

JUDGE MARCIANO T. VIROLA, COMPLAINANT, VS. EMMANUEL A. LATORZA, DEPUTY SHERIFF, REGIONAL TRIAL COURT, BRANCH 39, CALAPAN, ORIENTAL MINDORO, RESPONDENT.

A.M. No. P-94-1003. July 25, 1994

Ponente: QUIASON, J.

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QUIASON, J.:

This is an administrative complaint filed by Judge Marciano T. Virola, Regional Trial Court, Branch 39, Calapan, Oriental Mindoro, against Deputy Sheriff Emmanuel A. Latorza of said court for grave misconduct, gross neglect of duty and insubordination.

I

Respondent is a deputy sheriff assigned to Branch 39 of the Regional Trial Court, Calapan, Oriental Mindoro, presided by Judge Virola. On October 20, 1993, after announcing the opening of session, respondent left the courtroom to talk with somebody. Judge Virola noticed a person wearing a cap at the entrance of the courtroom while the hearing was going on. He signalled to call respondent's attention to that person but respondent did not seem to understand the signal.

After the hearing, Judge Virola saw respondent at the Office of the Branch Clerk of Court, where he upbraided him for his neglect of duty to remain in the courtroom to maintain order while the court was in session. Respondent proffered an explanation, which the Judge did not accept as satisfactory. This irked respondent, prompting him to belligerently rush towards the Judge and at the same time, making a motion of drawing something from his pocket. Thereafter, he told the Judge, "Pirmi na lamang ako ang minamali ninyo!" The Branch Clerk of Court prevented respondent from getting close to the Judge and brought him out of the building.

In his Manifestation dated October 30, 1993, respondent stated: that at the time he was reprimanded by Judge Virola, he was suffering from arthritis and rheumatism which made him hypertensive and emotionally disturbed; that he lost control of himself and wanted to run berserk; that he had nothing in his pocket to draw as he just clenched his fist at his back; and that he had apologized to Judge Virola and gave him his assurance that such kind of incident would not happen again.

Judge Virola issued an Order dated December 3, 1993, finding respondent guilty of "indirect contempt" and sentencing him to pay a fine of two hundred pesos (P200.00) and, upon failure to do so, to be incarcerated in the Municipal Jail of Calapan for a period of five days (Rollo, p. 8).

In a Resolution dated February 14, 1994, we referred this administrative matter to the Vice-Executive Judge of the Regional Trial Court, Calapan, Oriental Mindoro for investigation, report and recommendation.

Hearing was set for March 18, 1994 at 2:00 P.M. in the sala of Vice-Executive Judge Mario C. De la Cruz. However, on March 17, 1994, Judge Virola withdrew his complaint stating that respondent had reformed and that

he believed that respondent should be given another chance to continue serving in the government.

In view of the manifestation of Judge Virola, the Investigating Judge recommended that the administrative case against respondent be dismissed. In making his recommendation, the Investigating Judge also took into consideration the fact that respondent has served the government continuously for 30 years.

II

Respondent's acts constitute grave misconduct and cannot be left unpunished. The disrespect and offensive personalities towards the court degrade the administration of justice. It is not for complainant to condone said acts, being an affront to the judicial institution itself more than to the person of complainant.

In a real sense, Judge Virola is merely a witness and the proceedings may continue regardless of the pardon extended by him to respondent (*Sy v. Academia*, 198 SCRA 705 [1991]).

The incident on October 20, 1993 was the second time respondent had shown disrespect to the complainant. The first incident happened on June 20, 1991 when Judge Virola admonished respondent to be more diligent in the performance of his work after the former learned that the notice of the hearing of a petition set for June 24, 1991 had not been served the parties. On that occasion, respondent reacted by throwing the copy of the notice of hearing at the Judge and rushing belligerently towards him, like what he did on October 20, 1993.

The contempt proceedings against respondent do not bar the administrative proceedings for the same acts because the two proceedings have different objectives and are prescribed by different rules.

Were it not for the long years of service of respondent in the government, he should be meted out a severe and drastic punishment for his misconduct.

WHEREFORE, respondent is **SUSPENDED** for **ONE (1) MONTH**. Said suspension shall not be charged against respondent's accumulated vacation leave credits.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., and Kapunan, JJ., concur.

Bellosillo, J., on leave.

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