inefficiency, absenteeism and failure to serve summons, and was fined in the amount equivalent to one month's salary, and warned that a repetition of the same or similar acts would be dealt with more severely.

In his Comment, the respondent averred that what prevented him from regularly attending to his work and discharging his duties was his obligation to take care of his paralytic mother. This predicament was not made known to his officemates, for fear of disapproval. He started mending his ways in June 2003, when a relative took pity on him and took over his domestic chores. Thus, on October 8, 2003, Clerk of Court Ms. Judith Rodrigo-Ebron issued a Certification noted by the complainant that, indeed, respondent reported for work regularly and performed his duties diligently.

According to the respondent, his failure to report for work was sudden and unexpected. As such, he could not be expected to ask for prior permission nor file an application for leave of absence before absenting himself from the office.

In a Report dated March 19, 2004, the Office of the Court Administrator made the following findings:

A certification dated 21 May 2003 and 01 December 2003 issued by this Office's Leave Division reveals that respondent incurred the following Vacation Leave Without Pay and Sick Leave Without Pay from January to June 2003, which were disapproved by Clerk of Court Ebron, to wit:

January - 7 days

February - 7 ½ days

March - 5 ½ days

May - 7 days

June - 9 days[7]

Thus, it was recommended that the respondent be fined in an amount equivalent to two (2) months' salary, considering that this is his second offense, and sternly warned that a repetition of the same or similar acts in the future would be dealt with more severely.[8]

We agree.

According to Civil Service Resolution No. 91-1631,[9] an officer or employee may be considered habitually absent "if he incurs unauthorized absences exceeding the allowable 2.5 days monthly leave credit under the Leave Law for at least three (3) months in a semester or at least three (3) consecutive months during the year." [10] In this case, the respondent incurred 20 days of absences in three consecutive months. And, as pointed out by the Court Administrator:

Moral obligations, humanitarian consideration, [and] performance of household chores are not reasons sufficient to warrant exemption of an employee from regularly reporting for work. And the Certification issued by Clerk of Court Ebron and duly noted by the complainant cannot have the effect of erasing the clear violation of the Civil Service Laws by the respondent. If at all, these facts may only be considered in mitigating respondent's liability.[11]

A process server, such as the respondent, should be fully cognizant of the nature and responsibilities of his task, but also of their impact in the speedy administration of justice. His duty is vital in the administration of justice. It is through the process server that a defendant learns of the action brought against him by the complainant; more importantly, it is through the service of summons of the process server that the trial court acquires jurisdiction over the defendant. It is, therefore, crucial that summons, writs and other court processes be served expeditiously, consonant with the mandate of speedy dispensation of justice stressed by the Constitution.[12]

We are constrained to once more state the salutary reminder of the duty of all court employees, from the presiding judge to the lowliest clerk, that is, to maintain the court's good name and standing as the temple of justice.[13] Thus, the conduct of court personnel must always be beyond reproach and must be circumscribed with the heavy burden of responsibility as to let them be free from any suspicion that may taint the judiciary. The Court condemns and would never countenance any conduct, act or omission on the part of all those involved in the administration of justice, which would violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the Judiciary.[14]

We note that the respondent's immediate superior, Clerk of Court Judith Rodrigo-Ebron, which was duly noted by the complainant, Judge Monserate, issued a certification[15] indicating that the respondent has become a more responsible employee. This, along with the respondent's reason for his incurred absences, constrains the Court to mitigate the respondent's liability.

WHEREFORE, respondent Jerry V. Adolfo is found GUILTY of habitual absenteeism and is hereby FINED an

amount of Twenty Thousand Pesos (P20,000). He is STERNLY WARNED that a repetition of the same or similar acts in the future shall be dealt with more severely.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] Id. at 15.

[2] Id. at 14.

[3] Id. at 10.

[4] Id. at 11.

[5] Id. at 5.

[6] Entitled *Monserate v. Adolfo*, docketed as A.M. No. P-01-1471.

[7] Rollo, p. 25.

[8] Id. at 27.

[9] Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws, dated December 27, 1991.

[10] Section 23 (q).

[11] Id. at 26.

[12] Executive Judge Nelsonida T. Ulat-Marrero v. Antonio B. Torio, Jr., A.M. No. P-01-1519, November 19, 2003; Acting Presiding Judge Leopoldo V. Cañete v. Nelson Manlosa, A.M. No. P-02-1547, October 3, 2003.

[13] Ma. Corazon M. Andal v. Nicolas A. Tonga, A.M. No. P-02-1581, October 28, 2003.

[14] Judge Fe Albano Madrid v. Antonio T. Quebral, A.M. No. P-03-1744 and Antonio T. Quebral v. Angelina C. Rillorta and Minerva B. Alvarez, A.M. No. P-03-1745, October 7, 2003.

[15] Rollo, p. 22.

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